



IN THE MATTER OF \* BEFORE THE  
 THE HONORABLE \* MARYLAND COMMISSION  
 MARY C. REESE \* ON JUDICIAL DISABILITIES  
 \* Case Nos. 2015-132, 2015-133, 2015-134

\* \* \* \* \*

**RESPONDENT'S ANSWER TO CHARGES**

The Honorable Mary C. Reese, through undersigned counsel and pursuant to Maryland Rule 18-407(c), submits this Answer to the Charges Investigative Counsel filed in the above captioned cases on April 26, 2017.

These charges are a targeted attack on Judge Reese by an advocacy group with a political agenda. The decisions Judge Reese made in the cases this group cherry-picked for its complaint were legally correct applications of Maryland statutes to the facts presented to her. In one case, a circuit court judge hearing the matter on *de novo* appeal also concluded that the petitioner was not entitled to relief under the statutory mechanism her attorney had selected, and also dismissed her petition. Judge Reese's decisions do not reflect any bias or partiality, but rather a concern for applying the law as it exists, not as some would wish it to be, as well as a concern for the rights of absent parties in *ex parte* proceedings. Judge Reese complied with her obligations under the Maryland Constitution and the Code of Judicial Conduct "to comply with the law," Rule 18-101.1; to "uphold and apply the law and ... perform all duties of judicial office impartially and fairly," Rule 18-102.2(a); and to "consider only the evidence in the record," not to "investigate adjudicative facts in a matter independently," Rule 18-102.9(c). The fact that

the group behind the complaints is not happy with Judge Reese's decisions is no reason to subject her to discipline and, in any event, the Commission does not have any power to discipline a judge for her decision-making. Maryland Rule 18-401(k). "Sanctionable conduct does not include a judge's making wrong decisions – even very wrong decisions – in particular cases," Committee Note to Rule 18-401(k), and here, Judge Reese's decisions were legally correct, because Judge Reese followed the law as enacted by the General Assembly. As the charges allege no facts that would support a finding, by clear and convincing evidence, that Judge Reese committed "sanctionable conduct," the Commission should dismiss the charges and close its file on this matter.

Judge Reese responds to the numbered paragraphs of the charges as follows:

1. Judge Reese admits that she has served as an Associate Judge of the District Court of Maryland, sitting in Howard County, since 2006.
2. As Investigative Counsel has not disclosed any details of her investigation, Judge Reese is not in a position to admit or deny what, if anything, was the basis or focus of the investigation. Judge Reese admits that she presided over a hearing in *Petitioner v. Lecuyer*, Case No. 1002SP001402015, on February 18, 2015 while sitting in Carroll County, and that she presided over a hearing in *Lewis v. James*, Case No. 1002SP004962014, on August 8, 2014, also while sitting in Carroll County. Judge Reese denies the remaining allegations in this paragraph, in their entirety. She has done nothing that "failed to uphold public confidence in the judiciary" and has made no "unprofessional and inappropriate statements from the bench." Judge Reese notes that the complaints against her were filed July 31, 2015, eleven months after the hearing in

the *Lewis* case and five months after the hearing in the *Lecuyer* case. The complaints were not disclosed to Judge Reese until Investigative Counsel notified her by letter dated February 8, 2016 – which Judge Reese received much later – more than six months after they were filed. The charges are thus subject to dismissal for Investigative Counsel's failure to comply with Rule 18-404(e)(6).

3. As Investigative Counsel has not disclosed any details of her investigation, Judge Reese is not in a position to admit or deny what materials, if any, Investigative Counsel obtained or reviewed. Judge Reese objects to Investigative Counsel's reliance on "statements made by Michele Daugherty Siri, Esquire, to Investigative Counsel." As these statements have never been disclosed to Judge Reese, she cannot possibly respond to them. To the extent Investigative Counsel may have disclosed these statements to the Judicial Inquiry Board or the Commission in Judge Reese's absence, without notice or any opportunity to respond, such disclosure was unfairly prejudicial and improper. Moreover, Ms. Siri was not present for any of the hearings in the *Lecuyer* or *Lewis* cases, and thus has no personal knowledge of any of the facts or circumstances on which these charges purport to be based.

4. As Investigative Counsel has not disclosed any details of her investigation, Judge Reese is not in a position to admit or deny what, if anything, the investigation revealed. Judge Reese denies making any "unprofessional comments" or exhibiting "unprofessional ... behavior" during any proceeding in open court. The transcripts of hearings Judge Reese conducted in the *Lecuyer* and *Lewis* cases speak for themselves.

5. Judge Reese denies any violation of Maryland Rules 18-101.1, 18-101.2, 18-102.2, 18-102.3, 18-102.5, 18-102.6(a), 18-100.4, or any other Rule or law. Judge Reese objects to Rule 18-100.4 being included in the charges, because this Rule is part of the preamble to the Code of Judicial Conduct and merely sets forth general or aspirational statements that shed light on how the Code should be interpreted. Rule 18-100.4 does not establish rules of conduct that may form the basis for discipline, and its inclusion in the list of alleged violations is improper.

6. As Investigative Counsel has not disclosed any details of her investigation, Judge Reese is not in a position to admit or deny what facts, if any, the investigation "specifically revealed."

