

STATE OF MARYLAND

BEFORE THE COMMISSION ON JUDICIAL DISABILITIES

IN THE MATTER OF:

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THE HONORABLE PAMELA J. WHITE

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Case No. CJD 2014-114

Judge of the Circuit Court of
Maryland for Baltimore City

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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER OF PUBLIC
REPRIMAND**

Pursuant to Charges filed by Investigative Counsel, the response filed by Judge Pamela J. White, (“Judge White”) and prior written notice of hearing to Judge White, the above-entitled matter came in for a public hearing in Annapolis (“Hearing”), as authorized by Md. Rule 16-808(a), (b), (c), (d) and (i), on July 7 through July 8, 2016, before the Maryland Commission on Judicial Disabilities (“Commission”). Carol A. Crawford, Esq., Investigative Counsel, and Tanya C. Bernstein, Esq., Assistant Investigative Counsel, prosecuted the matter against Judge White. Judge White was present at the Hearing and represented by Andrew J. Graham, Esq., and Louis P. Malick, Esq.

The following Commission Members participated in the Hearing: Honorable Alexander Wright, Jr., Chair; Ms. Virginia L. Fogle; Mr. Vernon Hawkins, Jr.; Honorable Susan H. Hazlett; Arielle F. Hinton, Esq.; Ms. Susan R. Hoffmann; Richard M. Karceski, Esq.; Ms. Susan J. Matlick; Ms. Sally McLane Young Ridgely; and Marisa A. Trasatti,

Esq. The Honorable Robert B. Kershaw previously recused himself and did not participate as a Commission Member in the Hearing. The ten (10) Commission Members present at the Hearing constituted a quorum, pursuant to Md. Rule 16-804(e).

During the Hearing, the following stipulated materials were offered and accepted into evidence without objection:

1. Baltimore City Circuit Court file - *Louise Joyner v. Veolia Transportation Services, Inc., et al.* (“*Joyner*”), Case No. 24-C-014000589, Joint Exhibit 1.
2. Court Smart recording of the 5/4/2014, 10/15/2014, and 10/31/2014 hearings in the *Joyner* case in the Circuit Court for Baltimore City, Joint Exhibit 2.
3. Written transcript of the *Joyner* case on 10/15/2014, Joint Exhibit 3.
4. Written transcript of the *Joyner* case on 10/31/2014, Joint Exhibit 4.
5. Commission Record and charging documents, Joint Exhibit 5.
6. Judge White’s response to Charges, Joint Exhibit 6.

After being fully advised of its obligations and duties, the Commission specifically finds that the Hearing was conducted according to the rules, statutes, and procedures required by law. Upon private deliberations immediately following the Hearing, the Commission considered all of the exhibits admitted into evidence, the sworn testimony of witnesses, and the demeanor of Judge White at the Hearing.

As more fully set forth herein, the Commission finds, by clear and convincing evidence, that Judge White has committed sanctionable conduct. The votes of the Commission Members, as to both the finding of sanctionable conduct and the recommendation of appropriate discipline, were unanimous. The Commission hereby

issues the following Findings of Fact, Conclusions of Law, and Order of Public Reprimand.

I. BACKGROUND AND FINDINGS OF FACT.

1. Judge White was, at all times applicable to the allegations contained in the Charges, an Associate Judge of the Circuit Court for Baltimore City and the judge in charge of the Civil Alternative Dispute Resolution Program for the Circuit Court for Baltimore City. Therefore, Judge White was, and still is, a judicial officer whose conduct was, and is, subject to the provisions of the Maryland Code of Judicial Conduct and Md. Rules 16-803 through 16-810.

2. Judge White presided over certain hearings in a civil matter captioned *Louise Joyner v. Veolia Transportation Services, Inc., et al.*, Case No. 24-C-014000589, in which Rev. Rickey Nelson Jones, Esq. (“Rev. Jones”) represented the Plaintiff.

