

JUL 27 2023

on Judicial Disabilities

STATE OF MARYLAND

BEFORE THE COMMISSION ON JUDICIAL DISABILITIES

IN THE MATTER OF:

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CJD 2022-079

JUDGE APRIL T. ADEMILUYI

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RESPONSE OF JUDGE ADEMILUYI TO CHARGES

The Honorable April T. Ademiluyi (“Judge Ademiluyi”), by and through undersigned counsel, and pursuant to Md. Rule 18–431(d), submits her Response to the charges filed by Investigative Counsel in this matter on June 29, 2023, and states the following:

GENERAL RESPONSE

Judge Ademiluyi is a first generation American, born in Baltimore and raised in Prince George’s County by parents who emigrated from Nigeria. In 2020, pursuant to the eligibility requirements provided by the Maryland Constitution, then-attorney Ademiluyi ran to become a judge of the Circuit Court for Prince George's County. Judge Ademiluyi aspired to use the position in part to protect the rights of those who cannot protect themselves and to ensure that marginalized communities experience fairness, respect, and equality in our justice system – goals which are directly aligned with the Maryland Code of Judicial Conduct. During her campaign, Judge Ademiluyi described herself as the only judicial candidate not supported by the political establishment that places the corporate interest above people and ultimately does more harm to minorities. She was very vocal about issues surrounding the difficulties that children from economically disadvantaged communities often face when interacting with the Judiciary.

Judge Ademiluyi’s campaign platform resonated with the voters. In November 2020, the citizens of Prince George’s County elected Judge Ademiluyi to the bench. As a result of her

election victory, Judge Ademiluyi unseated an appointed sitting judge who was well liked by the other sitting judges in the Circuit Court of Prince George's County.

Judge Ademiluyi's journey to the bench, including her campaign rhetoric, caused her to experience discrimination, disdain, and hostility from her judicial colleagues from the first day of her judgeship. Judge Ademiluyi faced particularly hostile and antagonistic behavior from then-Administrative Judge Sheila R. Tillerson Adams. Collectively, this hostility created a toxic environment within the courthouse. As a result, Judge Ademiluyi became defensive and at times responded unkindly to the hostility that she felt was directed at her.

On December 31, 2022, the Honorable DaNeeka V. Cotton was appointed as the Administrative Judge of the Prince George's County Circuit Court. Since this time, the environment within the courthouse has changed positively. On January 31, 2023, just one month after her appointment, Judge Cotton determined that Judge Ademiluyi successfully completed the New Judges Training, including civil and criminal jury trial training, and certified Judge Ademiluyi as "prepared to fully assume the Courtroom duties of a Circuit Court Judge." Since receiving her certification, Judge Ademiluyi has become a greater asset to the Judiciary, the bench, and the public, as demonstrated by her impartially and competently presiding over several jury trials and judges with supervisory authority entrusting her with a greater than average chambers assignment caseload.

Upon careful reflection and with guidance from her mentor, the Honorable Larnzell Martin, Jr., and other judicial colleagues, Judge Ademiluyi is committed to respectfully working with her judicial colleagues and court personnel to confidently and skillfully serve the public that elected her to her judgeship.

SPECIFIC RESPONSES

Judge Ademiluyi responds to the numbered paragraphs of the charges as follows:

1. Judge Ademiluyi admits that she has served as a Judge of the Circuit Court for Prince George's County since December 2020.

2. Judge Ademiluyi is not in a position to admit or deny who opened an investigation regarding her conduct.

3. Judge Ademiluyi generally denies the allegations set forth in paragraph 3 of the charges.

4. Judge Ademiluyi denies that her conduct was in violation of Maryland Rules 18–101.1; 18–101.2; 18–102.1; 18–102.2; 18–102.3; 18–102.4; 18–102.5; 18–102.7; 18–102.8(b); 18–102.9; 18–102.11(a)(1), (a)(4), or (c); 18–102.12(a); 18–102.16(a); 18–103.1; 18–104.4(a), (b), or (d).

