

FEB 22 2019

STATE OF MARYLAND

on Judicial Disabilities

BEFORE THE COMMISSION ON JUDICIAL DISABILITIES

IN THE MATTER OF:	*	
	*	CJD 2018-009
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, materials provided by the Chief Judge of the District Court of Maryland, witness statement summaries, an audio recording of a proceeding in the District Court of Maryland for Baltimore City, the Judge’s responses and all attachments and materials incorporated therein by reference, the recommendations of Investigative Counsel, the Report of the Judicial Inquiry Board, Investigative Counsel’s Objections to 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 formal proceedings against Judge Russell pursuant to Maryland Rule 18-407(a).

The Commission will conduct a public hearing on these charges pursuant to Maryland Rule 18-407. 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 Judge Russell's conduct while she was sitting in the District Court for Baltimore City. The investigation was focused on allegations that Judge Russell reviewed a report written by a bailiff regarding an incident occurring during a hearing before another judge, met with the supervising bailiff to suggest or demand or order that the report be changed to reflect a fact pattern she presented to the supervising bailiff that was inconsistent with the fact pattern in the report, and reported the underlying incident to a judge with supervisory authority using the fact pattern she suggested.
3. As part of the investigation, Investigative Counsel interviewed witnesses and reviewed the following material: documentation received from the Chief Judge of the District Court of Maryland, an audio recording of the proceedings at issue in the bailiff's report, and the written response submitted by Judge Russell through counsel dated June 15, 2018 and all materials attached to and incorporated therein by reference.

4. The investigation revealed sanctionable conduct by Judge Russell in lending the prestige of her judicial office to advance her own personal interest, interfering with the proper administration of court business, failing to cooperate with other judges and court officials in the administration of court business, failing to promote confidence in the judiciary, giving a perception of impropriety, and failing to comply with the Code of Judicial Conduct.

5. Judge Russell's conduct was in violation of Rules 18-101.1, Compliance with the Law; 18-101.2, Promoting Confidence in the Judiciary; 18-101.3, Avoiding Lending the Prestige of Judicial Office; and 18-102.5(b), Competence, Diligence, and Cooperation. 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 18-101.3. AVOIDING LENDING THE PRESTIGE OF JUDICIAL OFFICE.

A judge shall not lend the prestige of judicial office to advance the personal or economic interest of the judge or others, or allow others to do so.

Rule 18-102.5(b). COMPETENCE, DILIGENCE, AND COOPERATION.

(b) A judge shall cooperate with other judges and court officials in the administration of court business.

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

On January 16, 2015, a Judge of the District Court of Maryland for Baltimore City (“Hearing Judge”) presided over a criminal docket at the North Avenue location. During the proceedings that day, a member of the public (“Spectator”) seated in the gallery stated, loudly, “Are you fucking serious right now?” Hearing Judge ordered Spectator to step forward and engaged in an exchange with Spectator resulting in Hearing Judge ordering Spectator to remain in the courtroom until the end of the docket. During this exchange, Hearing Judge stated, “I just found him guilty for assaulting you, and then you wanted to know if I was “fucking serious”, is what you said?” The bailiff on duty in the courtroom (“Bailiff on Duty”) had to intervene by using physical contact to guide Spectator towards a bench in order to comply with the directives of Hearing Judge.

Bailiff on Duty then wrote a report concerning the incident that afternoon and submitted it to the Supervising Bailiff (“Supervising Bailiff”), as per policy.

Bailiff on Duty’s report stated as follows:

On Friday 16 Jan 15 at about 11:05 am a domestic case was concluding in court room #5, in front of [Hearing Judge]. [Spectator] became very upset with [Hearing Judge] because of the outcome of the case . . . While still at the trial table [Spectator] says to [Hearing Judge] “are you fucking serious, I want to fucking leave.” [Hearing Judge] tells [Spectator] to leave the courtroom. As [Spectator] turns away she says “you dumb ass” directing this statement to [Hearing Judge]. [Hearing Judge] tells her to return to the trial table. She then tells [Spectator] to sit in the front bench. At the end of the docket [Spectator] is still disrespectful to [Hearing Judge]. [Hearing Judge] allows

her to leave the court room. This incident was recorded.

In late January of 2015, Judge Russell advised the Administrative Judge of the District Court of Maryland for Baltimore City that Hearing Judge had used “the F bomb” in Hearing Judge’s courtroom towards a member of the public while on the record.

On March 10, 2015, Judge Russell presented to the office of Supervising Bailiff under the pretense of discussing a retirement party for the prior Supervising Bailiff. Judge Russell promptly changed the subject to discuss the incident in Hearing Judge’s courtroom, stating that she had heard that Hearing Judge was swearing at a citizen. Supervising Bailiff reviewed the schedule to identify Bailiff on Duty. Supervising Bailiff advised Judge Russell that Bailiff on Duty had written a report on the occurrence. Judge Russell asked for a copy of the report. After reviewing the report, Judge Russell questioned why Hearing Judge’s use of profanity was not included in the report.

Supervising Bailiff summoned Bailiff on Duty to her office. Judge Russell was still present. Supervising Bailiff presented Bailiff on Duty with his report. Supervising Bailiff asked Bailiff on Duty what Hearing Judge had said that day in court. Bailiff on Duty recounted that he thought Hearing Judge said something like, “What is your fucking problem?” Supervising Bailiff asked why that was not included in the report. Bailiff on Duty replied that it was not pertinent. Judge Russell then instructed Bailiff on Duty to add the language to his report. Supervising Bailiff later explained that the bailiffs answer to the judges, and “If a judge asks for something, we feel compelled to comply,” characterizing all

requests from judges as “orders.”

Bailiff on Duty added a footnote to his amended report that stated, “The judge then says to [Spectator], ‘What is your fucking problem’” along with a notation that the information was added on March 10, 2015.

After the report was amended, Judge Russell delivered the amended report to the Administrative Judge, saying that Bailiff on Duty had given a copy to her. She also reportedly went to the Wabash Avenue courthouse and began waiving the amended report around in the common area, bragging to judges and staff that “[Hearing Judge] said the F bomb!” and accosting at least three judges in their chambers to show them the amended report.

It was later determined that the version of events suggested by Judge Russell and included in the amended report was inaccurate.

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: 2.22.19

Tanya O Bernstein
Director/Investigative Counsel

Date: 2/22/19

Derek A. Bayne
Assistant Investigative Counsel

NOTICE: YOU HAVE THE RIGHT, PURSUANT TO RULE 18-407(c) OF THE MARYLAND RULES, TO FILE A WRITTEN RESPONSE TO THIS COMPLAINT WITHIN THIRTY (30) DAYS AFTER SERVICE OF THIS NOTICE UPON YOU. AN ORIGINAL AND ELEVEN (11) LEGIBLE COPIES OF THE RESPONSE ARE REQUIRED. THE RESPONSE SHOULD BE PROVIDED TO THE COMMISSION ON JUDICIAL DISABILITIES.