

**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

Members

Amy L. Bess, Esq., Chairperson
Hon. Diane M. Brenneman (Ret.), Vice Chairperson
Thomas Fitton
Dr. Patrick G. Jackson, MD, FACS
Hon. Colleen Kollar-Kotelly
William P. Lightfoot, Esq.
Nikki Sertso

Interim Executive Director & Special Counsel
Amy Conway-Hatcher, Esq

April 23, 2025

David Alan Warrington, Esq.
White House Counsel
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

**Re: Evaluation Reports for the Reappointment of the Honorable Milton C. Lee, Jr.
and the Honorable Todd E. Edelman, Superior Court of the District of Columbia**

Dear Mr. Warrington:

At the request of the Commission on Judicial Disabilities and Tenure for the District of Columbia, enclosed please find the Commission's Evaluation Reports for the Reappointment of the Honorable Milton C. Lee, Jr., Chief Judge of the Superior Court of the District of Columbia and the Honorable Todd E. Edelman, Associate Judge of the Superior Court of the District of Columbia.

The Commission recently conducted fitness reviews of Chief Judge Lee and Judge Edelman after receiving their respective declarations of candidacy for reappointment as Associate Judges. Following a thorough evaluation of Chief Judge Lee's judicial performance and qualifications, the Commission determined by unanimous vote that Chief Judge Lee is well qualified for reappointment to another term. Following a thorough evaluation of Judge Edelman's judicial performance and qualifications, the Commission determined by a majority vote that Judge Edelman is well qualified for reappointment to another term; Commissioner Thomas Fitton issued a dissenting opinion, voting Judge Edelman unqualified.

The Commission is an independent body created by Congress in 1970 to provide oversight of the District of Columbia Courts. Among its responsibilities is to conduct fitness reviews of DC Court judges who seek reappointment upon expiration of their terms. The Commission is made up of seven volunteer Commissioners who are duly appointed in accordance with the Commission's statute. The current Presidential appointee, Commissioner Thomas Fitton, was appointed by President Trump in 2020 for a five (5) year term.

David Alan Warrington, Esq.
April 23, 2025

If you or your staff have any questions regarding the report or the Commission, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink that reads "Amy C Hatcher". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Amy Conway-Hatcher, Esq.
Special Counsel and Interim Executive Director

Copy to: Amy L. Bess, Esq., *Chairperson*
Hon. Diane M. Brenneman (Ret.), *Vice Chairperson*
Thomas Fitton, *Commissioner*

**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

Members

Amy L. Bess, Esq., Chairperson
Hon. Diane M. Brenneman (Ret.), Vice Chairperson
Thomas Fitton
Dr. Patrick G. Jackson, MD, FACS
Hon. Colleen Kollar-Kotelly
William P. Lightfoot, Esq.
Nikki Sertsu

Interim Executive Director & Special Counsel
Amy Conway-Hatcher, Esq

April 23, 2025

The Honorable Donald J. Trump
President of the United States
The White House
Washington, D.C. 20500

Re: Evaluation Report - Reappointment of the Honorable Todd E. Edelman

Dear Mr. President:

The District of Columbia Commission on Judicial Disabilities and Tenure is pleased to report that a majority of the Commission has determined the Honorable Todd E. Edelman, Associate Judge of the Superior Court of the District of Columbia (“Superior Court”), to be **Well Qualified** for reappointment. The Commission finds Judge Edelman deserving of this designation based on his exceptional record as a judge, ability to handle extraordinarily complex legal matters, faithful application of the law, temperament, demeanor, and collegiality, and the overwhelming praise and support he has received from the Bar, his colleagues, staff, and the public. Among the many positive and impressive distinguishing factors about Judge Edelman’s record, when compared with other well qualified judges, are numerous scholarly legal opinions and trial court decisions that have been adopted not only by his trial court colleagues, but by the District of Columbia Court of Appeals (“DCCA”) as important legal precedent.

While the Commission received extraordinary support for Judge Edelman, shortly after his formal interview, the Commission was made aware of some opposition to (or lack of support for) his reappointment. The opposition related to a specific case handled by Judge Edelman in 2020 that received some negative commentary and opposition during 2022 confirmation hearings on his presidential nomination for a seat on the United States District Court for the District of Columbia.¹ The Commission was aware of the matter from its own due diligence, and had reviewed it in detail as part of this review; however, given the issues presented and the potential public interest, the Commission undertook a thorough supplemental review.

The results, described herein, did not change the Commission majority's favorable view of Judge Edelman's outstanding record as a judge. While the Commission is not an appellate court and has no statutory authority to review, change, or discipline judges based on legal, procedural, or factual decisions in individual cases, the Commission will review whether a judge's decision violated ethical standards or whether the totality of a judge's record, which includes but is not limited to an individual case, reflects credit on the judicial system. In this summary, the Commission majority (6 of 7 Commissioners) found that: (i) Judge Edelman's decision in the case in question was fully within his lawful and reasonable discretion; (ii) to the extent reasonable minds may disagree about his lawful exercise of discretion, there was no evidence that Judge Edelman violated the Code of Judicial Conduct or abused his discretion in violation of law; (iii) the factual basis for stated negative criticism at the confirmation hearing presented incomplete facts; (iv) "but for" this single legal discretionary decision, the Commission's support for Judge Edelman's reappointment would easily be unanimous; and, importantly (v) Judge Edelman's stellar judicial record, selfless dedication as a public servant, extensive appellate record and legal

¹ See *infra*, Section III at 25, *United States v. Christen Wingfield*, 2020 CF2 004238 and Related Commentary.

scholarship, and his many contributions to the Court, the Bar, and the community far outweigh any concerns or objections to his reappointment.²

Therefore, the Commission finds, without reservation, that Judge Edelman is a model judge whose judicial record and performance reflect credit on the judicial system. Thus, in accordance with the Commission's governing statute, Judge Edelman's term shall be automatically extended for a full term of fifteen years upon the expiration of his current term on June 23, 2025.

This Report provides an overview of the Commission's statutory powers, the Commission's extensive review of Judge Edelman's record and decision-making, and the basis for the Commission's determination. The Commission's decision to include more detail in this Report than it traditionally includes in other presidential reappointment reports is in no way intended to minimize the Commission's robust review of other judges nor the very high caliber work and contributions of other talented well-qualified judges who serve on the District's local courts. However, given the likely public interest in this matter, the Commission included the level of detail here to demonstrate Judge Edelman's exceptional qualifications to continue in his judicial service.

I. Statutory Framework

Among its duties, the Commission is responsible for evaluating Associate Judges in the District of Columbia Courts ("DC Courts") who seek reappointment to additional fifteen (15) year terms.³

² Remaining true to its own statutory responsibilities, tradition, and historical precedent, the Commission made its decision based on its review of the entirety of Judge Edelman's record, including inputs it received during and after the public comment period – whether positive or negative. Although two comments, which could be perceived as political, expressed dissent or lack of support for Judge Edelman's reappointment, the Commission considered them along with all other comments in the context of and consistent with its statutory obligations and relevant precedent. See, e.g., [Commission Unfavorable Recommendation of Hon. Evelyn E.C. Queen \(Jul. 23, 2002\) at 2, n.1.](#)

³ [Section 433\(c\) of the District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 744, as amended by the District of Columbia Judicial Efficiency and Improvement Act of 1986, P.L. 99-573, 100 Stat. 3228.](#) See [DC Code § 1-204.33](#). While section 1-204.33(a) governs the nomination and appointment of associate judges to the DC Courts, section [1-204.33\(c\)](#) vests the responsibility of evaluating judges for renomination or reappointment to the Tenure Commission.