5. Judge Ademiluyi admits that she has been a judge on the Circuit Court for Prince George's County for approximately 2 ½ years and that Prince George's County is in the 7th Judicial Circuit, which also includes Calvert, Charles, and St. Mary's Counties. Judge Ademiluyi denies that she has engaged in a pervasive and inappropriate course of conduct during her time on the bench.

5a. To the extent the allegations in paragraph 5(i) of the charges concern training policies of Prince George's County, those documents speak for themselves. Judge Ademiluyi admits that "issues related to Judge Ademiluyi's training began almost immediately" and that "the Administrative Judge assumed responsibility for the management of Judge Ademiluyi's training." Judge Ademiluyi's training was inordinately delayed as a result of the disparate treatment she received from her judicial colleagues. This disparate treatment was primarily carried out by the then-Administrative Judge. Upon information and belief, the then-Administrative Judge was attempting to sabotage Judge Ademiluyi's judgeship, a task that became more achievable when she uniquely assumed sole control of Judge Ademiluyi's training. Judge Ademiluyi denies the

remaining allegations set forth in paragraph 5(i) of the charges. Consistent with the Maryland Judiciary Policy on Judicial Absences, the Prince George's County Circuit Court Policy on Judicial Absences, and Md. Rule 18-601, Judge Ademiluyi only took leave when her request was approved by the Administrative Judge. Requesting leave is not the same as being granted leave, as is evidenced by the many leave requests that were rejected by the Administrative Judge. Judge Ademiluyi notes that the fact she organizes her leave differently than the majority of her judicial colleagues is not sanctionable. Moreover, when Judge Ademiluyi was on leave, she continued to attend to her judicial duties.

Lastly, in an email between judicial personnel only, Judge Ademiluyi stated that her newly hired Executive Administrative Aid, Mark Atwood, would act as her law clerk. Judge Ademiluyi never misrepresented Mr. Atwood's position title, whether to judicial personnel or any other person. Judge Ademiluyi notes that the Maryland Judiciary's conversion of the paper filing system to MDEC eliminated the need for the duties of an Executive Administrative Aid in Judge Ademiluyi's chambers. Rather than waste government resources hiring someone who would have little to no work to do, Judge Ademiluyi hired someone in that position capable of carrying out the duties of a law clerk to provide more efficient and thorough justice to all. The Maryland Judiciary's Human Resources department assisted her in advertising the position at many law schools as Executive Administrative Aid with the duties, degree, and bar admission requirements of a law clerk.

5b. Judge Ademiluyi admits that "she was assigned to preside over a criminal jury trial on charges of rape and other related offenses for the matter captioned as *State of Maryland v. Carlos Antonio Lambright* (Case No. CT210423X)" and "another judge [the Honorable Cathy H. Serrette] was assigned to sit with Judge Ademiluyi to observe." Judge Ademiluyi notes that, contrary to

controlling law, Judge Serrette improperly believed that her role was also to personally decide the case, rather than only observe and advise. Judge Adams took over the training when Judge Ademiluyi refused to allow Judge Serrette to personally decide the matter. Circuit Court judges can consult with other judges about their cases but are prohibited from allowing other judges to personally decide the case. *See* Md. Rule 18–102.9(a)(4). Judge Ademiluyi denies the remaining allegations set forth in paragraph 5(ii) of the charges. Judge Ademiluyi notes that as a part of new judges training, Circuit Court judges consult with the Circuit Court employees of the Family Justice Center (the “Center”) to, among other things, familiarize themselves with the services the Center provides to sexual assault and domestic violence survivors. During the training, judges are also introduced to technology, such as cameras, used at the Center for sexual assault and domestic violence cases. Judge Ademiluyi notes that her decision of whether to take judicial notice of a Center brochure or a scientific publication during the *Lambright* Daubert hearing is not sanctionable conduct. Judge Ademiluyi further notes that Md. Rule 18–402(m)(2)(A) provides: “sanctionable conduct does not include making an erroneous finding of fact, reaching an incorrect legal conclusion, or misapplying the law[.]” *See also Matter of Reese for Howard Cty., Tenth Judicial Circuit*, 461 Md. 421, 443 (2018) (“We hasten to add that even if Judge Reese erred in her decision, such error does not establish misconduct. As the Rules Committee Note for Rule 18–401 indicates, [s]anctionable conduct does not include a judge’s simply making wrong decisions—even very wrong decision—in particular cases.”) (internal quotation marks omitted).

