

IN THE MATTER OF: * BEFORE THE COMMISSION
JUDGE LYNN STEWART MAYS * ON
CJD 2012-121 & CJD 2013-033 * JUDICIAL DISABILITIES

* * * * *

To: Judge Lynn Stewart Mays
Circuit Court of Maryland for Baltimore City
Eighth Judicial Circuit

CHARGES

TAKE NOTICE that the Commission on Judicial Disabilities (hereinafter the "Commission") has caused to be made and completed an investigation, through its Investigative Counsel, Carol A. Crawford, of Judge Lynn Stewart Mays (hereinafter sometimes referred to as "Judge"), who was, at all pertinent times, a Judge of the Circuit Court of Maryland for Baltimore City. The Commission notified Judge Mays 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: audio recordings and transcripts of the underlying hearings, the Judge's response, the input of the Judge's legal counsel, the recommendation of Investigative Counsel, and 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 Mays has committed sanctionable conduct, the Commission directed that Investigative Counsel initiate formal proceedings, pursuant to Maryland Rule 16-808(a), against Judge Mays.

The Commission will conduct a public hearing on these charges pursuant to

Maryland Rule 16-808. The following facts form the basis for these charges and the Commission's probable cause determination:

1. Judge Mays serves as a Judge of the Circuit Court of Maryland for Baltimore City.
2. Judge Mays has served as a Circuit Court Judge since January 2002.
3. Based upon information received, the Commission's Investigative Counsel opened an investigation regarding Judge Mays' conduct while she was sitting in the Circuit Court for Baltimore City, in *State of Maryland v. Shawn Broadnax*, Case No. 510075002, on October 19, 2012, and *Dontae Spivey v. State of Maryland*, Case Nos. 198300048, 199029053, and 199029055, on November 30, 2011, and January 23, 2013. The investigation was focused on allegations that Judge Mays had mocked and ridiculed a criminal defendant and his fiancé in the *Broadnax* matter. In addition, the *Spivey* case concerned two criminal post-conviction hearings. It was alleged that Judge Mays was disrespectful, dismissive, and intemperate in her behavior towards the defense counsel.
4. Investigative Counsel obtained and reviewed audio and/or video recordings of all three hearings in their totality. In addition, the complaint filed by Shawn Broadnax, the complaint filed by Rachel Kamins, Esquire, and the letter of response submitted by Judge Mays dated May 21, 2013, were all reviewed and considered as part of this investigation.
5. The investigation revealed sanctionable conduct by Judge Mays in her interactions with three individuals. In the *Broadnax* matter, the relevant

parties were the defendant, Shawn Broadnax, and his fiancé, Letia Cole. Ms. Cole was present in the gallery of the courtroom during the hearing.

In the Spivey matter, Rachel Kamins, Esquire, counsel for the defendant, was the focus of Judge Mays' comments. Judge Mays' behavior towards all three of these individuals was sarcastic, embarrassing, demeaning, humiliating, and mocking. This inappropriate behavior spanned a fifteen (15) month period from the *Broadnax* case on October 19, 2012, to the Spivey case's second hearing on January 23, 2013.

6. The investigation revealed the following:

a. *State of Maryland v. Shawn Broadnax*

Shawn Broadnax appeared before Judge Mays for a violation of probation hearing on October 19, 2012. Broadnax was in custody at the time of the hearing. After Judge Mays explained that he faced the possibility of nine (9) to ten (10) years of incarceration, Broadnax stated that he felt he could not do the time. The Judge asked if he wanted to admit the violation or have a violation of probation hearing. Broadnax replied that "I'm gonna kill myself." Subsequently, Broadnax stopped responding to the court. Judge Mays passed the case for a few minutes. When the case was recalled, Judge Mays mocked Broadnax before a crowded courtroom. She characterized Broadnax's state as "catatonic." She disparagingly stated to the sheriffs: "Oh, you all know he's having a problem. You all be a little bit more concerned. You all be a little bit

more, you know, careful with him." She opined upon the various places that he might be housed to include Spring Grove, Shepherd Pratt, Springfield, and Clifton T. Perkins. Judge Mays continued to address the sheriffs stating: "So, you all make sure you take special care of Mr. Broadnax so he can be, you know, taken care of." She suggested that the sheriffs take off Broadnax's glasses to see if he could blink. She then wanted to test whether he could hear. Judge Mays stated, "If you hear me, blink your eyes once. If you can't, blink them twice." All of this transpired before Broadnax had either admitted to a violation of probation or had a hearing on the violation of probation.

Judge Mays, apparently noticing someone in the courtroom galley, called out to that person. Ms. Letia Cole, who identified herself as the defendant's fiancé, responded. Judge Mays asked Ms. Cole, "Where's the ring?" Ms. Cole, in front of the full courtroom, in answer explained that "We couldn't afford one." Judge Mays directed Ms. Cole to "Sit down and keep your mouth shut." Ms. Cole asked if she could "please" be heard. Judge Mays responded, "Just understand ma'am, that the liberty you save might be your own."

There was nothing in the record to indicate that Ms. Cole was disrespectful to the court. Ms. Cole attempted to explain that Broadnax had changed since he had been incarcerated. Judge Mays asked how long they had been engaged. Ms. Cole responded "more than one year." Judge Mays opined that was "not long." Judge Mays asked Ms.

