

STATE OF MARYLAND

BEFORE THE COMMISSION ON JUDICIAL DISABILITIES

In the Matter of the

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HONORABLE ROBERT C. NALLEY,  
Associate Judge, Charles County  
Circuit Court of Maryland,  
Seventh Judicial Circuit,

\*

Case No. CJD 2009-087

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Respondent

**AGREEMENT FOR DISCIPLINE BY CONSENT**

The Honorable Robert C. Nalley, Associate Judge, Charles County Circuit Court of Maryland, Seventh Judicial Circuit, ("Judge Nalley"), and by and through his counsel, William C. Brennan, Jr., and Steven P. Lemmey, Investigative Counsel ("Investigative Counsel") for the Commission on Judicial Disabilities ("Commission"), pursuant to Maryland Rule 16-808(l), hereby enter into this Agreement consisting of the following terms:

1. On November 23, 2009, at a duly constituted regular Meeting of the Commission Members, upon unanimous vote, the Commission Members, pursuant to Rule 16-808(a), made a finding of probable cause in the above-entitled case to believe that Judge Nalley committed sanctionable conduct and directed Investigative Counsel to initiate proceedings against Judge Nalley by filing with the Commission charges that he had committed sanctionable conduct.

2. On January 6, 2010, charges against Judge Nalley in the above-entitled case were filed by Investigative Counsel with the Commission ("Charges") and thereafter served upon Judge Nalley. A copy of the Charges is attached to this Agreement and incorporated herein as Exhibit A.

3. On January 15, 2010, Judge Nalley, by and through his counsel, filed a written

response to the Charges. A copy of the response is attached to this Agreement and incorporated herein as Exhibit B.

4. On April 28, 2010, the Commission held a public hearing in Courtroom No. 1 of the Maryland Court of Special Appeals in regard to the above-entitled case. Investigative Counsel, with Elissa E. Goldfarb, Assistant Investigative Counsel, presented the case against Judge Nalley. The Judge was present at the hearing and represented by William C. Brennan, Jr., Esq. The following Commission Members participated in the hearing: Honorable Patrick L. Woodward, Chair, Honorable Nancy B. Shuger, Vice Chair, William D. Berkshire, Marcy Canavan, Honorable Robert A. Greenberg, Arielle F. Hinton, Esq., Susan J. Matlick, Patricia B. Pender, Julie R. Rubin, Esq., Samuel F. Saxton, Sr., and Steven D. Silverman, Esq. A copy of the transcript of the hearing is attached to this Agreement and incorporated herein as Exhibit C.

5. During the Hearing, the following stipulated materials were offered and accepted into evidence without objection: Joint Exhibit 1, binder (with eleven (11) tabs of documents, including the Hearing Notice, Charges, Stipulations of Fact, Exhibit #1 - Deposition transcript of Judge Nalley on February 2, 2010, and the following deposition exhibits: statement of Judge Nalley, District Court certified docket entries, transcript of interview of Judge Nalley on August 21, 2009, and three (3) photographs). A copy of the entire Joint Exhibit 1, binder with eleven (11) attachments, is attached to this Agreement and incorporated herein as Exhibit D. Judge Nalley, after being sworn in, responded to questions from the Commission Members and presented the sworn character testimony of Leonard C. Collins, Jr., State's Attorney for Charles County, Anthony B. Covington, Deputy State's Attorney for Charles County, and John Francis Mudd, Esq.

6. Judge Nalley admits to all of the Charges and the truth of all facts constituting sanctionable conduct. In the Stipulations of Fact and the transcript of the deposition of Judge Nalley on February 2, 2010, set forth in Joint Exhibit 1, Tab C, Judge Nalley expressly admitted that he: (i) deflated the tire of a person's automobile by letting air out of the tire through the valve stem; (ii) was formally charged with a violation of the Transportation Code of Maryland under Section 14-104(a), tampering with a motor vehicle without the owner's consent; (iii) entered a plea of guilty to the misdemeanor charge of tampering with a motor vehicle, was fined \$500.00, ordered to provide an apology to the owner of the motor vehicle, placed on six months of unsupervised probation before judgment; and (iv) violated Canons 1, 2A and 6B of the Maryland Code of Judicial Conduct, Maryland Rule 16-813, and that such violations constituted sanctionable conduct and conduct prejudicial to the proper administration of justice. Judge Nalley submitted a written letter of apology to the owner of the vehicle and Judge Nalley has successfully completed his probation.