Specifically, if a judge declares his or her candidacy for reappointment, the Commission must “prepare and submit to the President a written evaluation of the declaring candidate’s performance during her or his present term and his or her fitness for reappointment to another term.”⁴ Under the statute, the Commission has three options:

- If the Commission determines the declaring candidate to be **well qualified** for reappointment to another term, then the term of the declaring candidate shall be automatically extended for another full term, subject to mandatory retirement, suspension, or removal.
- If the Commission determines the declaring candidate to be **qualified** for reappointment to another term, then the President may nominate the candidate and then shall submit the nomination to the Senate for advice and consent to the renomination of the candidate as judge. If the President determines not to so nominate such declaring candidate, he shall nominate another candidate for such position only in accordance with the provisions of subsections (a) and (b).
- If the Commission determines the declaring candidate to be **unqualified** for reappointment to another term, the President shall not submit to the Senate for advice and consent the renomination of the declaring candidate as judge and such judge shall not be eligible for reappointment or appointment as a judge of a District of Columbia court.

[DC Code § 1-204.33\(c\)](#) (emphasis added).

The Commission reserves the recommendation of “well qualified” for those judges whose work product, legal scholarship, dedication, efficiency, and demeanor are exceptional on the bench, and where the candidate’s performance consistently reflects credit on the judicial system. The Commission will find a judge is “qualified” if he or she satisfactorily performs his or her assigned duties or whose strong positive attributes are materially offset, but not overborne, by negative traits. The Commission will find a judge “unqualified” if he or she is found to be unfit for judicial service.

⁴ The Commission must file its report not less than sixty days prior to the expiration of the declaring candidate’s term of office. *Id.*

II. The Commission’s Evaluation of Judge Todd E. Edelman as “Well Qualified”

Without question, Judge Edelman is one of the most esteemed and beloved judges on the DC Courts, and he has earned the utmost respect of his colleagues, many of whom signed letters and spoke on his behalf. The unequivocal support from colleagues included judges appointed by every United States President dating back to 1997.⁵ Further, the support from lawyers who communicated with the Commission was equally unequivocal and included attorneys with both conservative and liberal backgrounds. Judges and practitioners view Judge Edelman as a neutral judge and scholar who faithfully and fairly applies the law without favor. He has been referred to as a “*spectacular*” judge, a “*consummate public servant*,” and an “*extraordinary man*.”

The Commission was impressed not only by Judge Edelman’s outstanding performance and reputation as a jurist, but also by his skill and proficiency in developing a clear trial court record with complex rulings that are easily reviewable. His rulings have not only been affirmed by the DCCA but have served as the foundation for important legal precedent in the District. He is known as a jurist who will take the time to go the extra mile by explaining his oral rulings on the bench and preparing written orders with superb legal analysis from which colleagues across the court benefit.

A. Judge Edelman’s Candidacy for Reappointment

Judge Edelman formally declared his candidacy for reappointment on September 17, 2024, and submitted all required materials before the statutory deadline. His comprehensive written materials in support of his candidacy included: (i) extensive information about his experience as an Associate Judge, including calendar assignments and leadership positions; (ii) Court committee

⁵ This included judges appointed by President Donald J. Trump, President Joseph R. Biden, President Barack Obama, President George W. Bush, and President William Jefferson Clinton.

assignments, accomplishments, and contributions as an Associate Judge to the Court, the Bar, and the community; (iii) examples of superbly drafted orders and opinions, some of which are the basis for precedent by the DCCA; and (iv) updated medical forms from his physician confirming his medical fitness for service. The Commission publicly announced Judge Edelman's candidacy for reappointment on December 2, 2024, and opened a public comment period seeking input from the community, the Bar, and the bench. The public comment period remained open until January 31, 2025.⁶

As part of its reappointment evaluation, the Commission: (i) reviewed Judge Edelman's written statement and application materials, (ii) reviewed public comments and other information shared with the Commission by the public; (iii) conducted extensive independent interviews of judicial colleagues, present and former court staff, attorneys, and others; (iv) evaluated Judge Edelman's assignments and appellate record; (v) reviewed the Commission's internal records;⁷ and (vi) conducted an extensive review of Judge Edelman's March 22, 2020 pre-trial release decision in *United States v. Christen Wingfield*, 2020 CF2 004238, at the height of the COVID-19 pandemic, *see infra* at Section III at 25. The full Commission formally interviewed Judge Edelman on March 12, 2025. Judge Edelman also made himself available to the Commission, as well as on multiple occasions to Chairperson Amy Bess who was the Commissioner assigned to lead his fitness review and the Commission's Special Counsel Amy Conway-Hatcher.

⁶ See Commission Press Release at [The Commission on Judicial Disabilities and Tenure Opens the Public Comment Period for Reappointment Evaluations of Chief Judge Milton C. Lee, Jr. and Judge Todd E. Edelman, Superior Court of the District of Columbia | cjdt](#) (Dec. 2, 2024). Consistent with its practice, as part of its broad solicitation of input and commentary, the Commission contacted numerous highly regarded legal institutions and organizations in the District of Columbia to encourage input and commentary from a wide range of practitioners who have appeared before or worked with Judge Edelman. To encourage candid and open feedback on the judge's judicial service and performance, the Commission does not disclose the identity of commenters without the commenter's consent or express approval.

⁷ The Commission's files include, among other things, Annual Financial Reports filed by Judge Edelman, DC Bar Evaluations, complaints received and resolved by the Commission over his fifteen (15) year career, judicial timesheets, and correspondence with the Commission.

B. Background

Much of Judge Edelman's career has been dedicated to public service, teaching, and mentoring – both younger lawyers and colleagues – a clear passion and gift that continues today. After graduating *cum laude* and with Distinction in Political Science from Yale College in 1990 and *cum laude* from the New York University (NYU) School of Law in 1994, Judge Edelman served as a law clerk for the Honorable William B. Bryant on the United States District Court for the District of Columbia. He was awarded the prestigious E. Barrett Prettyman Fellowship at the Georgetown University Law Center and, from 1995-1997, he represented indigent defendants in Superior Court while supervising law students in Georgetown's Criminal Justice Clinic.

Judge Edelman continued his public service as a trial attorney with the D.C. Public Defender Service (PDS) from 1997 until 2005 where he tried dozens of cases to judges and juries and served as lead counsel on the Superior Court's Felony I calendar. He was promoted to Chief of the Serious Felony Section in 2002, and he became the agency's Training Director in 2004 where he designed and conducted intensive trial skills training programs for new staff attorneys and directed professional education training programs for all staff attorneys.

Judge Edelman worked in the private sector from 2005 to 2008, focusing on complex civil litigation in federal and state courts nationwide, arbitrations, and administrative tribunals, while continuing to represent individuals in criminal prosecutions and investigations. He also served as an Adjunct Professor of Law, teaching Criminal Law at Georgetown University Law Center from 2004 to 2008, after which he joined the faculty full time as a clinical professor, teaching classes on criminal law and procedure, evidence, and trial practice in the Criminal Justice Clinic, and supervising students and postgraduate Fellows on criminal cases in Superior Court.

