

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

515 FIFTH STREET, N.W. BUILDING A, ROOM 246
WASHINGTON, D.C. 20001
(202) 727-1363

DETERMINATION AND UNDERTAKING

Re: The Honorable John H. Bayly, Jr., Associate Judge of the Superior Court of
the District of Columbia

The Commission has investigated the circumstances surrounding the detention of Liyah K. Brown at the direction of Judge John Bayly on August 29, 2007. Ms. Brown is an attorney for the Public Defender Service who was appearing before Judge Bayly on behalf of a detained client. During the hearing, Ms. Brown attempted to make an argument on behalf of her client. Judge Bayly indicated that he did not believe that Ms. Brown's arguments were pertinent to the issue before him. He then repeatedly ordered Ms. Brown to "be quiet," indicated that he would "call the case later," and warned that if she continued, she was "going to be in contempt in a minute." Notwithstanding Judge Bayly's repeated admonitions, Ms. Brown continued to make her argument. At that point, Judge Bayly became angry and ordered that Ms. Brown be "stepped back." She was thereafter detained by court Marshals, shackled, subjected to an intrusive patdown search, and incarcerated for approximately forty-five minutes.

The Commission has met with Judge Bayly, discussed the facts with him, and heard his explanation and account of the aforementioned incident. Judge Bayly agrees that his actions were grossly disproportionate to Ms. Brown's conduct. He has also expressed his regret for his actions and has issued Ms. Brown a written apology. The Commission has also met and discussed this matter with Ms. Brown, who provided a detailed account of the in-court hearing and her post-hearing detention. In addition, the Commission has reviewed the transcript and audiotape of this proceeding.

The Commission has determined that Judge Bayly's actions were grossly disproportionate to Ms. Brown's conduct. Based on its careful review of the evidence, it is clear to the Commission that nothing Ms. Brown did warranted that she be "stepped back" and incarcerated. In this regard, the Commission notes that it has been informed that many judges go their entire career without ordering the detention of an attorney appearing before them. The facts surrounding the August 29, 2007 incident with Ms. Brown do not approach the rare circumstances in which this extraordinary exercise of judicial power would be warranted.

The Commission therefore concludes that Judge Bayly's conduct violated Canon 3B(4) of the Code of Judicial Conduct as adopted by the Joint Committee on Judicial Administration of the District of Columbia Courts, which provides that "[a] judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with

whom the judge deals in an official capacity....” The Commentary to that Canon aptly observes:

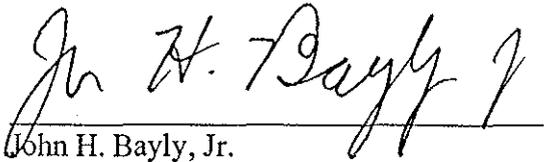
“The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.”

Judge Bayly accepts the Commission’s determinations and conclusions expressed above and recognizes that his conduct in this instance was regrettable and in violation of the applicable provisions of the Code of Judicial Conduct. Judge Bayly hereby undertakes to avoid any such conduct in the future and to conform his conduct to the standards prescribed by the Code.

In view of Judge Bayly’s record on behalf of the people of the District of Columbia over some eighteen years, the Commission further concludes that no additional sanctions are warranted.

The Commission makes this document public with the agreement of Judge Bayly.

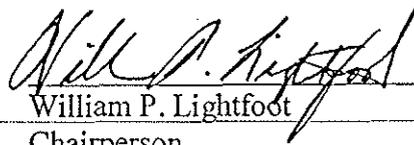
For The Commission:



John H. Bayly, Jr.
Associate Judge
Superior Court of the District of Columbia



Date



William P. Lightfoot
Chairperson



Date