7. At the conclusion of the hearing, and prior to a decision by the Commission, because of the serious nature of Judge Nalley's conduct and his responses to questions from the Commission Members, the parties agreed that a public reprimand was not sufficient to address the issues in this case. This was so because: (i) Judge Nalley admitted that he let the air out of someone's tire approximately 10 years ago, although he was not charged and convicted of such offense; (ii) the Judge's conduct raised a serious safety issue by potentially endangering the life of the driver of the auto who might have driven the auto without realizing the tire was flat; and (iii) Judge Nalley, as County Administrative Judge at the time of the conduct, was "responsible for the administration of justice and

for the administration of the court for [Charles County]" (Md. Rule 16-101(d)2), and knowledgeable about the Sheriff's handling of the Courthouse parking spaces.

8. Judge Nalley has privately apologized to the owner of the vehicle and has publically apologized to the citizens of Maryland for his conduct on August 10, 2009. Judge Nalley has never denied his conduct that day and he has accepted full responsibility for his conduct and he is extremely remorseful that his actions brought unflattering attention to a member of the Maryland judiciary, thereby embarrassing his colleagues on the bench.

9. Judge Nalley has more than 38 years of distinguished and exemplary public service to the citizens of Charles County. He served for eight and a half years as a prosecutor in the State's Attorney's Office and for 30 years as a member of the judiciary in both the District and Circuit Courts.

10. The Commission, prior to rendering a decision on the merits in the above-entitled case, authorized the Investigative Counsel to enter into discussions with Judge Nalley and his counsel for an Agreement of Discipline by Consent and to submit such Agreement to the Court of Appeals for the Court's approval pursuant to Maryland Rule 16-808(l).

11. Judge Nalley consents to a suspension without pay for a period of five (5) work days to be completed within thirty (30) days of the date of approval of this Agreement by the Court of Appeals ("Sanction").

12. Judge Nalley waives his rights to further proceedings before the Commission and to subsequent proceedings before the Court of Appeals relating to the Charges and the Sanction. Judge Nalley waives all rights to challenge or dispute the Charges and the Sanction, and waives all other rights available to him under the Maryland Rules in

connection with the Charges and the Sanction.

13. Judge Nalley agrees that the Sanction, this Agreement and the Exhibits attached hereto may be admitted in any subsequent disciplinary proceeding against him, if relevant.

14. Judge Nalley enters into this Agreement and gives his consent to the Sanction freely and voluntarily, after discussion with his counsel, William C. Brennan, Jr.

15. Pursuant to Maryland Rule 16-808(l), the parties agree that this Agreement shall be submitted to the Court of Appeals, which shall either approve or reject this Agreement. Until approved by the Court of Appeals, this Agreement shall be confidential and privileged as required by Maryland Rule 16-808(l). If the Court approves this Agreement and imposes the Sanction, this Agreement, and all of the attached exhibits, shall be made public as required by Maryland Rule 16-808(l). If the Court rejects this Agreement including the Sanction, the proceedings before the Commission shall resume as if no consent had been given.

**AGREED:**

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Hon. Robert C. Nalley  
Associate Judge, Charles County  
Circuit Court of Maryland,  
Seventh Judicial Circuit

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Commission on Judicial Disabilities

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Counsel for Hon. Robert C. Nalley

Recommendation of the Commission

The Commission on Judicial Disabilities recommends the approval of this Agreement  
by the Court of Appeals.

Maryland Commission on Judicial Disabilities

By: \_\_\_\_\_  
The Honorable Patrick L. Woodward, Chair