3. The matter came before Judge White on May 5, 2014, for a motions hearing on Defendant’s Motion to Dismiss the Plaintiff’s punitive damages claim. During Rev. Jones’ argument, Judge White, in a raised voice stated,

“Are you telling me with a straight face, as an officer of the court, that the actions of an insurance adjuster from another company should be attributed to defendant Veolia?”

Mr. Jones answered in the affirmative. Judge White then asked,

“Do you have any legal authority that gives you the chutzpah to claim punitive damages in a negligence case for actions by an adjuster not employed by Veolia that would have allowed me to attribute ill will to Veolia?”

4. During this exchange with Rev. Jones, Judge White yelled and treated Rev. Jones in a rude, disrespectful, and unprofessional manner.

5. A pre-trial conference was held in the *Joyner* case on September 17, 2014. Attending were Rev. Jones, Andrew T. Stephenson, Defense counsel, and a representative of the Defendant. The Plaintiff did not attend as required by the Circuit Court Scheduling Order. Conducting the pre-trial conference was Jeff Trueman, Deputy Director, ADR Program, and Judge Paul Alpert, a recall judge.

6. Following the pre-trial conference, on October 9, 2014, Judge White issued a Show Cause Order requiring that Plaintiff and Rev. Jones personally appear on Friday, October 31, 2014. The Order required the Plaintiff and Rev. Jones show cause as to why they should not be held in constructive civil contempt for failing to comply with the Scheduling Order issued in this case.

7. On October 15, 2014, the *Joyner* case was called before Judge White for a trial on the merits. Prior to the trial, Judge White first heard argument from Rev. Jones on his Motion to Recuse Judge White from the case. Rev. Jones argued that Judge White had exhibited “harshness” toward his client, had not shown his client consideration for her disabilities, and had “insulted” him at the May 5, 2014 hearing.

8. Following Rev. Jones’ argument, Judge White began her oral ruling by referencing Md. Rule 2.11, as found in Md. Rule 16-813, and stated,

“I strongly believe that there was no insult and no basis or obvious prejudice as to Mr. Jones and his qualifications back in May.”

Judge White then made the following statement before granting Rev.

Jones' motion for recusal:

“. . . [B]ecause I am incredulous, because I am in disbelief, because I find myself incapable of believing virtually anything that Mr. Jones has just told me, I'm in the unfamiliar territory of finding that I must recuse myself from any further proceedings in this case because I cannot believe anything that the Reverend Rickey Nelson Jones Esquire—I'm reading off the letterhead – tells me. I think that 99% of what Mr. Jones has told me about his conduct on behalf of his client is pure bullshit! So I'm forced to recuse myself and I can't get past the idea that I cannot believe a darn thing that Mr. Jones tells me now. So I am compelled under [Md.] Rule 16-813, [Md.] Rule 2.11 to disqualify myself in any further proceedings in this case, because I now believe based on Mr. Jones' conduct and representations in this case, in his discussion and exploration of who struck John in recent days about his request for accommodation, all without following the precise instructions and procedures in the Scheduling Order and the website and resources available to him, I find that I cannot be impartial. I am personally biased or prejudiced concerning Mr. Jones and his conduct. So, I'm going to recuse myself.”

9. Following this statement, Judge White turned to the motion for postponement filed by Rev. Jones. When Rev. Jones stated that he had appeared in postponement court the previous day, Judge White pointed toward and raised her voice at Rev. Jones for initiating another instance of *ex parte* communication. Judge White then stated as follows:

“I am dumbfounded at your irresponsible behavior, Mr. Jones. All the more reason I am compelled by your dumbfounding behavior to recuse myself because I cannot believe a single word you say. And what I am compelled to do now because the Rules of Professional Conduct and the Judicial Code compel me to do so is to reexamine what I just said and heard and reported on the record whether I must report you to the Attorney Grievance Commission.”

