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## **COURTS: Judge returns to work after apologizing**

**Ware resumes hearing cases after trip to Alabama to meet family of boy slain in 1963**

U.S. District Court Judge James Ware returned to his San Jose court room last week to hear cases after spending three days in Alabama apologizing to the family of a black youth slain in 1963 by white segregationists.

Ware withdrew his nomination for the Ninth District Court of Appeals Nov. 6 after admitting he lied about being the boy's brother.

"I was very much relieved that he had come to apologize to the Wares," said U.S. District Court Judge U.W. Clemon in Birmingham. It was Clemon who first reported the conflict in stories.

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Clemon confirmed that Virgil's real brother, James Ware, who has worked for a coal mining company in Birmingham for 20 years, accepted Judge Ware's apology last week. But questions remain as to whether the apology will be enough to save Ware's career on the bench.

Judge Ware, known for his inspirational speeches, had told of how the death of his brother, Virgil Ware, in 1963 had motivated him to seek a career in law.

The lie went undetected until August when Judge Clemon, who holds a similar federal post to Judge Ware in northern Alabama, heard about Ware's nomination for the Ninth District Court of Appeals. He read about how Ware grew up in Birmingham, went to Hayes High School, a local college and then on to Stanford Law School.

"I said to my wife, 'They left out the most important thing. This was the judge whose brother was killed on a bicycle in 1963,'" Clemon said.

Clemon had remembered Judge Ware telling that story during a speech to a conference of black judges on C-SPAN in 1996. He described to the audience how his brother Virgil was killed in the racist attack.

But it wasn't until a few days later when, by coincidence, a retrospective of the Virgil Ware killing happened to appear in the Birmingham News that Clemon's suspicions were raised.

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The James Ware in the retrospective had never left Birmingham after his brother's murder. And it appeared to Clemon he was from the opposite side of town to where Judge Ware grew up. "It struck me that Hayes is on the eastern side of town," Clemon said. "This incident happened on the west side of town."

Soon after, Judge Clemon contacted the Birmingham News, and Judge Ware's tale began to unravel.

The Birmingham News published a follow-up story on Nov. 6, revealing the lie Judge Ware told. On the same day, Judge Ware withdrew his nomination in a letter to President Clinton.

Ware, 51, could not be reached for comment either at his Mountain View home or in his chambers in San Jose.

Even as he met with the Ware family in Birmingham, Bay Area papers including the San Jose Mercury News and the San Francisco Examiner were calling for his resignation from the bench.

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Ware began his career as an attorney with the Palo Alto law firm then known as Blase, Valentine & Klein. He was appointed to the bench of the Santa Clara County Superior Court in 1988 and then to federal trial court in San Jose in 1990. He also was a former member of the Stanford Board of Trustees.

In a statement following his withdrawal, Ware said "I regret my dishonesty." He continued, "I have been advised that a view being taken by some is that I told the story in order to influence the appointment process. That has never been my intention."

Larry Klein, a former Palo Alto mayor and colleague of Ware's when he was an attorney in Klein's law firm was surprised by the revelation. "Jim was an essential part of our organization and somebody whom we not only liked and respected as a colleague but somebody that we loved and still do love."

--*Elisabeth Traugott* →

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