1. Calendar Assignments, Legal Precedent, and Appellate Record

Judge Edelman was nominated as an Associate Judge to the Superior Court by the President of the United States and confirmed by the Senate in 2010. Since his appointment, Judge Edelman has served with distinction for 7 ½ years in the Civil Division, 5 years in the Criminal Division, and 2 years in the Domestic Violence Division.

a. Civil Division

Judge Edelman was assigned to the Civil Division in 2010-2012, 2017, 2021-2024, where he served as Deputy Presiding Judge from 2021-2022 and Presiding Judge from 2023-2025. As Presiding and Deputy Presiding Judge, in addition to carrying a full calendar, he managed the Court's highest-volume division. Among his many achievements was ensuring the efficient and fair administration of justice in the Division's Civil Actions Branch, Landlord and Tenant (L&T) Branch, and Small Claims and Conciliation Branch, developing policies for the processing of cases, assisting judges with matters ranging from logistical concerns to substantive questions about their cases, and partnering with legal services providers, representatives of the private bar, and other stakeholders to make sure the Court's processes are fair and accessible.⁸ In addition, while serving in the Civil Division:

- Since 2021, he spearheaded the Court's Eviction Diversion Program ("EDP"), an initiative that seeks to reduce both the number of landlord and tenant cases and the number of eviction judgments. Among other achievements, the EDP has increased the Court's mediation capacity in such cases, permitting approximately 50% of filed L&T cases to be resolved through pre-trial mediation.⁹
- He developed the "L&T Public Safety Track" – a process by which the Court can expeditiously address L&T cases involving risks to public health and safety, ensuring that

⁸ During this period, he also chaired the Court's Landlord and Tenant Working Group, the Small Claims Working Group, the Mortgage Foreclosure Working Group, the Advisory Committee on Civil Rules, the Advisory Committee on Landlord and Tenant Rules, and the Advisory Committee on Small Claims Rules.

⁹ The EDP also developed protocols to allow early intervention by the Court, legal assistance providers, and housing counselors on behalf of at-risk tenants, promoted greater access to financial assistance providers, and encouraged compliance with pre-suit notice provisions and post-judgment records sealing requirements

the Court's crowded L&T dockets do not expose landlords, their employees, or other tenants to unnecessary danger as the cases proceed through litigation.¹⁰

- As Presiding Judge, he revamped the Housing Conditions Civil Calendar, a calendar on which tenants can file actions for injunctive relief to address Housing Code violations in their rental properties. He rewrote the Case Management Plan for the calendar, convened meetings of judges, court staff, legal services providers, and other stakeholders to discuss operational issues and potential changes; and worked with the District's Department of Energy and Environment ("DOEE") to create a program under which a DOEE mold inspector will regularly attend court hearings, conduct mold inspections when this issue arises in a case, and then report the findings of the inspection at future hearings.
- In 2021, as Deputy Presiding Judge, he developed a plan by which the Civil Division could resume in-person jury trials following a year in which no such trials were conducted due to the pandemic, including protocols for jury selection and social distancing, and policies for prioritizing trials and dividing up the Court's limited pool of available jurors.
- In his last four years in the Civil Division, he handled all appeals from the L&T, Tax Lien, and Housing Conditions calendars, as he was assigned all motions for review of magistrate judge rulings pursuant to Rule 73 of the Superior Court Rules of Civil Procedure. He wrote over 100 orders reviewing magistrate orders in L&T cases alone, many of which involved thorny legal issues, and handled all appeals from the Department of Motor Vehicles Traffic Adjudication Appeals Board; all motions seeking relief from garnishments or attachments obtained to enforce Superior Court judgments, and all motions to seal closed L&T matters.

During his tenure in the Civil Division, Judge Edelman also issued numerous important and precedential decisions and is regularly sought after by other judges for his mentorship, training, and advice.

His July 6, 2017 Order in *Organic Consumers Ass'n v. Gen. Mills, Inc.*, Civ. No. 2016-6309-B on the plaintiffs' standing to sue on behalf of themselves and members of the "general public" and the "class" of consumers who purchased similar products is notable precedent for the District of Columbia Consumer Protection Act ("CPPA"). His reasoning was adopted by the DCCA in *Animal League Defense Fund v. Hormel Foods Corp.*, 258 A.3d 174, an opinion that

¹⁰ Under this process, landlords can identify whether such a risk is present by checking a box on the revised complaint form (developed at Judge Edelman's direction), which then places the case on an expedited track for initial hearing and trial. Given the shortage of judges, which has significantly impacted the Civil Division, creative approaches to prioritizing cases and alternative resolution mechanisms are invaluable.

tracked his analysis closely and has been cited 18 times by local and federal courts in the District, as well as federal courts in California, Florida, New Mexico, and New York.

The DCCA has adopted Judge Edelman’s legal reasoning in multiple other precedential cases, but DCCA judges confirmed that it is not the practice of the appellate court to “credit” trial judges for analysis adopted. In one matter reviewed by the Commission, however, the DCCA directly credited Judge Edelman specifically. His decision in *Weatherly v. Second Northwest Cooperative Homes Association, Inc.*, 2022 LTB 111, which analyzed an estate executor’s ability to take possession of a deceased condo owner’s dwelling unit, was affirmed by the DCCA in *Weatherly v. Second Nw. Coop. Homes Ass’n, Inc.*, 304 A.3d 587, 588 (D.C. 2023). The DCCA wrote: “[e]ssentially for the reasons stated by Judge Edelman in his written order,” and then quoted Judge Edelman explicitly adopting his reasoning and conclusions. *Id.* at 590. Other notable affirmances of Judge Edelman’s trial court rulings include:

- *Havilah Real Property Services, LLC v. VLK, LLC et al.*, 2008 CA 2474, aff’d, 108 A.3d 334 (D.C. 2015), a complex civil action involving competing real estate ventures that presented several extensively-litigated issues of first impression, including whether the filing of a notice *lis pendens* in connection with litigation over real property is protected by an absolute or conditional privilege as a defense to a claim of tortious interference with prospective business advantage; whether such a filing, when made in bad faith, can support a claim of malicious prosecution; and what the measure of damages for such claims should be. After multiple pretrial hearings, Judge Edelman presided over a lengthy jury trial that resulted in a verdict for the plaintiff on the interference with prospective business advantage claim. The DCCA affirmed the judgment in its entirety.
- *District of Columbia v. Bongam, et al.*, 2012 CA 8516 & 2007 CA 5472, aff’d, 271 A.3d 1154 (D.C. 2022). Judge Edelman presided over a three-week long bench trial in these consolidated actions, in which the District of Columbia sought compensation under the District of Columbia Wage Payment and Collection Law on behalf of a group of immigrant home health aides who alleged that the defendant and his alter ego company had illegally withheld their wages. After rendering a significant judgment in favor of the District, Judge Edelman’s verdict was affirmed by the Court of Appeals.
- *Artis v. District of Columbia*, 2014 CA 5275. In this Whistleblower Protection Act case, Judge Edelman was specially assigned to preside over the 2022 jury trial, after an earlier ruling by another judge dismissing this case had been reversed by the United States

Supreme Court. On remand, the jury found for the defendant, and no appeal of Judge Edelman's rulings or of the judgment was taken.

b. Criminal Division

Judge Edelman was assigned to the Criminal Division in 2015-2016, 2018-2020, and 2025, including two assignments to the Felony I calendar, where he presided over the city's most serious and challenging criminal cases, such as murder, assault with intent to kill, and sexual assaults. As a Criminal Division judge, he has presided over 100 jury trials, 40 non-jury trials, and thousands of detention hearings, arraignments, suppression hearings, other evidentiary hearings, and sentencing. He not only covers his own calendar assignments, he also regularly volunteers to handle other trials when his colleagues are unavailable. He is a trusted resource for judges who encounter difficult legal or procedural issues.

