

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 1111

September Term, 2023

JEROME HAMMONDS

v.

STATE OF MARYLAND

Berger,
Ripken,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: February 5, 2025

Jerome Hammonds¹ (“Appellant”) appeals from the denial of his motion for reduction of sentence. The motion was filed pursuant to the Juvenile Restoration Act (“JUVRA”), Maryland Code (2001, 2018 Repl. Vol., 2022 Supp.), section 8-110 of the Criminal Procedure (“CP”) Article. It was denied in June of 2023.

ISSUES PRESENTED FOR REVIEW

Appellant presents the following questions for our review:²

- I. Whether the circuit court abused its discretion in failing to *sua sponte* recuse itself or disclose the basis for its disqualification where the court’s impartiality might reasonably have been questioned.
- II. Whether the circuit court abused its discretion in applying the statutory factors enumerated in JUVRA.

¹ Before the circuit court, Appellant’s counsel noted that his name is properly spelled “Jurone Hammond.” For consistency, we spell his name as it appears in court records, and in so doing intend no disrespect.

² Consolidated and rephrased from:

1. Did the [circuit] court err by misapplying the ten statutory factors enumerated in the Juvenile Restoration Act when it denied Mr. Hammonds’ Motion for a Reduction of Sentence?
2. Did the [circuit] court err in not disclosing its actual bias toward individuals charged with sexual offenses in light of the court’s personal experience as a rape victim?
3. Did the [circuit] court err in not recusing itself considering its patent bias against individuals such as Mr. Hammonds who were charged with sexual offenses, in violation of the Sixth Amendment of the U.S. Constitution, as reflected in the court’s statements as a candidate for the judiciary which clearly violated Maryland Rules 18-101.1, 18-101.2, and 18-104.4(b) and (d)(1) and (3), namely having made inappropriate statements?

We agree with both Appellant and the State that former Judge Ademiluyi should have recused herself from this case; accordingly, we shall vacate the denial of Appellant’s motion for reduction of sentence and remand for a new hearing.³

FACTUAL AND PROCEDURAL BACKGROUND

A. JUVRA Proceeding

In 1996, Appellant was convicted of first-degree rape, two counts of first-degree sexual offense, malicious injury, battery, and kidnapping. He was tried as an adult and sentenced to life plus fifteen years of incarceration. At the time of the offense, he was sixteen years old.

In September of 2022, Appellant filed a motion for reduction of sentence pursuant to JUVRA. The State answered the motion and noted that Appellant met the criteria for a hearing to gather facts relating to Appellant’s motion. In April of 2023, a hearing on the motion was held. Former Judge April T. Ademiluyi was the trial judge who presided at the hearing. The court heard testimony from a forensic psychologist, who conducted a psychiatric examination; the administrative director of a re-entry program; the community engagement coordinator for the Office of the Public Defender, who prepared a proposed re-entry plan for Appellant; and a friend of Appellant, who was formerly incarcerated, and who was enrolled in Appellant’s proposed re-entry program. The State opposed reduction of sentence for reasons including Appellant’s infraction history while incarcerated, his risk assessment, and the lack of a psychosexual evaluation of Appellant.

³ Because we vacate the order denying Appellant’s motion, we do not reach the second issue.

In June of 2023, the circuit court issued a memorandum opinion and order denying Appellant’s motion for reduction of sentence. The memorandum examined each of the JUVRA statutory factors, CP § 8-110(d), and found that most factors weighed against reducing Appellant’s sentence. Appellant noted this timely appeal.

B. Removal of Former Judge Ademiluyi

Shortly thereafter, in June of 2023, Investigative Counsel filed charges with the Maryland Commission on Judicial Disabilities (“the Commission”) against then-Judge Ademiluyi alleging numerous violations of the Maryland Code of Judicial Conduct. *Matter of Ademiluyi*, 488 Md. 45, 58 (2024). The allegations fell into five categories, two of which are relevant here: “misconduct as a candidate for election[,]” and “misconduct related to a criminal jury trial and criminal defendants generally[.]” *Id.* The Commission conducted a hearing on the charges and found violations of the Maryland Rules within each of the five categories. *Id.* at 59. The matter was referred to the Supreme Court of Maryland, which removed former Judge Ademiluyi from office. *Id.* at 58 (citing *Matter of Ademiluyi*, 487 Md. 133, 134–35 (2024) (*per curiam* order removing her from office)).

The Commission found, and the Court treated as established, the following facts. *Id.* at 89–90. During her 2020 campaign for judicial election, former Judge Ademiluyi released a campaign video titled “Justice is Ours.” *Id.* at 61. In the video, former Judge Ademiluyi stated:

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

...

