

IN THE MATTER OF * BEFORE THE MARYLAND
JUDGE G. DARRELL RUSSELL, JR. * COMMISSION ON
CJD 2010-031 * JUDICIAL DISABILITIES

TO: Judge G. Darrell Russell, Jr.
Associate Judge, District Court of Maryland
District 8, Baltimore County

STIPULATION OF FACTS AND WAIVER OF HEARING

Judge G. Darrell Russell, Jr., ("Judge Russell"), his counsel Jeffrey J. Utermohle, and the Maryland Commission on Judicial Disabilities (the "Commission"), by and through its Investigative Counsel, Steven P. Lemmey, Esquire, ("Investigative Counsel"), hereby agree that the Commission may properly determine its disposition as to Canons 1, 2A and 6 in this case based upon the facts and conclusions stated in this Stipulation of Facts and Waiver of Hearing (the "Stipulation"). The Commission may consider the information contained in the original complaint filed by Judith Wolfer, Esquire dated March 25, 2010 as well as the reports of Investigative Counsel, the Judicial Inquiry Board, and material provided by Judge Russell and his counsel in response to the complaint. The Commission may also consider the docket entries in the case of State of Maryland v. Frederick Dewey Wood, Case #3C00314856, heard before Judge Russell sitting as the District Court of Maryland for Baltimore County on March 10, 2010. In addition, the Commission may consider the transcripts provided by Investigative Counsel and Judge Russell's counsel of all of the hearings that took place before Judge Russell in State of Maryland v. Frederick Dewey Wood on March 10, 2010.

Judge Russell agrees that he was notified that Investigative Counsel opened a file

before the Commission based upon the complaint filed by Judith Wolfer on March 25, 2010.

Judge Russell agrees that he was notified of the nature of all of the information in Investigative Counsel's file, was afforded an opportunity to review the information developed during the investigation and has voluntarily met with Investigative Counsel and the Judicial Inquiry Board. Judge Russell agrees that he has had the opportunity to have his own counsel present throughout all aspects of the investigation.

Judge Russell, having been given an opportunity to consult with counsel, gives his express consent to this Stipulation. The facts and conclusions upon which the Commission may act are as follows:

1. At all times relevant to this case, Judge Russell was a judge of the District Court for Baltimore County, Maryland. Judge Russell was appointed to the District Court for Baltimore County on December 14, 1990. Presently Judge Russell continues to serve as a District Court judge for Baltimore County, Maryland.

2. On March 25, 2010 the Commission received a formal complaint regarding Judge Russell from Judith A. Wolfer, an attorney who serves as one of the managing attorneys to the House of Ruth.

3. The complaint filed by Ms. Wolfer was focused on Judge Russell's handling of the case of State of Maryland v. Frederick Dewey Wood, Case #3C00314856, held in the District Court of Maryland before Judge Russell, on March 10, 2010. Mr. Wood was charged with second degree assault against a woman with whom he lived and had two children.

4. On the morning of March 10, 2010, Judge Russell was sitting in the District Court

of Maryland for Baltimore County and the case of State of Maryland v. Frederick Dewey Wood was called in his courtroom. At the time that the case was called, Mr. Wood's attorney advised the court that the case would be a defense request for a postponement so the defendant could marry the victim. The plan was for the parties to marry and the victim to then invoke the marital privilege. Judge Russell then sua sponte stated "That's all right -- you want a postponement? Well, why don't I, why don't I just marry them today in court and then we can just --".

5. After making that comment, Judge Russell agreed to allow the parties to leave, and go to Towson to obtain a marriage license. Judge Russell proposed having them come back in the afternoon and he would marry them.

6. At 1:52 in the afternoon, State of Maryland v. Frederick Dewey Wood was recalled in front of Judge Russell sitting as a District Court judge for Baltimore County. Judge Russell stated on the record, after the case was called, "I can take notice of that since I just married -- married -- performed the ceremony back in my chambers." The victim then took the witness stand and invoked the marital privilege. Judge Russell heard the case and granted the motion made by the defense attorney for Mr. Wood to be found not guilty. Immediately thereafter Judge Russell commented to Mr. Wood "I can't sentence you as a defendant in any crimes you're found guilty of. I earlier today sentenced you to life -- marriage to her." Judge Russell went on to say that was Mr. Weston's joke.

