

IN THE SUPERIOR COURT OF CALIFORNIA  
IN AND FOR THE COUNTY OF MONTEREY

DEPARTMENT 14

HON. ROBERT O'FARRELL, JUDGE

EUGENE FORTE,

Plaintiff,

v.

MICHAEL ALBOV, et al.,

Defendants.

No. M 5 4 9 1 4

December 19, 2003

Monterey, California

11:10 a.m.

HEARING RE CONTEMPT

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by:

Linda S. Kinkade, RMR, CRR

CSR License No. 2612

Post Office Box 222579

Carmel, CA 93922

Office: (831) 625-6500

## P R O C E E D I N G S

1  
2 THE COURT: All right. The matter of Eugene Forte,  
3 who is in custody and sitting in court right now. I did find  
4 and I do find or affirm the finding of contempt based on your  
5 conduct in court this morning. I'll recite for the record what  
6 happened, although the transcript of those proceedings will  
7 speak for themselves, I believe.

8 The case in which you're involved was called for hearing  
9 on the motion that was -- it was the motion of the other party  
10 to the case. You asked to be heard first. I granted that  
11 request, and you asked a question, which I gave an answer to.  
12 And then you insisted on asking more questions, and I told you  
13 that's not the proper time, you will have a chance to reply  
14 after the attorney on the moving side was completely heard.

15 You wouldn't accept that and you kept talking, raising  
16 your voice, and being, frankly, bully-ish. And when I warned  
17 you a number of times to please sit down, stop talking -- and  
18 let the record reflect right now that you are smirking in a  
19 very arrogant fashion -- that when you failed to do that, I  
20 asked you to take a seat in the jury box and we would deal with  
21 the matter afterwards.

22 You refused to do that and continued to force yourself  
23 upon the Court verbally. And at that time I had no other  
24 option, to ensure that the proceedings of the court were  
25 conducted properly, other than to remand you into custody,  
26 which I did.

27 Then when you went into custody, you gave the bailiff an  
28 extremely difficult time. You wrestled. You screamed. You

1 disrupted the entire courthouse or at least certainly the  
2 second floor of the courthouse. Other bailiffs had to be  
3 summoned to subdue you. You delayed the proceedings in this  
4 court.

5 The Court, after that -- the courtroom itself was highly  
6 disrupted. The Court had to take a recess. The proceedings in  
7 this department were delayed. Other departments in this  
8 building were awaiting the court reporter in this department,  
9 and we anticipated we would have finished in a timely fashion  
10 so they could start their calendars appropriately. They were  
11 subsequently delayed because of your action.

12 This isn't the first time you've been in court. You've  
13 been in court many, many times. You have filed many, many  
14 papers, briefs, and pleadings, and so on. The general tenure  
15 of every one of them that I can recall has been very arrogant,  
16 and you have approached your sessions in court much, as I said  
17 earlier, quite a bit like a bully.

18 Certainly in the past I have warned you about contempt. I  
19 never found you in contempt. I've warned you. You've been  
20 aggressive and disruptive, but, ultimately, in the past, you  
21 have waited your turn. Today you obviously refused to do that,  
22 and you came in here loaded for bear, so to speak. That was  
23 pretty evident.

24 I find that you were rude, disruptive, and did delay the  
25 proceedings of the court, and I do reaffirm the finding of  
26 contempt for those reasons.

27 Is there anything you'd like to say, sir?

28 MR. FORTE: Yes, Your Honor.

1 THE COURT: Go ahead.

2 MR. FORTE: I disagree with your observations, number  
3 one. Number two, when I came into this courtroom today, I  
4 stated very clearly to the Court that prior to the commencement  
5 of the motion I need to go ahead and get an indication for the  
6 record exactly how this case had gotten transferred to you.  
7 And the reason for that being is that I checked on Monday of  
8 this week and discovered the case first had been assigned to  
9 Judge Michael Fields. I then contacted the court again, the  
10 clerk, on, I believe it was Wednesday or Thursday of this week,  
11 and I was informed that it had not been assigned to Judge  
12 Michael Fields any longer, but it had actually been assigned to  
13 you.