Next, Judge Ademiluyi notes that a judge’s decision to recuse themselves requires a fact driven analysis and often reasonable minds can differ regarding whether a judge should recuse themselves or advise the parties of potential bias. At the outset of the *Lambright* trial, Judge Serrette, who sat with Judge Ademiluyi during the *Lambright* trial, raised the issue of recusal with Judge Ademiluyi.

Following that discussion, the judges agreed that Judge Ademiluyi did not need to recuse herself from the *Lambright* trial or advise the parties of any potential bias. Moreover, neither trial counsel in the *Lambright* case raised the issue of recusal prior to or during the trial, despite presumably being aware of Judge Ademiluyi's campaign rhetoric or experience as a rape survivor. During her time on the bench, Judge Ademiluyi has presided over hundreds of rape and domestic violence cases, and no litigant has ever raised the issue. Judge Ademiluyi's decision not to recuse or failure to disclose her experience as a rape survivor is not sanctionable conduct.

Further, Judge Ademiluyi has never proposed to amend the criminal pattern jury instructions for reaching a unanimous verdict and duty to deliberate. Instead, she merely participated in an academic discussion about those jury instructions with her judicial colleagues. Lastly, Judge Ademiluyi does not have a policy of denying all requests filed by criminal defendants for drug and alcohol evaluations. Judge Ademiluyi conducts a fact specific analysis for each such request, as is required by law, and only denies such requests when she has the legal authority to do so. Judge Ademiluyi notes that she has granted numerous requests for alcohol and drug evaluations during her judgeship.

5c. Judge Ademiluyi denies the allegations set forth in paragraph 5(iii) of the charges. Judge Ademiluyi acknowledges that, at times, her decorum and demeanor when she criticizes her judicial colleagues in emails, between her and her staff, was unkind. Judge Ademiluyi notes that her decorum and demeanor was in response to the hostility of her judicial colleagues. Judge Ademiluyi is cognizant of her past interactions, understands the importance of treating people with dignity and respect, and has and will always make an effort to strengthen her interpersonal relations within the courthouse. Further, Judge Ademiluyi notes that as a new judge, her every action and decision is highly scrutinized because of her pathway to the bench. Judge Ademiluyi's critiques of her staff

and law clerks are made to foster professional growth and ensure that her chambers produces the highest quality work product. Judge Ademiluyi's critiques are always followed by words of encouragement, praise, and other actions so as to balance constructive criticism with encouragement. Judge Ademiluyi notes that people may disagree with the way she runs her chambers or who she hires, but critiquing or constructively criticizing her staff's work product, which she ultimately affixes her signature to before it is filed, is not sanctionable conduct.

5d. To the extent the allegations in paragraph 5(iv) of the charges concern a 2020 campaign advertisement of Judge Ademiluyi, that advertisement speaks for itself. The full transcript of the portion of the campaign advertisement cited in paragraph 5(iv) of the charges is as follows:

Women need more than a movement. People need more than protests in the streets. We need power, a judge's power. I know the legal system. Give us power, and justice is ours. Vote. As a judge, I would have the power to help you too. Give me the power to protect women, protect the disenfranchised. Give me power to protect those in need, protect those who have no voice. I will work to end the pipeline to prison for the young in our county. Give us power, then justice is ours. Vote. I will prove justice is blind when holding all accountable for their actions. In my courtroom status and wealth will not prevail against the law . . . As a judge, I would work to make sure that no one has to fear or distrust law enforcement in our communities at any time or place. I will stand for me too and all of you. I have the right experience practicing law. I know the system. I know how to make it work for all of us. I am attorney April Ademiluyi, I am running for judge. Justice is ours. Vote.