I will stand for Me Too and all of you

Id. at 62. Former Judge Ademiluyi also had a campaign-related blog that included a post acknowledging sexual assault awareness month. *Id.* at 63. The post contained a statement that read, “I will do my best to summarize years of abuse I endured from police, prosecutors, and judges who literally put the justice system up for sale to rapists . . . The police and prosecutors destroy and fabricate evidence to cover up the drug rapes[.]” *Id.* (emphasis omitted).

During her training period, former Judge Ademiluyi presided over a criminal jury trial, *State of Maryland v. Lambright*. *Id.* at 77. The defendant had been charged with first-degree rape and related offenses. *Id.* The Commission found several instances of misconduct related to this trial; among them was the failure to recuse herself from the proceeding. *Id.* at 121–25, 130. Following the *Lambright* trial,

The Commission found that . . . ‘Judge Ademiluyi continued to display bias and partiality against criminal defendants, this time in communications with her Law Clerk about motions by incarcerated defendants for drug and alcohol abuse evaluations.’ In discussing a pending motion, Judge Ademiluyi . . . stated: ‘I don’t allow inmates to turn me into a means to avoid the parole board. I have yet to release anyone from prison. Most of the motions are filed pro se and I deny them.’

Id. at 86.

The Commission concluded that the content of former Judge Ademiluyi’s campaign video and blog post “could reasonably be perceived as promising to help victims of, and

those alleging that they are victims of, sexual violence . . . and that she would use her power as a judge to . . . make particular results happen for alleged victims of sexual violence.” *Id.* at 100 (internal quotation marks removed). The Commission found that, due to the appearance of bias created by her campaign statements, former Judge Ademiluyi “could reasonably have been perceived as promising or committing to a particular result or rule in cases alleging sexual violence such as the *Lambright* case” and that she should have recused herself pursuant to Maryland Rule 18-102.11(a)(4). *Id.* at 121–23. The Commission also found that the statements made by former Judge Ademiluyi to her law clerk displayed bias against criminal defendants generally. *Id.* at 122. The Supreme Court upheld the findings of the Commission. *Id.* at 103, 122–23.

DISCUSSION

The parties agree that former Judge Ademiluyi should have *sua sponte* recused herself due to the appearance of bias created by her campaign statements.⁴ Appellant contends that former Judge Ademiluyi expressed a pre-existing actual bias toward sexual offenders. The State contends that the Supreme Court’s conclusions with respect to the *Lambright* trial—that former Judge Ademiluyi’s impartiality when presiding over a rape trial might reasonably be questioned due to her campaign statements—also applies in the context of Appellant’s JUVRA hearing. Both parties request that this Court remand for a new hearing on Appellant’s JUVRA motion.

⁴ The State notes that Appellant never requested former Judge Ademiluyi’s recusal but declines to make a preservation argument.

THE CIRCUIT COURT ABUSED ITS DISCRETION IN FAILING TO RECUSE.

We note at the outset that Appellant did not preserve the issue of former Judge Ademiluyi’s recusal for review. An appellant must request the recusal of a trial judge to preserve the issue for appeal. *Traverso v. State*, 83 Md. App. 389, 394 (1990). “Ordinarily, an appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]” Md. Rule 8-131(a). However, the Supreme Court has explained that Rule 8-131(a) “grants an appellate court discretion to consider issues deemed to have been waived for failure to make a contemporaneous objection.” *Abdul-Maleek v. State*, 426 Md. 59, 69 (2012). In determining whether to review an issue that has been waived, an appellate court should consider whether doing so “will work unfair prejudice to either of the parties” and “will promote the orderly administration of justice.” *Jones v. State*, 379 Md. 704, 714–15 (2004).

Here, both parties seek our review of the unpreserved issue, and both parties agree that a new hearing is warranted. Thus, no unfair prejudice will result to either party. Because of the limited and specific circumstances of former Judge Ademiluyi’s removal and the direct applicability of the Supreme Court’s conclusions in *Lambright* to this case, it is in the interests of the orderly administration of justice that we exercise our discretion to consider the merits of the issue.