His record in the Criminal Division is fully consistent with his reputation: tough but fair,¹¹ independent and even-handed in his application of the law, and a model for other judges. Among his precedential decisions are *United States v. Mark Funderburk*, 2017 CF2 21521, in which he issued a lengthy ruling that, based on the specific circumstances of the case, concluded police had the necessary "reasonable suspicion" to support their stop and pat down of the defendant.¹² The DCCA affirmed his ruling in *Funderburk v. United States*, 260 A.3d 652, confirming the legal standard he applied and echoing his reasoning throughout. *See id.* at 661-663. In *United States v. Tibbs*, 2019 D.C. Super. LEXIS 9 (D.C. Super. Ct. September 5, 2019), by contrast, Judge

¹¹ His record includes numerous cases involving significant issues of community safety and criminal justice in which he has imposed lengthy sentences that have been upheld by the court of appeals. *See, e.g., United States v. Headspeth*, 2016 CF1 1887 (defendant sentenced to 30 years in prison for the shooting and wounding of two D.C. schools administrators; trial rulings affirmed by the Court of Appeals, *see Headspeth v. United States*, 285 A.3d 1236 (D.C. 2022)); *United States v. Ronald Randolph*, 2017 CF1 12623 (defendant sentenced to 26½ years in prison for the murder of his girlfriend).

¹² *United States v. Funderburk*, DC Superior Court Case 2017 CF2 21521, November 16, 2018 Oral Ruling by Judge Todd Edelman at 2.

Edelman limited the government’s use of expert testimony on firearms pattern-matching evidence. *Tibbs* has been cited in 17 subsequent opinions in both federal and state courts across the country and has been extensively discussed in academic and popular press articles.¹³

A recent, heart-wrenching Felony I trial over which Judge Edelman presided, *United States v. James Walker*, 2020 CF1 000603, was the subject of public commentary and Commission review. The *Walker* case was a highly publicized criminal prosecution of a District commercial property owner (and lawyer) for the tragic deaths of two residents, including a child, after a fire broke out in a building owned by the defendant and the victims were unable to escape.¹⁴ The prosecution (here, the US Attorney’s Office and the Office of the Attorney General) charged the defendant for operating the building as an illegal “rooming house,” with extensive building code violations, including failure to provide unobstructed means of escape, the worst of which was a double-keyed security gate that blocked access from the kitchen to the front door. Sadly, when the 2019 fire erupted, two tenants, including a 10-year-old child were unable to escape and died from thermal burns and smoke inhalation.

The Commission received positive comments from prosecutors and defense attorneys alike. In commenting on Judge Edelman’s intellect, fairness, humanity, thoughtfulness, and remarkable preparation in every case, some pointed to this case as an example. The Commission understands the Judge Edelman’s handling of the *Walker* trial was superb. Trial evidence,

¹³ See, e.g., Radley Balko, A D.C. Judge Issues a Much-Needed Decision on “Junk Science,” *Washington Post*, February 28, 2020; Brandon L. Garrett, Eric Tucker, and Nicholas Scurich, *Judging Firearms Evidence*, 97 S. Cal. L. Rev. 101 (2024); Maneka Sinha, *Radically Reimagining Forensic Evidence*, 73 Ala. L. Rev. 880 (2022); Katie Kronick, *Forensic Science and the Judicial Conformity Problem*, 51 Seton Hall L. Rev. 589 (2021); David H. Kaye, “*Tibbs, Shipp and Harris on ‘Meaningful’ Peer Review of Studies on Firearms-Toolmark Matching*,” *Forensic Science, Statistics & the Law* (June 14, 2021).

¹⁴ See [District of Columbia | Owner of Unlicensed D.C. Row House Found Guilty in the Deaths of Two People in Fatal Kennedy Street Fire | United States Department of Justice](#); [Jury convicts man of murder in fatal fire that killed 10-year-old - The Washington Post](#); [Man tried to shield child from fire in final act, official testifies - The Washington Post](#).

including witness testimony, crime scene and autopsy photographs, were horrific. Jurors openly wept. According to sources, Judge Edelman handled the trial “with unbelievable sensitivity and deftness, including supporting the jury through the difficult testimony without doing or saying anything that would be prejudicial” or that might create the potential for a mistrial or obvious DCCA reversal. At least one judge commented that there were very few judges who could have handled such complex legal issues while carefully, appropriately, and delicately managing understandable human reactions to the horrific facts; at least one lawyer commented, those who watched the trial were “in awe of [Judge Edelman’s] handling of the case.”

c. Domestic Violence Division

Judge Edelman served in the Domestic Violence Division (then known as the “Domestic Violence Unit”) in 2013 and 2014, spending one year handling Civil Protection Order (“CPO”) cases and one year presiding over domestic violence criminal misdemeanors. Both calendars are among the highest-volume assignments in the courthouse, with over 100 matters scheduled per week, and which involve primarily self-represented parties, many of whom are not experienced with the judicial system and require greater judicial guidance and explanation. It is estimated that Judge Edelman presided over 150 CPO trials and 75 misdemeanor criminal domestic violence trials during his tenure in this Division.

In that assignment, Judge Edelman’s interpretation of the DC stalking statute in *Gray v. Sobin*, 2013 CPO 3690, also was adopted by the DCCA. In summary, he found that the statute does not apply to “constitutionally protected activity” such as the right to engage in free speech as guaranteed by the First Amendment to the United States Constitution, especially on matters of public concern.

In *Mashaud v. Boone*, 295 A.3d 1139, 1144 (D.C. 2023), an *en banc* decision the DCCA

addressed the question of “whether the District's stalking statute can be reconciled with the First Amendment,” and adopted Judge Edelman’s reasoning and conclusions. The opinion stated:

“[although the DC] stalking statute would be unconstitutionally overbroad absent some narrowing construction, it is susceptible to just one narrowing construction that actually cures its First Amendment problems. When the statute says that it does not apply to ‘constitutionally protected activity,’ that must be understood to mean that it applies only to communications when they fall within the narrow categories of speech that lack First Amendment protections.”¹⁵

d. Appellate Record

Given the above, it should be no surprise that Judge Edelman’s appellate record is superb. Judge Edelman has presided over thousands of matters. Of his 198 decisions that were reviewed by the DCCA during his fifteen-year tenure on the bench, , the vast majority of his decisions were affirmed, dismissed, denied, or closed.

- Affirmed: 106
- Affirmed and Remanded: 1
- Affirmed In Part/Remanded In Part: 3
- Affirmed In Part/Reversed In Part/Remanded In Part: 1
- Dismissed: 73
- Remanded: 6
- Reversed: 2
- Reversed and Remanded: 2
- Vacated And Remanded: 1
- Vacated In Part/Affirmed In Part/Remanded In Part: 1
- Order Denying Petition For Writ Of Mandamus/Prohibition: 1
- Closed: 1

Indeed, one judge with whom the Commission spoke noted that Judge Edelman’s rulings are appealed at a lower rate than other judges. In other words, given the typical quality and accuracy of his rulings, unsuccessful litigants often choose not to appeal.

¹⁵ *Id.* at 1170.

2. Temporary Designation and Assignments to the DCCA

Under DC Code § 11–707, the Chief Judge of the DCCA “may designate and assign temporarily one or more judges of the Superior Court of the District of Columbia to serve on the District of Columbia Court of Appeals” This is a privilege not all Superior Court judges experience.

