



STATE OF MARYLAND

BEFORE THE COMMISSION ON JUDICIAL DISABILITIES

IN THE MATTER OF:

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CJD 2016-189

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 Acting 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 District Administrative Judge of the District Court of Maryland First Judicial District, witness statement summaries, 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, 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 engaged in significant and habitual delays between the receipt of the return from an executed search and seizure warrant and the processing of that warrant pursuant to the applicable policies and procedures of the District Court. These delays included the failure to appropriately process warrants executed in the years 2007 up to and including 2015. Judge Russell provided these unprocessed warrants to a subordinate and instructed the subordinate to process whatever warrants possible and to destroy any remaining warrants that could not be adequately processed.
3. Investigative Counsel interviewed a number of witnesses. In addition, over 170 search and seizure warrants ("warrants"); District Court Search and Seizure Warrants Transmittal Sheets; selected audio/video recordings of hearings involving the aforementioned warrants; and several written responses submitted by Judge Russell, dated June 16, June 27, July 6, July 10, July 23, July 24, July

25, July 31, August 3, August 4, August 10, August 30, and September 13, 2017, and all materials attached to and incorporated therein by reference, were reviewed and considered as part of this investigation.

4. The investigation revealed sanctionable conduct by Judge Russell with regard to her consistent failure to perform the duties of her office in her handling of warrants; her openly displayed contempt for the reasonable directives of her supervisors; and her disrespectful, combative, and unprofessional interactions with fellow judges and other courthouse staff and personnel. Judge Russell also failed to fully cooperate with Investigative Counsel during the investigation, including but not limited to her refusal to accept service of certified mail and misrepresentation of facts in her written correspondence.

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; 18-102.1, Giving Precedence to the Duties of Judicial Office; 18-102.3, Bias, Prejudice, and Harassment; 18-102.5, Competence, Diligence, and Cooperation; 18-102.8, Decorum, Demeanor, and Communications with Jurors; 18-102.12, Supervisory Duties; and 18-102.16, Cooperation with Disciplinary Authorities. 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 18-102.1. GIVING PRECEDENCE TO THE DUTIES OF JUDICIAL OFFICE.

The duties of judicial office, as prescribed by law, shall take precedence over a judge's personal and extrajudicial activities.

Rule 18-102.3. BIAS, PREJUDICE, AND HARASSMENT.

- (a) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.
- (b) In the performance of judicial duties, a judge shall not, by words or conduct, manifest bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation. A judge shall require attorneys in proceedings before the court, court staff, court officials, and others subject to the judge's direction and control to refrain from similar conduct.

Rule 18-102.5. COMPETENCE, DILIGENCE, AND COOPERATION.

- (a) A judge shall perform judicial and administrative duties competently, diligently, promptly, and without favoritism or nepotism.
- (b) A judge shall cooperate with other judges and court officials in the administration of court business.
- (c) A judge shall not willfully fail to comply with administrative rules or reasonable directives of a judge with supervisory authority.

Rule 18-102.8. DECORUM, DEMEANOR, AND COMMUNICATION WITH JURORS.

- (b) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

Rule 18-102.12(a). SUPERVISORY DUTIES.

- (a) A judges shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the

judge's obligations under this Code.

Rule 18-102.16. COOPERATION WITH DISCIPLINARY AUTHORITIES.

(a) A judge shall cooperate and be candid and honest with judicial and attorney disciplinary agencies.

(b) A judge shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a judge or an attorney.

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

Judges of the District Court of Maryland for Baltimore City routinely sign warrants at the application of police officers from multiple jurisdictions. Issued warrants, if served, are returned to the issuing judge along with an inventory of any evidence seized. The executing officer then signs the return under oath. The judge is to sign and date the return and match the return and inventory with the original signed warrant. The package is to be sent to the District Court of Maryland for Baltimore City location at Wabash Avenue ("Wabash") where warrants are inventoried and forwarded to the Circuit Court for Baltimore City for storage.

Beginning in 2007, Judge Russell routinely failed to forward warrants, returns, and inventories from executed warrants returned to Judge Russell by the executing officer to Wabash for processing in accordance with the policies and procedures of the District Court of Maryland for Baltimore City as described above. Other returns from executed warrants were not properly signed or dated by Judge Russell when returned to her by the executing officer. On other occasions, other judges would accept returns and inventories for warrants issued by Judge

Russell from police officers when Judge Russell was not available. These judges would forward the completed returns to Judge Russell who would fail to match these returns to the original warrants and forward these materials together to Wabash.

Judge Russell failed to file at least one hundred and thirty-five (135) executed warrants, inventories, and returns with Wabash from 2007 until 2015. These 135 warrants were maintained by Judge Russell in her chambers until 2016, when she provided multiple boxes of warrants, inventories, and returns to a law clerk working in the District Court. She instructed the law clerk to match up the warrants, inventories, and returns, if possible, and to provide the same to an administrative assistant who would forward the same to Wabash. These boxes included materials maintained by Judge Russell since 2007 up to and including materials from 2015. The law clerk was instructed by Judge Russell to keep her assignment a secret. Despite matching and forwarding a large number of warrants, inventories, and returns, the law clerk had difficulty completing this assignment. The law clerk sought Judge Russell's assistance. Judge Russell instructed the law clerk to destroy the remaining warrants, inventories, and returns.

From 2012 to present, Judge Russell would routinely wait several months and sometimes in excess of one year to forward the executed warrants, inventories, and returns that she did properly process to Wabash.

7. Judge Russell repeatedly failed to respect the reasonable directives of judges with supervisory authority over her, often expressing contempt for their instructions or attempting to deflect ownership of her responsibilities by pointing out the flaws of

other judges. Judge Russell exhibited perpetual inability to accept responsibility for her actions; a lack of cooperation with other members of the District Court bench; contempt for those with supervisory authority over her; and a disproportionate and unwarranted focus on wrongs allegedly committed against her that absolve her of any wrongdoing. Judge Russell challenged reasonable directives of judges with supervisory authority by questioning the reasoning of their decisions or by directly appealing to judges further up the chain of command. These reasonable directives include, but are not limited to, daily duty assignments, chamber assignments, personnel decisions, District Court location assignments, methods and frequency of communications, administrative decisions regarding absences and leave, and hourly work requirements. Judge Russell has also made repeated inappropriate, condescending, and unprofessional statements and actions towards other members of the District Court bench.

8. During the investigation of this matter, Judge Russell refused to accept service by certified mail of multiple official communications from Investigative Counsel, requiring the hiring of a private process server to accomplish such communications. In addition, Judge Russell misrepresented facts to Investigative Counsel by falsely claiming that two of the communications mailed to her home – an address that is both on file with the Maryland judiciary as her mailing address and the location where she was served via private process – were sent to the incorrect address.
9. Judge Russell has shown a consistent failure to perform the duties of her office, behave in a professional manner, or abide by reasonable directives of judges with

supervisory authority. Judge Russell has also failed to fully cooperate with and show candor towards Investigative Counsel during the course of this investigation.

10. 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 Acting Investigative Counsel at the direction of the Commission on Judicial Disabilities.

COMMISSION ON JUDICIAL DISABILITIES

Date: 1.11.18

Tanya C. Bernstein
Acting Director/Investigative Counsel

Date: 1/11/18

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.