

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

AFFIDAVIT

Before me, the undersigned officer duly authorized to administer oaths, appeared MARK FREDERICK UDE, who, being first duly sworn, did depose and state upon oath as follows:

My name is MARK FREDERICK UDE. Until November 18, 2013, I was the attorney for JAMES GLENN BARLOW in that certain case entitled AMERICAN SAMOA GOVERNMENT v. JAMES GLENN BARLOW, Case No. HCCR 26-12, in the High Court of American Samoa. On that day, Mr. Barlow informed the Court that he wanted to fire me. I had earlier that day filed a motion for leave to withdraw. I wanted to withdraw because, as I told the court that day, I did not feel I was helping Mr. Barlow. The court granted my motion to withdraw at that time. Thereafter, I did not participate in his trial. (I did re-enter the case briefly to assist Mr. Barlow's subsequent counsel with the presentation of Mr. Barlow's motion for reconsideration.)

Earlier, on November 1, 2013, I had filed a document captioned "Defendant James Barlow's Request for a Bench Trial" with the clerk of court. This document, signed only by me, requested a bench trial for Mr. Barlow. On November 4th, 2013, I received a certified copy of this document from the clerk with a handwritten notation thereon signed by the Michael Kruse, Chief Justice of the High Court, which stated, "Require a 'personal' waiver by defendant, and not one through counsel." A true and accurate copy of this document is attached to this affidavit.

On November 5, 2013, I filed another document with the clerk. This document was captioned "Affidavit in Support of Request for Bench Trial." This document was signed by JAMES GLENN BARLOW and notarized. It recited that Mr. Barlow had earlier requested a trial by jury in the District Court but the "upon further evaluation of this matter, that I hereby waive my right to a Jury Trial." A true and accurate copy of this document is attached to this affidavit.

I prepared the documents filed on November 4th and 5th, 2013, after discussions with Mr. Barlow. I had advised him that in my opinion if he was convicted an appeal from a bench trial would be easier than an appeal from a jury

trial. That was my belief but I acknowledge my experience handling felony jury trials was very limited.

In my discussions of the appellate options with Mr. Barlow it was both his and my expectation that any appeal in his case would go before a panel composed of Federal court judges from off-island whose impartiality would be beyond reproach. This expectation was based on the Secretary of the Interior's past practice of appointing off-island judges to serve on the appellate panels and assurances from knowledgeable officers of the American Samoa Government.


In my discussions about the jury waiver with Mr. Barlow I did not advise him that (1) he had a right to a trial by jury before a panel consisting of 6 jurors, (2) the jury's verdict would have to be unanimous, (3) the he and his attorney would be allowed to participate in the selection of the jury or (4) if he waived his right to a jury the judge alone would decide his guilt or innocence and the sentence. I should have done so but I expected the Court would go over his rights with him before the trial to make sure Mr. Barlow understood his rights. I was extremely anxious about the trial because of my limited felony jury trial experience and Mr. Barlow and I were not getting along very well during that time. Much of his frustration with me stemmed from the difficulties we were having getting full discovery from the government in the case.

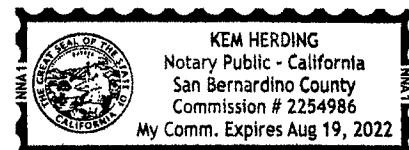
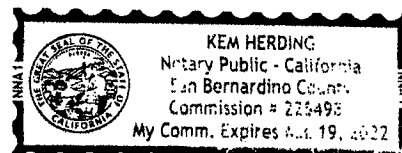
This affidavit is based upon my personal knowledge.

FURTHER DEPONENT SAYETH NOT.


MARK FREDERICK UDE, Deponent

Sworn to and subscribed before me
this 26th day of SEPTEMBER, 2018.


NOTARY PUBLIC
State of California
My commission expires: 8/19/22



FILED TIME: 1:50 PM

ET 11/1/13

TERRY S. FIELDING
CLERK OF COURTS

1 THE LAW OFFICES OF
2 MARK FREDERICK UDE
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4 Pago Pago, AS 96799
5 Tel. (684) 633-7878
6 Cell. (684) 258-3672
7 Invernesscastle@yahoo.com

8 Attorney for Defendant

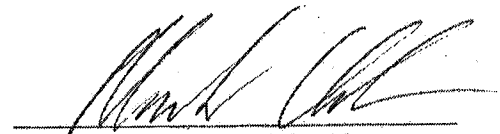
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IN THE HIGH COURT OF AMERICAN SAMOA
TRIAL DIVISION

<p>AMERICAN SAMOA GOVERNMENT,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>JAMES BARLOW,</p> <p style="text-align: center;">Defendant.</p>	<p>HCCR No. 26 - 12</p> <p>DEFENDANT JAMES BARLOW'S REQUEST FOR A BENCH TRIAL</p>
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COMES NOW THE DEFENDANT, by and through counsel, and hereby requests a
Bench Trial for the trial date set for 18 November 2013.


Dated: 1 Nov 2013


Mark Frederick Ude

Require a "personal" waiver by defendant, and not
one through counsel.

waiver by defendant, and not one through counsel.

Certified to be a true copy
of the original on file
in the Office of the Clerk of Courts

 11/4/13
Clerk of Courts

1 THE LAW OFFICES OF
2 MARK FREDERICK UDE
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8 Attorney for Defendant

HIGH COURT OF AMERICAN SAMOA
Clerk's Office

FILED TIME: 12:27 pm

11/05/13
TERRY S. FIELDING
CLERK OF COURTS

9 IN THE HIGH COURT OF AMERICAN SAMOA

10 TRIAL DIVISION

11 AMERICAN SAMOA GOVERNMENT,

12 Plaintiff,

13 v.

14 JAMES BARLOW,

15 Defendant.

HCCR No. 26 - 12

AFFIDAVIT IN SUPPORT OF
REQUEST FOR BENCH TRIAL

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17
18 I, James Barlow, under oath, do hereby swear as follows:

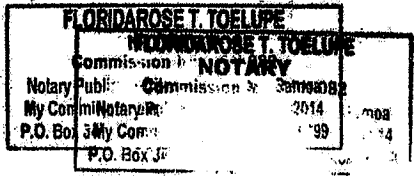
- 19 1. That I am over eighteen years of age;
- 20 2. That I am the Defendant in the above captioned matter;
- 21 3. That I had earlier requested, through my attorney in District Court, a Jury Trial for my DUI
- 22 and other misdemeanors in February 2012;
- 23 4. That upon further evaluation of this matter, that I hereby waive my right to a Jury Trial.
- 24 5. That I hereby request a Bench Trial for my scheduled trial on 18 November 2013.
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Further affiant sayeth naught.

Dated: Nov. 5, 2013

James Barlow
James Barlow



Subscribed and Sworn to before me
this 5 day of Nov 2013.

[Signature]

Notary Public in and for the Territory of American Samoa

My Commission expires: 16 Nov 2014