To date, Judge Edelman has sat by designation on the DCCA twice, in 2013 at the request of then-Chief Judge Eric Washington and in 2018 at the request of Chief Judge Anna Blackburne-Rigsby. In 2013, Judge Edelman served on a panel with then-Chief Judge Washington and Associate Judge Stephen H. Glickman, after which Judge Edelman authored an opinion overturning an administrative agency’s decision in a workers compensation case, *Payne v. District of Columbia Department of Employment Services and Washington Metropolitan Area Transit Authority*, 99 A.3d 665 (D.C. 2014). He also joined DCCA decisions in two criminal cases.

In 2018, Judge Edelman was appointed to hear three cases on a panel with DCCA Associate Judges Roy W. McLeese and Phyllis D. Thompson. In *TRG Customer Solutions v. Smith*, 226 A.3d 751 (D.C. 2020), which the Commission reviewed, Judge Edelman authored an opinion clarifying the standard for determining when a party’s litigation activity constitutes a waiver of its right to invoke an arbitration clause to compel dismissal of a lawsuit. He also joined the panel’s decisions in a probate case and a disability discrimination case.

3. Committee Assignments and Other Contributions

The role of a Superior Court associate judge requires extraordinary commitment beyond calendar assignments, case management, and legal rulings. Despite crushing caseloads, all judges take on added responsibilities for Committee assignments and leadership positions over the course of their terms, as assigned by the Chief Judge.

In addition to Judge Edelman’s extensive duties as a trial judge and divisional leadership roles, he contributed as a member and leader to many committees, further exemplifying his unwavering commitment to the DC Courts, his colleagues and staff, the improvement of the practice of law in the DC Courts, and the improvement of court services to benefit the community and all who come before the District’s local courts. The following are a list of committee assignments between 2016-2024:

- Advisory Committee on Civil Rules, Member (2017), Co-Chair (2021-present)
- Advisory Committee on Criminal Rules (2016)
- Advisory Committee on Landlord & Tenant Rules, Co-Chair (2021-present)
- Advisory Committee on Small Claims Rules, Co-Chair (2021-present)
- Civil Division Civil Leadership Working Group (2023-present)
- Civil Division Landlord & Tenant Working Group, Co-Chair (2021-present)
- Civil Division Mortgage Foreclosure Working Group, Co-Chair (2021-present)
- Civil Division Small Claims Working Group, Co-Chair (2021-present)
- Civil Division Working Group on Virtual Trials, Co-Chair (2021)
- Committee on Pro Bono and Affordable Counsel (2021)
- Criminal Justice Act Implementation Committee (2011-2021)
- Joint Standing Committee on Fairness and Access to the District of Columbia Courts (2011-2022)
- Judicial Education Committee (2013 – 2016; 2018 – 2021)
- Jury Instructions Committee (2014 – 2016)
- Civil Instructions Sub-Committee (2023 – present)
- Jury Management Committee (2021 – present)
- Rules Committee (2021 – present)

The Commission regularly solicits input on judicial candidates from the Chief Judges of their respective courts. Both in written and in-person remarks to the Commission, the Hon. Milton C. Lee, Jr., Chief Judge of the Superior Court, shared his unconditional support for Judge Edelman’s reappointment and his views of Judge Edelman’s exceptional performance and qualifications as a judge. Among the experiences Chief Judge Lee shared was Judge Edelman’s invaluable work to engage justice partners as the Court was emerging from the pandemic. In particular, he wrote that Judge Edelman’s “*leadership allowed the Court to reimagine operations*

for the Civil Division as we expanded operations and returned to jury trials. He was an essential sounding board as the Court worked with stakeholders to expand virtual appearance alternatives for many of our self-represented litigants.” Chief Judge Lee also confirmed his continued reliance on Judge Edelman because of his contributions as a judge, wise counsel among judges, collegiality, and skill, all of which are consistent with the judicial record of Judge Edelman that the Commission has before it. On Judge Edelman’s importance to the Superior Court, Chief Judge Lee wrote:

In October 2024, my first act as Chief Judge was to issue judicial assignments for the 2025 year. This is a challenging task made even more difficult by the unprecedented number of judicial vacancies in the Superior Court. The Felony I assignment is the calendar that receives the toughest cases and the most public scrutiny. The assignment requires remarkable skill in managing complex pretrial issues and trials where some of the most talented lawyers appear before the court. When I approached Judge Edelman about the assignment, he eagerly accepted the challenge understanding the demands created by a backlog in cases stemming from the pandemic. I also needed Judge Edelman to take on a leadership role in the assignment where other less experienced judges could be mentored and find comfort in the guiding hand of a well-respected and experienced jurist. The Felony I section of the Criminal Division cannot function consistent with the needs of the Court without Judge Edelman. He is more than just a calendar judge - he is a critically important part of the fabric of the Superior Court and cannot be easily replaced.

I support Judge Edelman's reappoint[ment] because I have come to understand the needs of the Superior Court, and the Court does not just need judges like Judge Edelman, it needs Judge Edelman. The Court has important work to do, and the public expects that we will meet our obligations consistent with the highest standards of justice. Judge Edelman's almost 15 years of service will better [en]able the Court [to] meet its goals and continue to earn the public trust.

4. Legal Scholarship, Mentorship, Teaching, and Community Service

Judge Edelman continues to serve as a prolific teacher, trainer, and mentor to other Associate Judges, Magistrate Judges, staff and law clerks at the Court, attorneys, and law school students. The Commission has no doubt that his ongoing and selfless public service has improved the quality and practice of lawyers and judges in the District.

In addition to other examples noted above, as Deputy Presiding Judge of the Civil Division,

Judge Edelman designed and led two-week training programs for newly-appointed Associate Judges and Magistrate Judges, planned and administered the Civil Division's in-service training in 2021 and 2022. He also has organized regular meetings of the Civil Division judges and law clerks and regularly leads trainings at Criminal and Civil Division meetings on topics, such as, the elements of felony assault, the admissibility of evidence of "corruption bias," and alternative means of serving legal process. Recently, he served as the moderator for the plenary panel on *Daubert* evidence at the Superior Court's annual in-service training.

In addition, Judge Edelman served as an Adjunct Professor of Law at Georgetown Law since 2014, teaching Constitutional Law and Torts in the International Studies LLM program. He also has served on the faculty of the Harvard Law School Trial Advocacy Workshop almost every year since 2006. In 2022, he was awarded the prestigious Charles Fahy Distinguished Adjunct Professor Award by the Georgetown Law School.

In addition to all of the above, Judge Edelman actively volunteers his time as a teacher, trainer, and guest lecturer for various bar organizations, law schools, and legal services providers, delivering over 30 guest lectures and other presentations at various law schools, and participating as a judge at mock trial or moot court competitions on a number of occasions. He has served as a speaker or panelist at several dozen programs sponsored by the Trial Lawyers Association of Metropolitan Washington D.C., District of Columbia Defense Lawyers' Association, the Metropolitan Washington Employment Lawyers Association, the Washington Council of Lawyers, the D.C. Bar, the D.C. Volunteer Lawyers' Project, the Office of the United States Attorney, the District of Columbia Office of the Attorney General, and other entities and organizations.

