

IN THE MATTER OF * BEFORE THE MARYLAND
JUDGE ASKEW W. GATEWOOD, JR. * COMMISSION ON
CJD 2007-089 * JUDICIAL DISABILITIES

STIPULATION OF FACTS AND WAIVER OF HEARING

TO: Judge Askew W. Gatewood, Jr.
Associate Judge, District Court for Baltimore City
District 01

Judge Askew W. Gatewood, Jr. ("Judge Gatewood") and the Maryland Commission on Judicial Disabilities (the "Commission") by and through its Investigative Counsel, Steven P. Lemmey, Esquire, ("Investigative Counsel"), hereby agree that the Commission may properly determine its disposition in this case based solely upon the facts and conclusions stated in this Stipulation of Facts and Waiver of Hearing (the "Stipulation"), taking into account Judge Gatewood's appearance in court on June 2, 2008 in Anne Arundel County, Maryland and the information contained in the transcript of said hearing. The Commission also has considered: the information contained in Investigative Counsel's report to the Judicial Inquiry Board; Judge Gatewood's written response; the information provided by Judge Gatewood during his interview with Investigative Counsel; Judge Gatewood's appearance before the Inquiry Board; and the recommendation of Investigative Counsel.

Judge Gatewood agrees that he was notified that Investigative Counsel opened a file based upon the criminal charges brought against him in February 2008. Judge Gatewood agrees that: he was notified of the nature of all of the information in Investigative Counsel's file, was afforded an opportunity to review all information developed during the investigation, has voluntarily met with Investigative Counsel and has had the opportunity to have his own counsel present throughout all aspects of the investigation. Judge Gatewood agrees that he appeared with his counsel before the Judicial Inquiry Board as part of the investigative process.

Judge Gatewood, having been given an opportunity to consult with counsel, gives his express consent to this Stipulation. The facts and conclusions upon which the Commission may act are as follows:

1. At all times relevant to this case, Judge Askew W. Gatewood, Jr. was a judge of the District Court of Maryland for Baltimore City. Judge Gatewood was appointed to the District Court of Maryland for Baltimore City in November 1984. Presently Judge Gatewood continues to serve as a District Court judge for Baltimore City, Maryland.

2. In February 2008 Judge Gatewood was charged with several crimes in the Circuit Court for Anne Arundel County. Judge Gatewood was charged

with crimes related to his making repairs and changes to his property on Bay Road in Pasadena, Maryland.

3. On June 2, 2008 Judge Gatewood appeared before the Honorable Eugene M. Lerner, Judge of the Circuit Court for Anne Arundel County, Maryland. At that time Judge Gatewood entered a plea of not guilty and proceeded on an agreed statement of facts to the criminal charge of filling a state wetlands without a license as set forth in Md. Environment Ann. Code Section 16-202(a).

4. At the conclusion of the not guilty statement of facts plea Judge Eugene M. Lerner concluded that the evidence proved beyond a reasonable doubt that Judge Gatewood had violated Md. Environment Ann. Code Section 16-202(a) and that he had filled a state wetlands without a license. The court entered a guilty finding as to count one charging that criminal violation. The remaining charges were entered as *Nolle Prosequi* by the prosecution.

5. At the time that Judge Gatewood entered the plea in the criminal case he also reached an agreement with the Maryland Department of the Environment and the Anne Arundel County Government wherein he paid a \$10,000 civil fine for violating the Wetlands Act. (A copy of the complete transcript of Judge Gatewood's appearance before Judge Lerner on June 2,

2008 is incorporated herein and made part of this Stipulation of Facts.)

6. On June 2, 2008 Judge Lerner having found Judge Gatewood guilty of the violation of Md. Environment Ann. Code Section 16-202(a), placed Judge Gatewood on probation for a period of one year.

7. Judge Gatewood was afforded an opportunity to review the contents of this Stipulation and all related documents and was given an opportunity to review said documents with his counsel.

8. Judge Gatewood acknowledges that his actions are subject to sanction and that the Commission determines the sanction to be imposed. By his signature on this Stipulation Judge Gatewood affirms that he agrees to the Stipulation voluntarily, having been given an opportunity to consult with counsel and after having an opportunity to review the evidence collected by Investigative Counsel. The Commission will decide this case based upon the facts contained in this Stipulation and the documents received from Judge Gatewood and the Commission's Investigative Counsel.

9. Judge Gatewood hereby waives his right to a hearing before the Commission and waives his right to any subsequent proceedings before the Maryland Court of Appeals with regard to this case. Judge Gatewood waives his

right to challenge the findings that serve as the basis for the Private Reprimand that is being issued along with this Stipulation. Judge Gatewood agrees, pursuant to Maryland Rule 16-807 (b)(1)(C) that the Private Reprimand issued in this case may be admitted into evidence in any subsequent disciplinary proceeding against him to the extent that it is relevant to the charges at issue or the sanction to be imposed.

10. Judge Gatewood acknowledges that his being found guilty and having been placed on probation by the Circuit Court for Anne Arundel County on June 2, 2008 placed him in violation of Canons 1, 2(A), and 6 of the Maryland Code of Judicial Conduct.

The pertinent portions of those Canons provide:

CANON 1

Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge shall observe high standards of conduct so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

CANON 2

Avoidance of Impropriety and the Appearance of Impropriety

A. A judge shall avoid impropriety and the appearance of impropriety. A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the impartiality and integrity of the judiciary.

CANON 6
Compliance

A. Courts. This Code applies to each judge of the Court of Appeals, the Court of Special Appeals, a circuit court, the District Court, or an orphans' court.

B. Construction. Violation of any of the Canons by a judge may be regarded as conduct prejudicial to the proper administration of justice within the meaning of Maryland Rule 16-803(j) , as to the Commission on Judicial Disabilities.

11. Judge Gatewood has agreed to execute this Stipulation and understands that a copy of this Stipulation will be retained by the Commission and shall be considered a public document. The Judge acknowledges that this Stipulation and any related document issued by the Commission based upon this Stipulation may be published in the *Maryland Register* and otherwise republished in a manner consistent with the Commission's past practices. The parties further agree that in the event that Judge Gatewood chooses to make any public statements regarding the content of this Stipulation and any related documents, or any other aspect of this case, the Commission, pursuant to Maryland Rule 16-810(b)(2), the Commission may issue explanatory statements in its discretion.

I, JUDGE ASKEW W. GATEWOOD, JR., HAVE READ THE TERMS OF THIS STIPULATION AND WAIVER OF HEARING AND CAREFULLY REVIEWED ITS CONTENTS. I HAVE BEEN GIVEN AN OPPORTUNITY TO REVIEW THESE DOCUMENTS WITH MY COUNSEL. I UNDERSTAND THE STIPULATION AND WAIVER OF HEARING AND ACCEPT IT AS FULLY SET FORTH ABOVE.

Date

Judge Askew W. Gatewood, Jr.
District Court of Baltimore City

Date

Max Higgins Lauten, Esquire
Counsel to Judge Gatewood

APPROVED AND RECOMMENDED:

Date

Steven P. Lemmey, Investigative Counsel