Judge White concluded the hearing with the following statement:

“As for you, Mr. Jones, I have no way of knowing whether my pique and my frustration as to your performance in recent days will warrant my recusal in any further and future cases pending before this court. I take

each case as it comes . . . While I'm shocked, frustrated, appalled, and consequently don't believe anything Mr. Jones has told me about the conduct of his office and himself in this case, and I don't believe that he has honored the court's orders in this case, I don't understand or believe that necessarily will carry over to any future other cases. I will take each case as it comes."

10. Judge White further stated that she would not recuse herself from the prescheduled October 31, 2014 hearing because "it's my responsibility to address it."

11. During this hearing, Judge White yelled at Rev. Jones and treated him in a rude, disrespectful, and unprofessional manner. Judge White's tone and use of foul language during the hearing was undignified, discourteous, and unprofessional as directed at Rev. Jones.

12. During this hearing, Judge White repeatedly told Rev. Jones that she did not and could not believe anything he said. Because of these statements, Judge White's impartiality might reasonably be questioned, and also that she exhibited a personal bias concerning Rev. Jones.

13. On October 15, 2014, Rev. Jones filed an Emergency Motion to Administrative Judge W. Michel Pierson for special assignment of the October 31, 2014 show cause hearing. Judge White was not notified of the motion. The motion was denied by Order of Judge Pierson on November 26, 2014.

14. On October 31, 2014, Judge White presided over the show cause hearing as scheduled. Judge White seemed to be aware from Mr. Trueman of what transpired at the pre-trial conference because she asked if Judge Alpert "also intimated that he was going to be recused from any further proceedings at the pre-trial conference in view of [Rev.

Jones's] conduct at that conference.” Neither Mr. Trueman nor Judge Alpert were called to testify as to what occurred at the pre-trial hearing. Rev. Jones' response was that it “was not [his] conduct. [He] requested that he not preside because he expressed to me (inaudible) opposing counsel and he said, ‘Okay, Rev. Jones.’ Mr. Trueman can do this and we proceeded to settlement conference.” Judge White took particular issue with Rev. Jones' failure to file the proper motion to request his client's absence from the pre-trial conference. Rev. Jones stated that he believed he had satisfied the relevant rules and procedures by requesting in his pre-trial statement that his client be excused from the pre-trial conference due to her health issues. When Rev. Jones cited case authority to support his proceeding in that manner, Judge White noted, “[h]ow interesting that it's captioned an Attorney Grievance complaint.” There were no other witnesses or evidence submitted during the hearing other than Rev. Jones' own statements and argument.

15. At the conclusion of the hearing, Judge White found Rev. Jones in contempt for his failure and refusal to comply with the Scheduling Order and pre-trial conference procedures. She stated that Rev. Jones' argument that he complied with the Scheduling Order was “shocking” and was “soundly and roundly rejected.” During her oral ruling, and by written order dated November 12, 2014, Judge White ordered Rev. Jones to pay attorney's fees to opposing counsel, related to his appearing at the pre-trial conference and the show cause hearing, and to write letters of apology to Mr. Trueman and to Judge Alpert for his “rude and uncivil behavior” at the pre-trial conference. Judge White made no mention at any time during the October 31, 2014 hearing, or within the written order,

that she had previously recused herself from the *Joyner* case filed by Rev. Jones on behalf of Ms. Joyner.

16. Based upon Judge White's conduct during the May 5, 2014, October 15, 2014, and October 31, 2014 hearings in the *Joyner* case, Rev. Jones filed complaints with the Commission dated October 20, 2014 and November 17, 2014.

17. Following a full investigation by Investigative Counsel, and the results of the investigation having been reviewed and considered by the Judicial Inquiry Board and the Commission, the Commission directed Investigative Counsel to initiate formal proceedings, pursuant to Md. Rule 16-808(a), against Judge White.

18. On March 31, 2016, Charges against Judge White in the above-captioned case were filed by Investigative Counsel with the Commission and thereafter served upon Judge White.