Judge Ademiluyi notes that this campaign message is directly in line with the Maryland Code of Judicial Conduct and the Maryland Rules. Specifically, consistent with Md. Rule 18-102.2, Judge Ademiluyi states that while on the bench, she will "uphold and apply the law" regardless of the litigant in front of her. Judge Ademiluyi acknowledges that her campaign rhetoric may be seen as controversial, but she committed no sanctionable conduct during her judicial campaign. *See Ademiluyi v. Egbuonu*, 466 Md. 80, 137 n. 34 (2019) ("Under the Maryland Code of Judicial Conduct, incumbent judges are restricted in their campaign activities and from making campaign

statements or promises that would reflect upon their judicial integrity. Specifically, in addition to other rules governing political conduct, an incumbent judge as a candidate ‘with respect to a case, controversy, or issue that is likely to come before the court, shall not make a commitment, pledge, or promise that is inconsistent with the impartial performance of the adjudicative duties of the office’ and ‘shall not make any statement that would reasonable be expected to affect the outcome or impair the fairness of a matter pending or impending in any court.’ **Challengers who are not incumbent judges do not have any such restrictions on political conduct and campaign statements.**”) (internal citation omitted) (emphasis added).

5e. Judge Ademiluyi denies the allegations set forth in paragraph 5(v) of the charges. Investigative Counsel issued two notice of investigation letters in this matter. Judge Ademiluyi’s responses to those notice letters did not contain misrepresentations nor were they “evasive,” “misleading,” or “deceptive.” Judge Ademiluyi responded to both notice letters, under advice of counsel, and provided the responses that she and her counsel felt were appropriate for the posture of the matter. The Maryland Rules do not require judges to substantively respond to every allegation raised by Investigative Counsel in a notice letter. *See* Md. Rule 18–422(a)(5) (“Upon the issuance of notice pursuant to subsection (a)(4) of this Rule, Investigative Counsel shall afford the judge a reasonable opportunity prior to concluding the investigation to present such information **as the judge chooses[.]**”) (emphasis added). Further, in both of her responses, Judge Ademiluyi expressed her desire to cooperate during this matter by stating the following: “Judge Ademiluyi is looking forward to responding to any substantive inquiry by the Commission and otherwise looks forward to cooperating with the Commission’s investigation.” Further, in both of Investigative Counsel’s notice letters, she requested that “any response submitted by counsel on your behalf include your signature confirming your approval and adoption of the information

contained therein.” While Judge Ademiluyi did not personally sign her responses, she worked with her counsel in drafting and finalizing them. Importantly, there is no Maryland Rule that requires a judge to personally sign a response submitted pursuant to Md. Rule 18–422(a)(5). *See also* Md. Rule 1–311. Judge Ademiluyi notes that she has fully cooperated during the investigatory process in this matter and continues to make herself fully available to cooperate during the pendency of this matter — an offer that has not been taken up by Investigative Counsel, the Board, or the Commission.

6. No response to paragraph 6 of the charges is required since it merely alleges statements of opinion. To the extent a response is required, Judge Ademiluyi denies the allegations contained in paragraph 6 of the charges.

7. Judge Ademiluyi denies that her behavior provides evidence that she engaged in conduct prejudicial to the proper administration of justice in Maryland Courts, pursuant to the Maryland Constitution, Article IV, Section 4B(b)(1).

Date: July 27, 2023

Respectfully submitted,

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