A. Standard of Review

We review a judge’s decision whether to recuse for an abuse of discretion. *Bishop v. State*, 218 Md. App. 472, 491 (2014). “[T]here is a strong presumption in Maryland, and elsewhere, that judges are impartial participants in the legal process, whose duty to preside

when qualified is as strong as their duty to refrain from presiding when not qualified.” *Att’y Grievance Comm’n of Md. v. Shaw*, 363 Md. 1, 11 (2001) (quoting *Jefferson-El v. State*, 330 Md. 99, 107 (1993)). Therefore, it is “a heavy burden to overcome the presumption of impartiality” of a judge. *Id.*

B. Analysis

“A defendant in a criminal case has a right to a fair trial.” *Jefferson-El*, 330 Md. at 105. That right encompasses “a trial in which the judge is not only impartial and disinterested, but [] also has the appearance of being impartial and disinterested.” *Scott v. State*, 175 Md. App. 130, 151 (2007) (quoting *Chapman v. State*, 115 Md. App. 626, 631 (1997)). “Generally speaking, a judge is required to recuse himself or herself from a proceeding when a reasonable person with knowledge and understanding of all the relevant facts would question the judge’s impartiality.” *Conner v. State*, 472 Md. 722, 737 (2021) (quoting *Matter of Russell*, 464 Md. 390, 402 (2019)). We take a “case-by-case approach to evaluation of recusal rulings.” *Id.* at 740.

Judges are “required to maintain high standards of conduct” because of their “distinguished and decisive position.” *Jefferson-El*, 330 Md. at 106. The Maryland Rules provide

[a] judge shall recuse in any proceeding in which the judge’s impartiality might reasonably be questioned, including . . . [where] [t]he judge, while a judge or a judicial candidate, has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

Md. Rule 18-102.11(a)(4). A judge subject to disqualification may choose to disclose the basis for their disqualification to the parties so that the parties and their attorneys may consider whether to waive disqualification. Md. Rule 18-102.11(c).

The Supreme Court’s holding that the campaign conduct of former Judge Ademiluyi created a basis upon which her impartiality might reasonably have been questioned in the *Lambright* trial applies here.⁵ The Court stated,

Judge Ademiluyi violated Maryland Rule 18-102.11(a)(4) by failing to disqualify herself in a proceeding in which her impartiality might reasonably be questioned. . . . Under the circumstances of this case, clear and convincing evidence supports the Commission’s conclusion that, where Judge Ademiluyi previously made statements in campaign materials constituting a promise or commitment to assist victims or survivors of sexual assault offenses, her impartiality might reasonably have been questioned as the presiding judge in a case involving rape charges.

Matter of Ademiluyi, 488 Md. at 130.⁶

⁵ In concluding that former Judge Ademiluyi’s campaign statements created the appearance of bias in sexual assault cases, the Court noted that “we do not conclude that it is inherently wrong for a candidate for judicial office to publicly identify as a victim or survivor of a crime or share information about the candidate’s personal experiences.” *Matter of Ademiluyi*, 488 Md. at 105. Rather, the Court based its conclusion on the reasonable perception that former Judge Ademiluyi’s statements were a commitment to decide sexual assault cases in a particular manner. *Id.* In deciding this case, we make the same distinction. *See Bishop*, 218 Md. App. at 496–97 (holding that a judge who was the intended victim of a murder for hire did not err in deciding against recusal in a murder for hire case where the judge had expressed no general bias in such cases).

⁶ The Supreme Court also held that former Judge Ademiluyi violated Maryland Rule 18-102.11(c) by not disclosing the basis for her disqualification to the parties in the *Lambright* trial. *Matter of Ademiluyi*, 488 Md. at 130–31. Here, had former Judge Ademiluyi disclosed the relevant facts, the parties would have had the opportunity to request her recusal or waive the issue. As in *Lambright*, former Judge Ademiluyi did not make a disclosure. It is unclear from the record to what extent the parties had knowledge of the relevant facts absent such a disclosure.

The facts and circumstances that led to the Supreme Court’s finding concerning the *Lambright* trial are also present here. In this case Appellant was convicted of rape. Former Judge Ademiluyi’s campaign statements, which the Commission found could be perceived as a commitment to “a particular result or rule in cases alleging sexual violence such as the *Lambright* case,” created the appearance that she may not be impartial in such cases. *Id.* at 121–23. Despite such an appearance, former Judge Ademiluyi did not recuse herself from hearing Appellant’s JUVRA motion. Recusal in this case was “required” because, as decided by the Supreme Court, “a reasonable person with knowledge and understanding of all the relevant facts would question the judge’s impartiality.” *See Conner*, 472 Md. at 737 (internal quotation marks and citation omitted). Thus, the failure to recuse by former Judge Ademiluyi was an abuse of discretion. We vacate the order denying Appellant’s reduction of sentence and remand to the circuit court for a new hearing on the motion.

**ORDER OF THE CIRCUIT COURT FOR
PRINCE GEORGE’S COUNTY VACATED.
CASE REMANDED FOR FURTHER
PROCEEDINGS. COSTS TO BE PAID BY
PRINCE GEORGE’S COUNTY.**