14 I then spoke to Erika, who is Judge Fields' clerk, who  
15 informed me that she could not tell me how it became assigned  
16 to you, one, and, number two, she could not tell me why Judge  
17 Michael Fields was not going to hear the matter.

18 Therefore, between then and now, what I did when I came  
19 into the courtroom today, I intended to ask you, as I did, for  
20 how did it get transferred to you, according to my right to  
21 understand the due process here.

22 Number two is, is that when you had responded, you then  
23 started to speak over me when I was then going to state, Your  
24 Honor, that what I had was a peremptory challenge, which I was  
25 going to file, concerning the motion and concerning you, Your  
26 Honor. However, you continued to interrupt me. I was trying  
27 to go ahead and speak. And at that point in time -- I think,  
28 Your Honor, we certainly know that there is a number of things

1 that are evident in the motions over these years that I've been  
2 trying to bring out very distinctly and correctly my belief  
3 that there is a corrupt judicial system here in Monterey.  
4 Judge Richard Silver knows about it, that you know about it.  
5 You, in fact, Your Honor, have ignored requests directly made  
6 by me in writing as presiding judge to go ahead and conduct an  
7 investigation of the matter regarding Mr. McCarthy.

8 I meant no disrespect to the Court, except when the Court  
9 was ignoring me and not allowing me my right, according to what  
10 you are required to, according to the judicial Canon of Ethics,  
11 to give every person their full right to speak inside the  
12 courtroom. When you were not allowing that to happen, Your  
13 Honor, and you were then telling Mr. McCarthy to stand up and  
14 proceed to start the procedure, I knew at that time that I  
15 needed to make sure that that peremptory challenge was done at  
16 that time and on record, but you were not allowing me to do  
17 so.

18 You know that I have not been either a violent person.  
19 I've been respectful of the Court, Your Honor. And another  
20 matter is that, as I was removed from this courtroom, I was  
21 then put in a holding cell. I was then brought back out here  
22 at approximately 10:00. I sat inside of this jury booth with  
23 handcuffs on. A proceeding took place of about 30 minutes to  
24 -- 25 to 30 minutes with Mr. Stamp arguing a case. And then  
25 what took place, you then announced that Mr. Forte is now  
26 present inside the courtroom, which in fact I had already been  
27 sitting inside the box for 25 minutes.

28 You then said that you were going to be taking a break.

1 The court reporter said she didn't need a break. Well, yeah,  
2 she said, I believe, you were going to be taking a break and to  
3 take up the matter of Mr. Forte. What happened is a break  
4 didn't take place. You then took up a second matter while I  
5 sat here with handcuffs on inside the jury booth. And then  
6 what happened was, after that hearing, you got up from your  
7 position, left the room without announcing there is an end to  
8 the proceeding. You leave. The court reporter leaves. And I  
9 then sit here again with handcuffs on, uncomfortable and  
10 unpleasant, Your Honor. Because I have not been arrested. I  
11 have not had handcuffs on. I've never been held in a contempt  
12 of court. But apparently, Your Honor, you felt this was going  
13 to be something that you just wanted to drive home a point.

14 So, Your Honor, it is now 11:15. I disagree with many of  
15 the assertions you said. I went ahead and want to simply file  
16 and tell Your Honor that I was filing a peremptory challenge,  
17 but, Your Honor, you didn't want that peremptory challenge to  
18 take place. Because the bottom line fact is that Mr. Dennis  
19 McCarthy hid a document, suborned to perjury of Ms. Stephanie  
20 Crabb. And the position of the deposition taken of her is an  
21 important one. And I, Your Honor, was not going to give you an  
22 opportunity, after several times in the past that I gave you  
23 the opportunity, believing, believing and hoping, you were  
24 going to be a fair and impartial judge, which you were not, in  
25 the cases of A, Loop v. Forte.

26 In Loop v. Forte, you denied me a consolidation of the  
27 case to join that case with Forte v. Loop. Judge Silver  
28 overturned that ruling consolidating the cases.