6a. *Petitioner v. Lecuyer*. In this case, the petitioner failed to present a crucial piece of evidence that is required for a judge to afford relief under the statute the petitioner chose to invoke: Md. Code, Courts & Judicial Proceedings Article ("CJP"), § 3-1504. A judge may not grant a temporary peace order under that section unless she finds "that there are reasonable grounds to believe that the respondent has committed, **and is likely to commit in the future**, [one of a list of enumerated actions]." § 3-1504(a)(1) (emphasis added). Judge Reese agrees that the petitioner produced sufficient evidence that the respondent, Mr. Lecuyer, had assaulted her. But, the petitioner provided no evidence that Mr. Lecuyer was likely to assault her again in the future. In fact, the record before Judge Reese suggested the opposite. The petitioner testified that this had never happened before, and that she had broken off contact with Mr. Lecuyer by "block[ing] him from [her] phone." Accordingly, any future contact – and, therefore, any

future assault – was unlikely. The charges do not allege that any future assault in fact happened.

On *de novo* appeal, Judge Hecker reached the same decision as Judge Reese, also declining to enter a peace order, because the petitioner was not eligible for such relief under Maryland law. The evidence before Judge Hecker revealed that the petitioner and Mr. Lecuyer had been living together for a year, until the time the incident occurred. Thus, the petitioner was statutorily prohibited from being afforded a peace order under CJP § 3-1504 – a fact that her lawyer in the proceedings before Judge Hecker should have discovered and evaluated before taking a frivolous appeal and then faulting Judge Reese at the *de novo* hearing for not granting the requested relief.

Of course, this evidence did not come out during the hearing Judge Reese conducted. Judge Reese had allowed the petitioner and her grandmother, Patricia Stein, who were not represented by counsel, to present all the evidence they wished to present. She did not rush them or cut their presentation off. To the contrary, when the petitioner and Ms. Stein finished speaking, Judge Reese extended the hearing by asking two follow-up questions intended to elicit the necessary evidence that would establish the petitioner's entitlement to relief. As it turned out, the petitioner's answers established that she was not entitled to relief. Judge Reese then calmly and courteously announced her ruling based on the evidence presented. In an *ex parte* proceeding, Judge Reese has an obligation to carefully consider the petitioner's case, but also has an obligation to consider the rights of the absent respondent. It would have been inappropriate for Judge Reese or any other judge to pepper the petitioner or Ms. Stein with questions until

sufficient evidence might come out to support granting some form of relief. Judges are neutral arbiters, not advocates. Of course, when the petitioner was represented by counsel in the hearing before Judge Hecker, the petitioner testified on cross-examination that she and the respondent were living together at the time of the incident, confirming that she was not entitled to the requested relief. *See* CJP 3-1502(b); Md. Code, Family Law Article ("FL"), § 4-501(D).

6b. *Lewis v. James*. In this case, both parties appeared and were represented by counsel. Unlike in *Lecuyer*, Ms. Lewis sought a final protective order under FL, § 4-506. After Ms. Lewis put on her case, through counsel, Judge Reese telegraphed that Ms. Lewis had not met her burden of proving, by a preponderance of the evidence, "that the alleged abuse has occurred." FL § 4-506(c)(1)(ii). In fact, it appeared from Ms. Lewis' testimony that she had been the aggressor in the incidents she described. For example, Ms. Lewis testified that, in the incident that led to her filing for relief, she had "hit" her husband, not that her husband had "hit" her. Ms. Lewis had slept in her car overnight, so that she could confront her husband when he left for work early the next morning. When her husband denied her entry to their apartment, apparently in a futile attempt to avoid conflict, Ms. Lewis pushed her way in, twice. After her husband picked her up and carried her outside, Ms. Lewis pushed her way into the apartment a third time and hit her husband, who then left at her request. In denying relief, Judge Reese cautioned Ms. Lewis against initiating or escalating physical confrontation with her husband in the future, and suggested that such conflict could be avoided by a voluntary temporary separation. Judge Reese complied with her obligation under the Constitution and Code of

Judicial Conduct to make factual findings and legal decisions based on the evidentiary record presented to her.

7. Judge Reese denies the allegations in this paragraph, in their entirety. She has done nothing that "failed to promote public confidence in the independence, integrity, and impartiality of the judiciary." She performs her duties impartially and fairly, and she has never manifested bias or prejudice regarding any litigant appearing before her. She has done nothing to "undermin[e] public confidence in the judiciary" or "deny[] [anyone] the right to be heard."

8. Judge Reese denies the allegations in this paragraph, in their entirety. She has done nothing "prejudicial to the proper administration of justice."

WHEREFORE, Judge Reese requests that the Commission dismiss the charges against her. Proceedings initiated to address Maryland Judges' conduct and efforts to impose serious sanctions upon hardworking and productive members of the bench should be reserved strictly for cases in which real – not imagined – judicial misconduct can be rationally perceived. Instead, these charges seek only to punish Judge Reese for making decisions that were legally correct under the facts presented to her. This is not sanctionable conduct under Rule 18-401(k) and it cannot form the basis for charges under the Maryland Rules.

Respectfully submitted,

Dated: May 24, 2017

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CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of May, 2017, a copy of the foregoing  
Answer to Charges was sent by electronic mail and by Federal Express to:

Carol A. Crawford, Esquire  
Investigative Counsel  
Maryland Commission on Judicial Disabilities  
[ADDRESS REDACTED]

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Louis P. Malick