Given his stature and legal decisions of importance, Judge Edelman also has served on a

number of important outside commissions. He was appointed to serve as co-leader of the White House's Eviction Prevention DC Work Group from 2021 to 2023 and with the National Center for State Courts' Eviction Diversion Cohort in 2021. He was appointed by Mayor Muriel Bowser to serve on Saving DC's Rental Housing Market Strike Force in 2021. From 2020 - 2023, he was an affiliate of the Legal Resource Task Group of the Forensic Science Standards Board of the Organization of Scientific Area Committees for Forensic Science (OSAC), a commission administered by the National Institute of Standards and Technology that develops science-based standards for forensic evidence. Finally, Judge Edelman was a Government Master with the William B. Bryant Inn of Court from 2012 to 2019.

5. Medical Fitness

The Commission and its consultant physician have reviewed the medical report from Judge Edelman's physician. The Commission's physician concurred with Judge Edelman's physician that he is in good medical condition and is medically fit for service.

6. Commission Files

The Commission examined its own files containing historical information regarding Judge Edelman's tenure on the Court and found no cause for concern. Judge Edelman filed all statutorily required Annual Financial Reports. In addition, Judge Edelman has never been the subject of a serious complaint over his fifteen (15) year term.¹⁶

7. DC Bar Evaluations

Each year, the D.C. Bar Judicial Evaluation Committee ("JEC) invites Bar members who

¹⁶ Most complaints were filed by "repeat filers" who have filed multiple complaints against the court and any or most judges assigned to cases filed by such complainants in the DC Courts, as well as any related decisions. Several of these complainants have been prolific writers to the Commission on court decisions they disagree with. The handful of complaints filed with the Commission regarding Judge Edelman have been dismissed for lack of jurisdiction and/or lack of merit.

have appeared before certain selected judges who serve on the D.C. Court of Appeals and the D.C. Superior Court to provide their feedback in an anonymous survey.¹⁷ Judge Edelman was reviewed in 2014-2015, 2016-2017, 2020-2021, and 2023-2024. Among the distinguishing elements of his evaluations are (i) the high number of respondents relative to other judges (38, 39, 23, and 41 respectively), (ii) the high ratings Judge Edelman received which were consistently above the average for his peers, and (iii) the overwhelmingly positive narrative comments on his intellect, knowledge and application of the law, clear explanations of his rulings, and positive demeanor, presence, and composure on the bench.

The consistent superlatives used to describe Judge Edelman are “*exceptional brain power,*” “*clearly cares about getting it right,*” “*brilliant and humane,*” “*fair and knowledgeable,*” “*smartest judge in the courthouse,*” “*an exceptional judge,*” “*best of the best,*” “*very thoughtful and well-reasoned decisions,*” “*calm, even demeanor,*” and “*a model judge.*” One commenter said: “*He is one of the nicest judges on the bench. He has an exceptional ability to ensure that lawyers are not wasting the courts time with frivolous motions and objections and he treats our clients with tremendous respect.*” In the most recent 2023-2024 review, three lawyers submitted the following impressions on his strengths:

“He is always very sensitive of the real-world schedules and time limitations of the cases before him and is extremely reliable about providing prompt rulings on disputed issues. His reasoning is always well-explained and thoughtful and provides useful guidance to both the parties and the court.”

¹⁷ Judges are selected by the JEC for review based on years of service and certain other factors. The evaluation reports are provided to the Commission, the judge, and the Chief Judge of the judge’s court. While there are some limitations on the evaluation’s utility depending on the quality and specificity of the responses and the fact that evaluations are anonymous, these evaluations do offer an important opportunity for attorneys to share – and judges to receive and reflect on – constructive feedback on their performance, including both strengths and opportunities for improvement during their judicial term. The Commission will often meet with judges formally or informally to discuss their reviews and if a potentially concerning pattern of conduct or incident of concern is disclosed, the Commission will discuss it with the judge and monitor for improvement.

“Presiding over trials efficiently, fairly, and with patience, dealing with younger, less experienced attorneys, teaching and explaining the law and procedures, complying with and being patient with the unusual courtroom setup during the height of the pandemic, and making parties and attorneys feel heard and understood, even when ruling against them.”

“Judge Edelman is a very thoughtful judge. While I was on the losing side of the case I had with him during the evaluation period, I found him to be a scholar's scholar. It is always a pleasure to appear in Judge Edelman's courtroom.”

The evaluations ask commenters to provide feedback on areas of weakness or where there is room for improvement. While most commenters did not identify weaknesses for Judge Edelman, a few commented on their perception of his delivery of rulings, the quality of his explanations, or agreement with his rulings. However, none of the negative comments came close to challenging or undermining the vast majority of positive comments.

8. Public Commentary on Judge Edelman's Candidacy for Reappointment

During the reappointment process, in contrast to the anonymous DC Bar Evaluations, many public commenters identify themselves and agree to be interviewed. The Commission maintains confidentiality over these inputs unless the commenter agrees to be identified. As one can imagine, the Commission routinely receives commentary about the performance of judges, whether they are being considered for reappointment or not. The Commission does not consider any comment or group of comments, whether confidential or for attribution, standing alone. Rather, the Commission uses these comments as a tool, in combination with other factors and considerations, to aid its evaluation in the performance of a judge, overall and/or in a particular case.

During Judge Edelman's fitness review, the Commission had the opportunity to conduct many interviews and review written and oral inputs from judicial colleagues and peers, courtroom staff, clerks, attorneys, and others regarding his overall performance as well as in the context of the *Wingfield* matter, which it will address separately below.

Judges interviewed by the Commission commented on Judge Edelman's brilliance as a

jurist, how they regularly seek him out to discuss their most difficult cases and praised him for his collegiality and willingness to take on tough assignments. It was not uncommon to hear that colleagues view him as one of the very best judges on the Superior Court who is not only praised for his intellect but also for his “*amazingly calm demeanor*,” even when situations in his courtroom get difficult or chaotic. Several judges commented that they had never heard Judge Edelman raise his voice in his fifteen years on the bench, which is no small feat. Virtually every judge we spoke with praised Judge Edelman’s character and commented on what an exceptional human being he is. Notably, these comments came from judges across the DC Courts of all backgrounds, no matter the timing of their appointment to the bench and by whom.

Judge Edelman is beloved by law clerks, who not only appreciated his talent as a judge but deeply appreciated his mentorship and the genuine care and interest in their professional development. One clerk stated that her “*decision to clerk for Judge Edelman was the best decision [she] has ever made in her life*,” and that the experience made her a better lawyer.

Court staff were equally supportive and complimentary of Judge Edelman’s preparedness, thoughtfulness, and balance in listening to both sides equally, and ensuring that all lawyers and litigants were fully heard and able to share their views. He is known as a judge who treats all persons in the courtroom with respect and dignity, and he honors break times or personal needs that court staff, lawyers or litigants may have during the day. Staff further commented on how thoughtful and caring the judge is toward jurors, making sure their time is not unduly wasted, and ensuring they know how much he and the court appreciate their service.

Civil and criminal lawyers, whether they worked for the government or defense, had equal praise and respect for Judge Edelman as a jurist. Without exception, all lawyers interviewed spoke glowingly and positively about Judge Edelman’s qualifications as a judge and strongly supported

his reappointment. Many commented on how “*unbelievably prepared*” Judge Edelman is for every hearing, including one who shared that he took over a complex case from a retiring judge and at the first status hearing, had an “*encyclopedic knowledge of the record, having clearly read every motion and every prior decision in the case.*” The lawyer called it “*truly remarkable.*”

Most lawyers said that if they could pick any judge to appear before, it would be Judge Edelman because he is smart, prepared, thoughtful, and respectful. Several commented that while they have not always won before him, they always have left his courtroom fully understanding his ruling and aware of why they lost their motion. Several also commented about his humanity, and how he fully sees all persons in his courtroom as human beings.

