

DISTRICT OF COLUMBIA COMMISSION
ON JUDICIAL DISABILITIES AND TENURE

515 FIFTH STREET, N.W. BUILDING A, ROOM 312
WASHINGTON, D.C. 20001
(202) 727-1363

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November 13, 2001

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Henry F. Schuelke, III, Esq.
Special Counsel

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

Dear Chief Judge King:

The District of Columbia Retired Judge Service Act P.L. 98-598, 98 Stat. 3142, as amended by the District of Columbia Judicial Efficiency and Improvement Act of 1986, P.L. 99-573, 100 Stat. provides in part as follows:

"(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. A senior judge shall be subject to reappointment every four years, unless the senior judge has reached his or her seventy-fourth birthday, whereupon review shall be at least every two years, in accordance with subsection (b)."

"(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."

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Judge Tim Murphy submitted his request for a recommendation for reappointment as a Senior Judge to the Commission on July 19, 2001, and completed his submission of the materials requested by the Commission on August 9, 2001.

By a vote of 4-3 the Commission has found Judge Murphy to be fit to continue his judicial service, and the Commission favorably recommends Judge Murphy's reappointment as a Senior Judge subject to the Determination And Undertaking executed by Judge Murphy on November 8, 2001, which is attached hereto and made a part hereof.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Ronald Richardson".

Ronald Richardson
Chairperson

cc: Hon. Tim Murphy

RR/ga

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DETERMINATION AND UNDERTAKING

Re: The Honorable Tim Murphy
Senior Judge of the Superior Court
of the District of Columbia

The Commission has reviewed the request by Judge Tim Murphy for a recommendation for reappointment as a Senior Judge, submitted as of August 9, 2001, pursuant to The District of Columbia Retired Judge Service Act, P.L. 98-598, 98 Stat. 3142, as amended by the District of Columbia Judicial Efficiency and Improvement Act of 1986, P.L. 99-573, 100 Stat. 3228. In evaluating Judge Murphy's qualifications and fitness to continue serving as a Senior Judge, the Commission has considered his judicial performance during his decades long judicial career. Judge Murphy was appointed to the Court of General Sessions in 1966 and has served in the Superior Court since its creation in 1970. He has served in all its divisions, was the presiding judge of the Criminal Division for three years, has been a member of numerous court committees and has taught for many years at the National Judicial College.

The Commission has also carefully reviewed Judge Murphy's performance since his reappointment four years ago, including his conduct in the proceedings in *District of Columbia v. Robert Waters*, Superior Court of the District of Columbia, Docket No. D-2359-00, on April 20, 2001. The Commission's investigation of this matter included an examination of the transcript and audiotape of the proceedings, interviews of witnesses who were present in the courtroom and discussions with Judge Murphy. That investigation establishes that Mr. Waters, who was in custody, requested medical treatment for an asthma condition and that he was examined twice just minutes before his court appearance by a Superior Court nurse who concluded each time that no medical treatment was necessary. Upon entering the courtroom, Mr. Waters collapsed on the floor, asking for help and complaining that he could not breathe. Judge Murphy was informed by a Deputy U.S. Marshal that "he's done this twice already. The doctor (sic) checked him out twice. He's fine." The Deputy Clerk immediately summoned medical

assistance and Mr. Waters was examined minutes later, in the courtroom, by the same nurse who again concluded that no further medical attention was required. Thereafter, Mr. Waters was able to walk from the courtroom and returned to a cell where, approximately one hour and 45 minutes later, he was found lying on the floor, unconscious, and could not be revived.

Judge Murphy did not recess the proceeding when Mr. Waters collapsed before him, stating "he can lie there. Won't effect business one bit." In response to Mr. Waters' repeated demands for medical treatment, Judge Murphy replied that the nurse had been summoned. During the proceeding, which lasted approximately five minutes, Judge Murphy entered a not guilty plea for Mr. Waters, set bond, adjourned the matter and requested a medical alert. No other cases were called until a nurse arrived and Mr. Waters was escorted from the courtroom.

Upon being informed that Mr. Waters had died, Judge Murphy stated from the bench, "May he rest in peace" and recessed the court in his memory. Judge Murphy also commented to Mr. Waters' attorney, "You're unlucky. I've got to be careful about who I appoint to your cases in the future."

The Commission questioned Judge Murphy about the manner in which he conducted the proceeding. The Commission has concluded that Judge Murphy, based upon the information then known to him, honestly believed that Mr. Waters was feigning illness during his appearance in court.

The record also reflects that Judge Murphy had an extremely heavy workload on April 20. In addition to the 11 cases on his own calendar, one of which he tried to verdict that day, Judge Murphy had agreed to handle the regular Traffic Trial Judge's 16-case calendar and the 93 cases on the Traffic Arraignment calendar.

Our investigation also discovered that no uniform policy or protocol for dealing with medical emergencies existed for the Superior Court when Mr. Waters collapsed in Judge Murphy's courtroom. The Commission has recommended to the Chief Judge that the Court establish a procedure for dealing with medical emergencies.

These several factors notwithstanding, the Commission has determined that Judge Murphy's failure to recess the proceeding immediately while medical attention was provided to Mr. Waters, coupled with some of the remarks quoted above, has eroded public confidence in the judiciary. The Commission concludes that Judge Murphy 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 requires that a

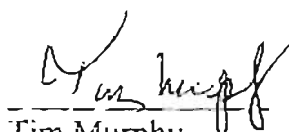
judge, when acting in his official capacity, be patient, dignified and courteous to all persons who appear before him. The Commentary to that canon aptly observes:

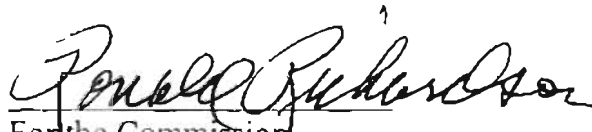
The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

Judge Murphy, who has not been given any judicial assignments since April 2001, accepts the Commission's determinations, conclusions and observations expressed above, recognizes that his conduct in this instance violated the applicable provisions of the Code of Judicial Conduct and hereby undertakes to conform his future conduct to the standards prescribed by the Code.

In view of these acknowledgments and undertaking by Judge Murphy, and his 35-year-long record of integrity and exemplary judicial service, the Commission has concluded, by a vote of 4-3, that a favorable recommendation for reappointment as a Senior Judge is appropriate and that such a recommendation will be forwarded to the Chief Judge.

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


Tim Murphy
Senior Judge
Superior Court of
the District of Columbia


For the Commission
Ronald Richardson
Chairman

Dated: November 6, 2001
Washington, D.C.