II. CONCLUSIONS OF LAW.

1. The Commission has both subject matter jurisdiction over the above-entitled cases and personal jurisdiction over Judge White, all pursuant to Md. Constitution, Article 4, Sections 4A and 4B, and Md. Rules 16-803, *et seq.*

2. The Commission is guided by the clear and convincing evidence standard in determining whether a judge has committed sanctionable conduct. Md. Rule 16-808(j). Based upon Judge White's actions as set forth in the Findings of Fact, the Commission, by unanimous vote, finds by clear and convincing evidence that Judge White has committed sanctionable conduct, as defined by Md. Rule 16-803(j)(1), by violating the Maryland Code of Judicial Conduct.

3. Judge White's treatment of Rev. Jones at the May 5, 2014, and October 15, 2014, is proof of, and constitutes a violation of Md. Rule 1.2(a) of the Maryland Code of Judicial Conduct. That Rule provides,

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.

4. Judge White's continued participation in the Show Cause hearing on October 31, 2014, after she indicated that she was biased against Rev. Jones and that she was going to recuse herself from the case, is proof of, and constitutes a violation of Md. Rules 1.2, 2.2, 2.3(a) and 2.11(a) 1. Those Rules provide,

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.

Rule 2.11 DISQUALIFICATION

(a) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

III. RECOMMENDATIONS AS TO THE IMPOSITION OF DISCIPLINE.

1. As to the appropriate discipline, the Commission is guided by the "Preamble" to the Maryland Code of Judicial Conduct, Md. Rule 16-813, which provides:

Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should depend on factors such as the seriousness of the transgression, whether the transgression is isolated or part of a pattern of improper activity, and the effect of the improper activity on others or on the judicial system.

2. The Commission finds that Judge White's comments, foul language, and conduct towards Rev. Jones were undignified, discourteous, and unprofessional. Judge White's comments and the tone in which they were delivered, demonstrate a violation of the Maryland Code of Judicial Conduct.

3. The Commission finds that Judge White's decision to preside over the Show Cause hearing on October 31, 2014, after admitting that she was biased against Rev. Jones and was going to recuse herself from the case, was a violation of the Maryland Code of Judicial Conduct.

4. Further, the Commission finds that Judge White's sworn testimony and demeanor at the Hearing before the Commission, indicated that she failed to appreciate

the inappropriate nature of her comments directed at Rev. Jones as well as the inappropriateness of her continuing to preside at the Show Cause hearing.

5. During the cross-examination of Judge White by the Investigative Counsel, Judge White refused to admit that she yelled at Rev. Jones. Instead she responded by saying, "I raised my voice and got his attention."

6. Commissioner Hazlett asked Judge White if she would be comfortable with making the same decision again in presiding over the Show Cause hearing. In response, Judge White responded, "Yes."

7. Commissioner Karceski inquired from Judge White as to whether she could conceive of any circumstances by which the Show Cause hearing should have been delegated to another judge. Judge White responded, "I can't conceive of any, no."

8. In considering the appropriate discipline in this case, the Commission, however, has also considered Judge White's stellar reputation and the numerous character witnesses who testified on her behalf.

9. After due consideration, the Commission, pursuant to Md. Rule 16-808(j), concludes that a Public Reprimand is the appropriate disposition under the circumstances.

10. The Commission believes that this sanction is commensurate with the gravity of Judge White's conduct and will sufficiently impress upon Judge White the fundamental requirements of the Maryland Code of Judicial Conduct.

ORDER

WHEREFORE, IT IS HEREBY ORDERED that pursuant to Md. Rule 16-808(j):

1. The Commission, by unanimous vote, hereby issues a Public Reprimand to Judge White.
2. The Chair is authorized by all the Commission Members to sign this decision for all those Commission Members present at the Hearing. The signature page for the Commission Members shall be retained in the Commission Record.
3. The Acting Executive Secretary is to promptly mail to Judge White and Investigative Counsel a copy of this Findings of Fact, Conclusions of Law, and Order of Public Reprimand.

Dated this 3 day of August 2016.

Maryland Commission on Judicial Disabilities

By: _____
The Honorable Alexander Wright, Jr.