One lawyer who has practiced law in the District of Columbia since 1980 wrote a letter of strong support for Judge Edelman’s reappointment. It said:

“[I] have litigated in excess of 500 cases in the Superior Court and have appeared before at least 100 different judges. I have personally had more than 20 cases on Judge Edelman’s calendar during the time he has been assigned to the civil docket. In addition, lawyers in my law firm have had an additional 30-50 cases assigned to Judge Edelman. Based upon my experience in litigating and trying cases in the Superior Court, it is my judgment that Judge Edelman is in the top five judges that I have practiced before in that court during my career. I have prevailed in cases with Judge Edelman, and I have lost cases with him. In every instance, he was unfailingly fair to all counsel and parties, was always thoroughly prepared for motions hearings and/or trials and was knowledgeable of the law. Of particular significance, given the crushing caseloads that all Superior Court judges handle on the civil docket, Judge Edelman has done an outstanding job of managing his docket and moving cases toward conclusion.”

Another lawyer, who described himself as a “conservative,” praised Judge Edelman’s “*impeccable qualifications as a trial judge*” and wrote:

I have served with Judge Edelman on the Superior Court’s Jury Instruction Committee and on the Superior Court’s Civil Rules Advisory Committee, and I have appeared before him in Court. Judge Edelman has a rare combination of attributes that make him an elite jurist. Those attributes include a strong work ethic, an innate sense of fairness, the desire to serve, keen legal acumen, empathy, and ability to set aside personal beliefs to do what the law requires. I’ve seen this firsthand when

appearing before him as counsel as well as in committee work

One judge who wrote a letter to the Commission supporting Judge Edelman's reappointment reported that Judge Edelman's "*performance on the bench has been impeccable,*" calling him "*a workhorse who turns out more, and more thoughtful, judgments than just about anybody else on the Superior Court bench.*" He continued that the judge is "*sharp as a whip*" and "*even the judges on the Court of Appeals have frequently followed his lead*" A federal judge wrote of Judge Edelman: "*He is one of the finest judges on the Superior Court He is smart, hardworking, very thoughtful, and has excellent judgment. He has all the attributes one should look for in a judge. He is modest and doesn't take himself too seriously, but he takes his work very seriously.*"

Shelley Broderick, Esq., former Dean of the University of the District of Columbia David A. Clarke School of Law and a member of Congresswoman Eleanor Holmes Norton's Federal Law Enforcement Nominating Commission that proposed Judge Edelman for the district court nomination offered her unwavering support for Judge Edelman's reappointment: "*Judge Edelman is a spectacular judge and human being. He is among the very top echelon of judges, the cream of the crop, and a consummate public servant. The [Nominating] Commission received overwhelming support for Judge Edelman and high praise for his judicial decision-making, application of the law, intellect, fairness, ethics, and demeanor – everything you would look for in an outstanding judge.*"

The glowing comments received by the Commission unequivocally supported and pointed to many aspects of Judge Edelman's contributions that were consistent with his record of exceptional judicial performance, which ordinarily would easily justify a unanimous Well Qualified determination for reappointment.

III. United States v. Christen Wingfield, 2020 CF2 004238 and Related Commentary

The Commission spent considerable time reviewing the record in *U.S. v. Christen Wingfield*, 2020 CF2 004238, a felony gun possession case that came before Judge Edelman in May 2020 on an emergency defense motion seeking reconsideration of the defendant's pre-trial detention. The motion came at a time when court operations were substantially curtailed and statutorily required hearings were significantly delayed due to the COVID-19 pandemic. After two brief hearings, Judge Edelman exercised his lawful discretion and, based on evidence and arguments presented to him, he released the defendant under high intensity supervision. His decision was the subject of criticism after the defendant was rearrested (along with 3 other co-defendants) two months later following a shooting during a July 4th picnic where an 11-year-old boy, Davon McNeal, was tragically killed by a stray bullet fired by one of the co-defendants. The facts of the case, described herein, include that while not a shooter, Defendant Wingfield was present, armed, and fled with the group. The high intensity supervision decision was again the subject of criticism during Judge Edelman's 2022 confirmation hearings for a US district court nomination.¹⁸

While some criticized Judge Edelman's decision, others felt he was unfairly attacked with misconstrued material facts that left the impression the defendant fired his weapon or directly caused the boy's death, neither of which is true. Others argued the criticisms failed to appreciate the limited role of a judge in detention hearings or the legal requirements that the judge was duty

¹⁸ The primary negative commentary at the hearing was made by Senator Marsha Blackburn who declined to support the judge's U.S. District Court nomination as a result of the *Wingfield* case, attributing blame for the boy's death to Judge Edelman. The Commission understands, however, that Judge Edelman had received a "Well Qualified" rating, tremendous support, and was voted favorably out of the Senate Judiciary Committee by majority vote. Thereafter, his and several other federal judicial nominations stalled in 2023, many of which were returned to the White House in early 2024 because they expired. President Biden did not pursue Judge Edelman's nomination, among others, thereafter.

bound to follow on the defense motion before him. Others were astonished and dismayed that, given the facts of the matter, the backdrop of the pandemic, and that reasonable minds might agree or disagree with Judge Edelman's exercise of discretion, that this decision could undermine the entirety of his stellar judicial career.

In the context of the Commission's role in reviewing Judge Edelman's candidacy for reappointment, the question before the Commission is whether Judge Edelman's decision in *Wingfield* negatively impacts his qualifications for continued judicial service or in some way disqualifies him from reappointment despite his exemplary record. Based on an extensive review of the *Wingfield* record and for the reasons described herein, six (6) of the seven (7) Commissioners determined Judge Edelman's decision did not negatively impact a Well Qualified determination by the Commission. Commissioner William P. Lightfoot, Esq. and Commissioner Thomas Fitton thought the judge made a mistake and that he should be "held accountable," but Commissioner Lightfoot did not think the mistake negatively impacted Judge Edelman's overall Well Qualified determination and voted with the majority; Commissioner Fitton, disagreed and prepared a written dissent. The Commission majority disagrees with both Commissioners Lightfoot and Fitton and addresses their respective concerns herein.

While this is not a disciplinary matter, the Commission has undertaken an extensive review of the *Wingfield* decision to inform Commissioner judgments on Judge Edelman's fitness for service. The Commission's review was intended to cover all relevant facts and context for the judge's decision, as well as any criticism of or support for the judge's decision and related public safety considerations. The Commission's report aims to provide additional transparency and clarity on the facts, the applicable law judges must apply in making criminal pre-trial release determinations, and the unique challenges presented in this case by the pandemic that impacted all

parties and the Court. The analysis also considers the Commission’s statutory obligations, as well as important and controlling principles that have guided Commissioners in deliberations over decades that have not changed.

First, while Commissioners discussed and evaluated the legality and quality of Judge Edelman’s decision, the Commission is not an appellate court, and its statutory jurisdiction does not permit it to review, change, or modify the lawful decisions of a judge, so long as he or she is exercising discretion within statutory limits and does not violate the Canons of the Code of Judicial Conduct. In the context of reappointment reviews, Commissioners can consider individual cases as part of their overall assessment of a judge’s performance, the weight of which will necessarily vary depending on the circumstances. However, it is rare – and to date even unprecedented in this context – that a single judicial decision would serve to undermine a judge’s overall 15-year record and candidacy for reappointment.