Cole, before the full courtroom, as to Broadnax's "psychiatric situation." Ms. Cole responded bipolar, depression, and post-traumatic stress conditions. Judge Mays asked Ms. Cole, "And what's the post-traumatic stress come from? What – what traumatic experience did he have?" Ms. Cole was not able to respond. When pressed by the court, Ms. Cole stated, "I'm not gonna be putting his personal business out there." At no point was Ms. Cole asked to take the witness stand or placed under oath. Ms. Cole was not advised that she may want to speak to defense counsel before she provided the above noted private psychiatric information from her seat in the gallery in open court.

b. *Dontae Spivey v. State of Maryland*

Rachel Kamins, Esquire, represented Dontae Spivey in two post-conviction matters before Judge Mays. Kamins had a total of twelve (12) claims for post-conviction relief to argue before Judge Mays on behalf of her client. The hearing began in November, 2011, and was continued into January, 2013. The delay in concluding the matter was due to a related DNA testing issue. During both hearings, the audio recordings and transcripts of the hearings clearly document that Kamins behaved in a diligent fashion in representing her client before the court. Judge Mays was demeaning and intemperate to Kamins.

The DNA issue became a source of aggravation to Judge Mays. Kamins asked the court to leave the post-conviction matter open because DNA testing, relevant to an ineffective assistance of counsel

allegation, was still pending. Counsel's concern was that the record reflect adequately her objection to closing Spivey's post-conviction case. An appellate court will review only the ruling actually asked and made in the trial court. Although the court judge may have ruled, it was not clear to counsel that the reason for the objection was specific enough for appeal purposes. Kamins stated her objection thusly: "My concern is if we leave the courtroom and you issue your opinion this post-conviction proceeding is closed. And he has a potential post-conviction claim that may need to be raised." At this point, Judge Mays mocked counsel's concerns replying, "You know, I know I should have paid more attention when I was in French class but I can only speak one language, and it's English. I will say it one more time." The discussion of whether to leave the matter pending or not continued. During the November hearing and in front of Kamins' client and others in the courtroom, Judge Mays threatened to have Kamins spend the night in jail. Kamins asked to put additional information on the record regarding her postponement request. Judge Mays addressed the sheriff and stated, "She is this close to spending the night in Central Booking because I have put up with about as much of your insolence and disrespect and contemptuous behavior as I can today, counsel." Kamins pressed her point but was not discourteous to the court. In spite of that fact, Kamins apologized to the court. Judge Mays replied, "I have no problem with you adamantly representing your client. I hope you do and I want you to. But you cannot continuously

argue with the Court! Because you're going to lose! I don't care if I'm right, wrong, indifferent – I could be speaking Swahili, you're going to lose. You know why? One, I'm the judge. Two, I'm the judge. Three, I'm the judge. Remember that, please! You're talking about getting me riled up. Now, I'm a little bit riled up because I just will not tolerate the blatant disrespect that you've shown this bench"

The Judge's sanctionable behavior was again manifested at the January hearing. Judge Mays continued to be annoyed with Kamins. At a discussion at the bench, Judge Mays said to Kamins, "I'm going to say this as nicely as I can. Drop the attitude. Drop it. The snippy, the snit." Kamins noted that she believed she was being unfairly criticized in front of her client. The Judge said she was not criticizing her but that Kamins' "attitude" was making "it" difficult. The discussion continued regarding Kamins' alleged attitude. Judge Mays stated, "It's when you give the snippy, snip, snip, snips you lose." Judge Mays told Kamins that, "You need to get your personal feelings out of this." There is nothing in the record that would give rise to Judge Mays' response to Kamins' representation of her client.

7. The three hearings reviewed as part of this investigation were provided to the Commission and to Judge Mays' counsel in both audio and transcribed form.
8. Judge Mays' handling of the two cases that are attached was in violation of Rules 1.1, 1.2 (a), 2.2, 2.3(b), 2.6, and 2.8(b) of the Maryland Code of

Judicial Conduct as found in Maryland Rule 16-813. The pertinent provisions of the Rules provide:

Rule 1.1. COMPLIANCE WITH THE LAW

A judge shall comply with the law, including this Code of Judicial Conduct.

Rule 1.2. 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 2.2. IMPARTIALITY AND FAIRNESS

A judge shall uphold and apply the law and shall perform all duties of judicial office impartially and fairly.

Rule 2.3. BIAS, PREJUDICE, AND HARASSMENT

- (a) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.
- (b) A judge shall not, in the performance of judicial duties; 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 lawyers 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 2.6. ENSURING THE RIGHT TO BE HEARD

- (a) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

Rule 2.8. 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

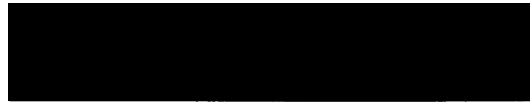
the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

9. Judge Mays' behavior, with regard to the *Broadnax* and *Spivey* cases, provides evidence of Judge Mays engaging 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, as authorized by the Commission on Judicial Disabilities, are issued by Investigative Counsel.

COMMISSION ON JUDICIAL DISABILITIES

Date: February 21, 2014



Carol A. Crawford
Investigative Counsel

NOTICE: YOU HAVE THE RIGHT, PURSUANT TO RULE 16-808(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 SENT TO: THE COMMISSION ON JUDICIAL DISABILITIES, 100 COMMUNITY PLACE, SUITE 1.510, CROWNSVILLE, MARYLAND 21032.

Attachments: Audio & video CD of *State v. Broadnax*, on October 19, 2012
Audio & video DVD of *Spivey v. State* on November 30, 2011 &
January 23, 2013