1           In the case of Forte v. Lichtenegger, you heard a motion  
2 to withdraw by Mr. Lichtenegger made within about 35 days of  
3 the case where I told you that Mr. Lichtenegger's declarations  
4 were faulty and fraudulent because I had tape recordings that  
5 stated that Mr. Lichtenegger said the reasons why he had to  
6 withdraw was because Judge Richard Silver was manipulating the  
7 trial dates and sabotaging motions in order to punish me. He  
8 also said he had to throw me to the lions to save himself to  
9 the local judicial community. And what you did was you granted  
10 Mr. Lichtenegger that motion to withdraw. But you told me that  
11 I should apply for a motion to go ahead and continue the trial  
12 that was set. I came back the following week, and we did have  
13 the motion to continue.

14           And Mr. James Cook from the Horan law firm in that case  
15 pled before you that Mr. Forte was a wealthy businessman that  
16 drove Rolls Royces and Jaguars and I was only trying to punish  
17 his clients. And in his declaration he had stated the reasons  
18 as to why the trial should not be continued was because his  
19 clients were in a financial hardship.

20           The Powells, who, by the way, at the start of that  
21 hearing, you looked at the Powells and you said, I do recall  
22 the Powells' and our children did go to school together, but I  
23 don't believe that would affect my ruling. And you asked me if  
24 I had a problem with that, Your Honor. And with due respect to  
25 you, I said I did not, because I did not know at those times  
26 that, by the end of that hearing, when Mr. -- when I tried to  
27 address the issue of saying, Your Honor, Mr. Cook's  
28 declarations state that there is a lis pendens that has

1 prohibited his clients from gaining any financing of their  
2 property, in fact I had voluntarily lifted that lis pendens --

3 THE COURT: Okay. I've got to interrupt you because  
4 I've let you go on quite a bit now and you're basically  
5 relitigating all of your matters, the same material you file  
6 over and over again. And, that's fine, you can keep doing  
7 that, but it is not relevant to the issue of contempt now.

8 Is there anything you want to say relative to this issue?

9 MR. FORTE: Yes, Your Honor. I believe it is relevant  
10 to this issue. Because this is going to state the basis as to  
11 why you were so anxious to go ahead and try to hold me in  
12 contempt of court. So I do want to complete my summary of what  
13 I would have gone ahead and done at one time but was preempted  
14 from doing so.

15 So, in that case of --

16 THE COURT: This is what you wanted to say when I  
17 interrupted you? Is that what you're telling me?

18 MR. FORTE: No, Your Honor. It was going to be much  
19 shorter than that. All I wanted to say was, Your Honor, this  
20 peremptory challenge has been filed. Thank you very much.  
21 That is what I was attempting to go ahead and say.

22 But since I was given the opportunity to summarize the  
23 events that led to us now being handcuffed in front of my  
24 eight-year-old child and my five-year-old child, who I love  
25 dearly and respect very much -- and you, Your Honor, yourself  
26 has seen me at the Corral de Tierra market. One time you were  
27 getting ice cream. I referred to you as "Your Honor." I  
28 smiled at you, cordial. I have nothing personally against Your



1 Honor. When you sit here inside this courtroom, I got to tell  
2 you that I need to make sure that the record is clear, and you  
3 were not allowing me to make that record clear.

4 Going back to Forte v. Lichtenegger, you then in the --  
5 excuse me -- in the Forte v. Powell, the motion to continue,  
6 you then gave me a choice to lift the lis pendens and you would  
7 give me a 30-day continuance of that trial. I said no. At the  
8 end of that hearing, also, I said, Your Honor, why did you  
9 withhold the signing of subpoenas for over seven days? Your  
10 response to that was, because I thought you may be harassing  
11 people. Your Honor, if I -- you had no knowledge or any  
12 information or belief to go ahead and have that type of an  
13 assertion of the belief of my harassing anyone.