7. Judge Russell appeared before the Judicial Inquiry Board on October 13, 2010. Judge Russell agrees that at the Judicial Inquiry Board he and his counsel acknowledged that his handling of the case of State of Maryland v. Frederick Dewey Wood was not in

compliance with the Canons of Judicial Conduct.

8. Judge Russell was afforded an opportunity to review the contents of this Stipulation, all related documents, and was given an opportunity to review said documents with his counsel. Judge Russell, his counsel, and the Commission's Investigative Counsel jointly request that the Commission accept this Stipulation.

9. Judge Russell acknowledges that his actions are subject to sanction and that the Commission determines the sanction to be imposed. By his signature on this Stipulation Judge Russell affirms that he agrees to the Stipulation voluntarily, having been given an opportunity to consult with counsel and after reviewing the evidence in the case with his counsel. The Commission will decide this case based upon the facts contained in this Stipulation and the documents received from the Investigative Counsel and from Judge Russell's counsel.

10. Judge Russell hereby waives his right to a hearing before the Commission and waives his right to any subsequent proceedings before the Maryland Court of Appeals with regard to this case. Judge Russell waives his right to challenge the findings that serve as the basis for the Private Reprimand that is being issued along with this Stipulation and being made public. Judge Russell agrees, pursuant to Maryland Rule 16-807 (b)(1)(C) that the Private Reprimand issued in this case may be admitted into evidence in any subsequent disciplinary proceedings against him to the extent that it is relevant to the charges at issue or the sanction to be imposed.

11. Judge Russell agrees that he will retire from the Maryland Judiciary on or before December 18, 2011, and at no time will he request that the Court of Appeals approve him to sit as a retired judge subsequent to his retirement or accept any such

appointment by the Court of Appeals to sit as a retired judge.

12. Judge Russell acknowledges that his handling of the case of State of Maryland v. Frederick Dewey Wood was in violation of Canons 1, 2A and 6 of the Canons of Judicial Conduct as found in the Maryland Code of Judicial Conduct, Maryland Rule 16-813, that were in effect on March 10, 2010.

The pertinent portions of the Canons provide:

CANON 1
Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge shall observe high standards of conduct so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

CANON 2
Avoidance of Impropriety and the Appearance of Impropriety

A. A judge shall avoid impropriety and the appearance of impropriety. A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the impartiality and integrity of the judiciary.

CANON 6
Compliance

A. Courts. This code applies to each judge of the Court of Appeals, the Court of Special Appeals, a circuit court, the District Court, or an Orphans' court.

13. Judge Russell has agreed to execute this Stipulation and understands that a copy of this Stipulation will be retained by the Commission and shall be considered a public document. The Judge acknowledges that this Stipulation and any related documents issued by the Commission based upon this Stipulation may be published in the *Maryland Register* and otherwise re-published in a manner consistent with the

Commission's past practices, including publication on the Commission's web site. The parties further agree that in the event that Judge Russell chooses to make any public statements regarding the content of this Stipulation and any related documents, the Commission, or any other aspect of this case, pursuant to Maryland Rule 16-810(b)(2), the Commission may issue an explanatory statement in its discretion.

I, JUDGE G. DARRELL RUSSELL, JR., HAVE READ THE TERMS OF THIS STIPULATION AND WAIVER OF HEARING AND CAREFULLY REVIEWED ITS CONTENTS WITH MY COUNSEL, JEFFREY J. UTERMÖHLE, ESQUIRE. I UNDERSTAND THE STIPULATION AND WAIVER OF HEARING AND ACCEPT IT AS FULLY SET FORTH ABOVE.

Date

Judge G. Darrell Russell, Jr.

Date

Jeffrey J. Utermohle, Esquire, Counsel to Judge Russell

APPROVED AND RECOMMENDED:

Date

Steven P. Lemmey, Esquire
Investigative Counsel
Commission on Judicial Disabilities