

**DISTRICT OF COLUMBIA COMMISSION
ON JUDICIAL DISABILITIES AND TENURE**

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July 23, 2002

By Messenger

The Honorable Rufus G. King, III
Chief Judge, Superior Court
of the District of Columbia
500 Indiana Ave., N.W.
Washington, D.C. 20001

Re: The Honorable Evelyn E.C. Queen Request for Appointment
As Senior Judge

Dear Chief Judge King:

Please be advised that, by a unanimous vote, the District of Columbia Commission on Judicial Disabilities and Tenure ("Commission") has concluded that Retired Judge Evelyn E.C. Queen has demonstrated, through a pattern of conduct, that she is unable to perform judicial duties satisfactorily and is therefore unfit for further judicial service. Thus, the Commission must render an unfavorable recommendation with respect to her request for appointment as a senior judge.

As you know, the District of Columbia Retired Judge Service Act provides in pertinent part:

(a)(1) A judge, retired for reasons other than disability, who has been favorably recommended and appointed as a senior judge, in accordance with subsection (b) may perform such judicial duties as such senior judge is assigned and willing and able to undertake.

(b)(2) The Commission shall submit a written report of its recommendations and findings to the appropriate chief judge and the judge requesting appointment within 180 days of the date of the request for recommendation. The Commission, under such criteria as it considers appropriate, shall make a favorable or unfavorable recommendation to the appropriate chief judge regarding an appointment as senior judge. The recommendation of the Commission shall be final.

Rule 2039 of the Commission's Rules, entitled "Recommendation Standards," sets forth the applicable criteria:

- 2039.1 A retired judge seeking a favorable recommendation for appointment or reappointment to a term as a senior judge shall be evaluated by the Commission through a review of the judge's physical and mental fitness and his or her ability to perform judicial duties.
- 2039.2 The recommendation standards are as follows:
 - (a) Favorable - The judge is physically and mentally fit and able satisfactorily to perform judicial duties.
 - (b) Unfavorable - The judge is unfit for further judicial service.

Retired Judge Evelyn E.C. Queen submitted her request for a favorable recommendation for appointment as a senior judge to the Commission on December 3, 2001 and completed her submission of the materials requested by the Commission on February 15, 2002. Thereafter, the Commission received voluminous communications from interested groups and individuals, including persons from the lay public and the Bar, other judges of the courts of the District of Columbia, court personnel, and public officials. The Commission conducted interviews of informed persons and reviewed records from multiple proceedings

conducted before Judge Queen throughout her 15-year term as an Associate Judge of the Superior Court of the District of Columbia.

The Commission, having provided Judge Queen with specific advance notice of information that raised substantial doubt regarding her fitness for further judicial service, and having heard testimony from witnesses, including all of the witnesses suggested by Judge Queen, as well as presentations by Judge Queen and her counsel, has made certain findings that compel an unfavorable recommendation. The Commission finds that Judge Queen has demonstrated a pattern of disregard for the fundamental responsibilities of judicial office and to have been inattentive to the critical details of her position with, at times, tragic consequences for both the life and the liberty of citizens of the District of Columbia; that she has, by her demeanor, often exhibited disrespect for litigants and attorneys and for the dignity of the Court; and that she has demonstrated a lack of regard for the rights of parties to have issues resolved without unnecessary delay. Taken as a whole, Judge Queen's conduct has diminished public confidence in the city's judiciary and has had a negative impact on the administration of justice in our courts.

Though a great deal of attention has justifiably been focused on the actions of Judge Queen in the matter involving Brianna Blackmond, the Commission wants to make clear that its difficult decision does not rest on its analysis of that case alone.¹ It is the existence of a pattern of unacceptable conduct that ultimately compelled the Commission's conclusion. The Brianna Blackmond case, however, is perhaps the most tragic example of that pattern.

¹ The Commission also wants to make clear that it based its decision solely on its review of Judge Queen's record, the material and witnesses related to that record, and the presentations made by Judge Queen and her counsel. The Commission did not consider, as some urged, the political or other, collateral consequences of its decision. To do so would have done a disservice to the core concept of the independence of our judiciary and to the role of the Commission in the appointment process.

In that case, Judge Queen had conditioned the reunification of Brianna Blackmond with her mentally retarded mother of nine children, who had been adjudged to have neglected her children, on the completion of a six-month program of training and assistance with basic parenting responsibilities. The agency responsible for that training and assistance, the Child and Family Service Department's Intensive Reunification Unit, rejected the case as unsuitable for its program. Judge Queen never sought nor received any report on compliance with the condition she herself had imposed and conducted no further hearings in the case. Rather, Judge Queen, unaware of the agency's decision, summarily ordered -- through the approval of a consent motion filed only three months after the previous hearing -- that 23-month-old Brianna Blackmond be removed from the care of her foster parents, who had raised her from the age of four months, and be returned permanently to the care of her mother. Fifteen days later, Brianna Blackmond died, the victim of a homicide in the home where her mother lived.

This pattern of less than careful or thorough decision-making was also evidenced in United States v. McAllister. In that case, Judge Queen sentenced the defendant to an indeterminate prison term not to exceed five years on his plea of guilty to attempted unauthorized use of a vehicle -- a misdemeanor that has a statutory maximum sentence of only one year. By the time Judge Queen's illegal sentence was corrected, Mr. McAllister had been imprisoned for almost three years.

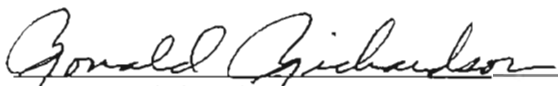
The Commission also finds that Judge Queen's demeanor and temperament are not consistent with that which is expected of the judges of the Superior Court. The Commission's review of proceedings conducted before Judge Queen reveals that she has oftentimes been less than courteous (sometimes rude or insensitive) to those who appeared before her. Judge Queen has demeaned the dignity of the Court and the seriousness of the judicial process by, for example, tossing a coin to determine which juror would deliberate the fate of a defendant in a criminal felony case.

The Honorable Rufus G. King, III
July 23, 2002
Page Five

Finally, the Commission finds that Judge Queen has failed to efficiently and properly manage her calendars and trials. While presiding over the adoption calendar, Judge Queen permitted routine preliminary motions to languish without attention for months, unnecessarily and inexplicably delaying any substantive consideration of pending petitions for adoption. In addition, she has too frequently left litigants, attorneys, witnesses, and jurors waiting for her return to the bench, without explanation or apology for her delay.

An appointment as a senior judge is a privilege to be earned by a judicial career that demonstrates fitness for continuing judicial service -- not a right to be claimed simply on the basis of prior service or on the basis that the Commission has declined to institute removal proceedings during the term of an active judge. The litigants, attorneys and jurors who are served by this Court deserve nothing less. Although the Commission acknowledges Judge Queen's years of public service, it must conclude that Judge Queen has demonstrated that she is unable to perform the judicial duties required by this Court in a satisfactory manner, and therefore is unfit for further judicial service. Accordingly, the Commission hereby renders an unfavorable recommendation with respect to Judge Queen's request for appointment as a senior judge.

DISTRICT OF COLUMBIA COMMISSION ON
JUDICIAL DISABILITIES AND TENURE

By: 
Ronald Richardson
Chairperson

cc: Hon. Evelyn E.C. Queen (By Messenger)
Ted J. Williams, Esq. (By Messenger)