

Received By Commission

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on Judicial Disabilities

STATE OF MARYLAND

BEFORE THE COMMISSION ON JUDICIAL DISABILITIES

IN THE MATTER OF: *
* CJD 2019-040
*
JUDGE DEVY PATTERSON RUSSELL *

To: JUDGE DEVY PATTERSON RUSSELL
DISTRICT COURT OF MARYLAND FOR BALTIMORE CITY
FIRST JUDICIAL CIRCUIT

CHARGES

TAKE NOTICE that the Commission on Judicial Disabilities (hereinafter “Commission”) has caused to be made and completed an investigation, through its Investigative Counsel, Tanya C. Bernstein, Esq., of Judge Devy Patterson Russell (hereinafter sometimes referred to as “Judge”), who was, at all pertinent times, a Judge of the District Court of Maryland for Baltimore City. The Commission notified Judge Russell of the nature of the investigation and afforded the Judge an opportunity to present information bearing on the subject of the investigation.

The Commission has received and considered information from the investigation, including, but not limited to: information received from numerous sources, an affidavit from a former judge of the District Court of Maryland and Circuit Court for Baltimore City, witness statement summaries, the Judge’s response, the recommendations of Investigative Counsel, the Report of the Judicial Inquiry Board, and the Judge’s objections to the Report of the Judicial Inquiry Board. In consideration of the foregoing and a finding by the Commission of probable cause to believe that Judge Russell has committed sanctionable conduct, the Commission directed that Investigative Counsel initiate proceedings against Judge Russell pursuant to

Maryland Rule 18-431(a).

The Commission will conduct a public hearing on these charges pursuant to Maryland Rule 18-434. The following facts form the basis for these charges and the Commission's probable cause determination:

- 1. Judge Russell has served as a Judge of the District Court of Maryland for Baltimore City since 2006.**
- 2. Based upon information received, the Commission's Investigative Counsel opened an investigation regarding allegations that Judge Russell made threatening statements in a public forum toward and about another judge who was a witness in two pending disciplinary matters against Judge Russell before the Commission.**
- 3. As part of the investigation, Investigative Counsel interviewed witnesses and reviewed the following material: an affidavit received from a former judge of the District Court of Maryland and Circuit Court for Baltimore City who personally witnessed and heard the comments; materials from the Baltimore County Bar Association, Inc.; and the written response submitted by Judge Russell through counsel dated May 6, 2019.**
- 4. The investigation revealed sanctionable conduct by Judge Russell in retaliating against and attempting to intimidate an individual known to Judge Russell to have assisted or cooperated with two investigations before the Commission regarding Judge Russell, failing to promote confidence in the judiciary, creating a perception of impropriety, and failing to comply with the Code of Judicial Conduct.**
- 5. Judge Russell's conduct is in violation of Rules 18-101.1, Compliance with the**

Law; 18-101.2, Promoting Confidence in the Judiciary; 18-102.8(b), Decorum, Demeanor, and Communication with Jurors; and 18-102.16(b), Cooperation with Disciplinary Authorities. The pertinent provisions of the Rules provide as follows:

Rule 18-101.1. COMPLIANCE WITH THE LAW.

A judge shall comply with the law, including this Code of Judicial Conduct.

Rule 18-101.2. PROMOTING CONFIDENCE IN THE JUDICIARY.

- (a) A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.
- (b) A judge shall avoid conduct that would create in reasonable minds a perception of impropriety.

Rule 18-102.8(b). DECORUM, DEMEANOR, AND COMMUNICATIONS WITH JURORS.

(b) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, attorneys, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of attorneys, court staff, court officials, and others subject to the judge's direction and control.

Rule 18-102.16(b). COOPERATION WITH DISCIPLINARY AUTHORITIES.

(b) A judge shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a judge or an attorney.

6. The investigation specifically revealed the following facts upon which the charges are based:

On January 31, 2019, Judge Russell attended the 2019 Annual Banquet of the Baltimore County Bar Association, Inc. At this event, which was attended by a large number of judges and attorneys, Judge Russell made remarks regarding a

fellow judge (“Cooperating Judge”) who had been a witness against Judge Russell in the public hearing on charges in CJD 2016-189 Russell/Investigative Counsel and who was known to Judge Russell to be a witness in a separate pending matter against Judge Russell before the Commission, CJD 2018-009 Russell/Investigative Counsel.

Regarding Cooperating Judge, Judge Russell stated that he or she had no idea what was going to happen to him or her, and that he or she should fear and be afraid of what was going to happen next. The statement was made in the presence of others, including a former judge of the District Court of Maryland and Circuit Court for Baltimore City widely known to be a friend of Cooperating Judge. It appeared to this former judge that Judge Russell intended him or her to hear the statement.

At the time of this statement, the Commission had publicly issued its Amended Findings of Fact, Conclusions of Law, Order and Recommendation in CJD 2016-189 which included a proposed six-month suspension of Judge Russell without pay, and the Judicial Inquiry Board had submitted to the Commission and Judge Russell its recommendation to file charges against her in CJD 2018-009.

- 7. Judge Russell’s behavior provides evidence that Judge Russell engaged in conduct that was prejudicial to the proper administration of justice in Maryland Courts, pursuant to the Maryland Constitution, Article IV, Section 4B(b)(1).**

These charges are issued by Investigative Counsel at the direction of the Commission on
Judicial Disabilities.

COMMISSION ON JUDICIAL DISABILITIES

Date: 8.27.19

Tanya C. Bernstein
Director/Investigative Counsel

Date: 8/27/19

Derek A. Bayne
Assistant Investigative Counsel

Date: 8.27.19

Tamara S. Dowd
Assistant Investigative Counsel

NOTICE: YOU HAVE THE RIGHT, PURSUANT TO RULE 18-431(d) OF THE MARYLAND RULES, TO FILE A WRITTEN RESPONSE WITHIN THIRTY (30) DAYS AFTER SERVICE OF THESE CHARGES. YOU MUST FILE EITHER AN ORIGINAL AND ELEVEN (11) COPIES OF THE RESPONSE OR AN ELECTRONIC COPY PURSUANT TO RULE 18-404. THE RESPONSE SHOULD BE FILED WITH THE COMMISSION ON JUDICIAL DISABILITIES.