14 But we go on now to the next case that you were involved  
15 with. This is the case --

16 THE COURT: No, we're not going to do that, sir. I  
17 really did give you --

18 MR. FORTE: All right, Your Honor.

19 THE COURT: -- pretty much carte blanche. But we're  
20 not going to do that.

21 MR. FORTE: Well, Your Honor -- well, okay. I don't  
22 mean to speak over you. And I will tell you this, sir. If you  
23 would have simply allowed me to go ahead and speak, I would  
24 have been able to tell you and here is my peremptory  
25 challenge. But you spoke over me and you demanded me to sit  
26 down to allow Mr. McCarthy to commence the hearing of the  
27 motion. And I know that I had to have that done prior to that  
28 taking place. And this is what this has all been caused about,

1 Your Honor.

2 THE COURT: Okay. All right. You obviously came in  
3 here prepared to file a 170.6 challenge. You could have done  
4 that. Had you done that -- and I did invite you to ask a  
5 question. You could have said, Judge, I have a 170.6 challenge  
6 against you. It would have been accepted. The matter would  
7 have been transferred. Clearly, that's not the case. You came  
8 in here to grandstand. As I say, you were loaded for bear.  
9 You mentioned your children being present, which I think is a  
10 tragedy. And I noticed you before court and you were not  
11 sitting with your children. You were sitting apparently apart  
12 from them. So I don't want to presume this, but I would hope  
13 you wouldn't bring your children here as someone you could  
14 point to to show how you're being mistreated and gain  
15 sympathy. I just don't know about that. I wouldn't want to go  
16 that far. But I think it's awful when you come to court  
17 knowing what you were about to do and knowing the kind of  
18 performance you're more than likely going to put on and you  
19 have your children in the courtroom somewhere else sitting. I  
20 have some real concerns about why a person would ever let that  
21 possible situation develop.

22 You're right. You did come back into the courtroom here.  
23 And I was, in fact, finishing the calendar that had been  
24 delayed because of your antics. I invited you to say something  
25 on your behalf. There is not a thing that you have said that  
26 goes to mitigation, shows any apologetic attitude, or anything  
27 of that nature. As a matter of fact, you're arrogant, you're  
28 very defensive, and you're, in fact, offensive.

1 MR. FORTE: And, Your Honor --

2 THE COURT: I believe -- don't interrupt me now, sir.  
3 You had your chance. Quite frankly, I believe I'm dealing with  
4 a certain pathology here, and I don't mean that in any  
5 pejorative way. But if you're not aware of some potential  
6 issues there yourself, perhaps you should look into them. And,  
7 if anything, I suspect -- I'm going to maybe meld that  
8 possibility into the sentence. Because perhaps that is a  
9 mitigating factor in and of itself. But your conduct, not only  
10 today, and as it has led up to today, is really not terribly  
11 rational. In fact, that's being generous.

12 I'm going to sentence you for your contempt of court to  
13 eight hours in custody. And, as I say, that's considerably  
14 mitigated over what I might have normally done.

15 So he can be held until 5:00.

16 MR. FORTE: Excuse me, Your Honor. I need to respond  
17 to the comments that you made regarding the reasons why my  
18 children were here and degrading my position as a father.

19 My children -- my eight-year-old and my five-year-old --  
20 here were not here for any type of a reason to see me  
21 grandstand before the Court. The fact of the matter is we do  
22 not have a babysitter. And my wife came and she sat in the  
23 back of the courtroom with the two children to make sure, if  
24 they made any slightest noises at all, it would not be  
25 disruptive of the court.

26 THE COURT: They could have been outside, sir. That's  
27 all.

28 MR. FORTE: Your Honor, it's not over. Thank you,

1 sir.

2 (Proceedings concluded at 11:26 a.m.)

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C E R T I F I C A T E

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8 I, Linda S. Kinkade, Official Pro Tem. Court Reporter for  
the State of California, County of Monterey, do hereby certify:

9 That the foregoing is a true and correct transcript of the  
proceedings had in the above-entitled action; that I reported  
10 same in stenotype, being the duly appointed, qualified and  
acting official pro tem. court reporter, to the best of my  
11 ability; and thereafter transcribed same into typewriting  
through Computer-Aided Transcription.

12

Date: December \_\_, 2003

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Linda S. Kinkade, RMR, CRR  
CSR License No. 2612

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1 sir.

2 (Proceedings concluded at 11:26 a.m.)

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C E R T I F I C A T E

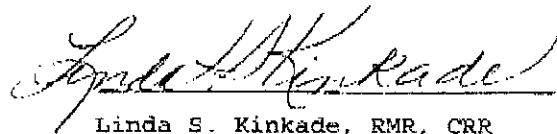
7

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12

Date: December 28, 2003



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Linda S. Kinkade, RMR, CRR

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