Second, the Commission remains ever mindful of the importance of the independence of the judiciary in our system of justice. The Commission recognizes that the public’s confidence in the judiciary is vital and dependent on judges abiding by their duty to maintain their independence and make decisions based on the law. This means that judges must apply the law fairly based on the facts and circumstances of the case in front of them. They can neither be swayed by nor make decisions based on public opinion or fear of public criticism, backlash, or retribution; in fact, the Code of Judicial Conduct forbids it. *See, e.g.*, District of Columbia Code of Judicial Conduct (2018 ed., 2022 supplement), Canon 1, Rule 1.1 (Compliance with Law), Rule 1.2 (Promoting Public Confidence in the Judiciary), and Canon 2, Rule 2.2 (Impartiality and Fairness) and Rule 2.3 (Bias, Prejudice, and Harassment), Rule 2.7 (Responsibility to Decide).¹⁹ Therefore, the Commission

¹⁹ In fact, Rule 2.7 prohibits judges from shying away from making decisions that may be unpopular. It states: “A

majority determined that provided judges dutifully apply the law without bias, venal motive, maliciousness, or wanton disregard, the Commission has no place or legal authority to second-guess their decisions.²⁰ This is consistent with Commission precedent.

Third, the Commission values the input of all members of the community, no matter their background, status or title, or their connection to the Court, a particular judge or case. In the execution of its statutory mandate, the Commission takes great care to evaluate such input equally and to give it appropriate consideration and weight, which inevitably is dependent on the issues under consideration as to strengths or weaknesses in a judge's record of performance. And, as the Commission's statute and precedent make clear, in deciding a judge's qualifications based on his or her record and factoring in all inputs, the Commission must maintain its own independence and make its determinations based on the entirety of the record before it. To do otherwise would do a disservice not only to the independence of the judiciary, but also the independent role of the Commission in the reappointment process and its oversight of the ethical conduct of District of Columbia Court judges.

A. Information Reviewed

Among other things, the Commission received and reviewed public and sealed court

judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other law." The Commentary to Rule 2.7 further requires that judges not shy away from their responsibility to decide cases that may bring public criticism. The Commentary to Rule 2.7 states: "Judges must be available to decide the matters that come before the court. Although there are times when disqualification is necessary to protect the rights of litigants and preserve public confidence in the independence, integrity, and impartiality of the judiciary, judges must be available to decide matters that come before the courts. Unwarranted disqualification may bring public disfavor to the court and to the judge personally. The dignity of the court, the judge's respect for fulfillment of judicial duties, and a proper concern for the burdens that may be imposed upon the judge's colleagues require that a judge not use disqualification to avoid cases that present difficult, controversial, or unpopular issues."*

²⁰ See, e.g., [Commission Determination Regarding Hon. Judith Retchin \(Jul. 15, 2005\)](#) (finding the judge's sentencing decision in an individual case, although it resulted in tragic consequences, did not violate the Code of Judicial Conduct nor reflect "conduct prejudicial to the administration of justice or which brings the judicial office into disrepute"); see also, e.g., [Commission Unfavorable Recommendation of Hon. Evelyn E.C. Queen \(Jul. 23, 2002\)](#) (unfavorable finding for appointment as a senior judge based on a pattern of problematic decision-making and conduct).

records in the *Wingfield* case (including his rearrest), media reports both from 2020, as well as media reports and materials related to Judge Edelman’s district court nomination. The Commission also conducted interviews of judges and Pretrial Services, received a two-hour presentation and Q&A session by Hon. Juliet J. McKenna (the Presiding Judge of the Criminal Division in 2020) regarding the applicable pre-trial detention statute D.C. Code § 23-1322 (2020),²¹ and reviewed additional commentary and letters of support for Judge Edelman, as well as its own precedent dating back to 1970.

B. Facts of the Wingfield Matter

1. The April Gun Arrest and Initial Pretrial Detention

On April 22, 2020, during the early days of the pandemic when the District had implemented widespread shutdowns to prevent the spread of COVID-19, Christen Wingfield was arrested by police on the charge of Possession with Intent to Distribute Marijuana While Armed (PWID While Armed). At the time of his arrest, Defendant Wingfield was on Youth Rehabilitation Act probation for a prior 2017 conviction for Carrying a Pistol Without a License (“CPWL”).

On April 23, 2020, Defendant Wingfield appeared in Superior Court’s “C-10 courtroom,” where those arrested and held by law enforcement must be presented on criminal charges (or released if the government decides not to bring charges). In the *Wingfield* matter, the US Attorney’s Office charged the defendant by Complaint with: (i) Unlawful Possession of a Firearm; and (ii) Possession of a Large Capacity Ammunition Feeding Device (related to the extended capacity magazine).²² Based on the charges presented and the applicable statute which allows for

²¹ The District of Columbia Council has since amended multiple sections of the DC Code as part of the Secure DC Omnibus Amendment Act of 2024, including legal standards and presumptions for pretrial detention in criminal cases.

²² The government’s charging document was supported by arrest paperwork filed in court, referred to as a “Gerstein,” which consists of a sworn statement by an arresting police officer on the circumstances of the arrest and evidence to support the charge(s). The government has wide discretion to bring any and all charges in court that it believes it can prove based on admissible evidence. In the *Wingfield* case, the defendant was arrested after the stop of a car in which

a presumptive hold at this stage of the proceedings, Judge McKenna, the judge on duty, held the defendant without bond.²³

2. Impact of the Pandemic on Court Hearings and Pretrial Detentions

Given the unprecedented circumstances of the pandemic, it is worth noting significant limitations that were placed on virtually all aspects of the courts, court procedures, staff and litigants, as confirmed by Judge McKenna and other judges, including the then-Chief Judge of the Superior Court. The background also is important to put in context the incredibly challenging environment judges were operating in at the time of the pandemic, based on national and local emergencies declared by government leaders, including court closures, reduced operations, the high volume of cases, the interruption in otherwise statutorily mandated hearings, increased COVID-19 infection rates, and the weight of decision-making required of judges in less-than-optimal conditions, among other challenges.

By the time of Defendant Wingfield's April 2020 arrest, the Court had significantly modified its operations to minimize the spread of COVID and to protect the health and safety of court personnel, law enforcement, judges and staff, lawyers, arrested and detained individuals, and the public. The courthouses were closed except for certain designated essential personnel. To the extent they were allowed, court hearings were limited.²⁴ For initial C-10 presentment hearings,

he was a passenger along with several other people. The gun was recovered from his person; marijuana was found in the car. According to the Gerstein, the defendant also was alleged to have been in possession of and to have discharged a weapon in another incident two weeks earlier; the Gerstein did not identify the source of the information. At the April 23rd presentment, the government charged the gun possession; it did not bring charges for drug possession (marijuana) or the alleged gun discharge incident from two weeks earlier, nor were those factors used as a basis for Wingfield's detention. In fact, the government brought no additional charges in this case until February 2021, *almost nine (9) months after* the hearing in question before Judge Edelman and *seven (7) months after* the death of Davon McNeal.

²³ At this early presentment stage, if a judicial officer finds probable cause to support the charge presented, the judge is obligated to hold the defendant pending a detention hearing at which the government must present testimonial evidence.

²⁴ DC Court operations were modified due to the State of Emergency in the District declared by Mayor Muriel Bowser and the National Emergency declared by President Donald J. Trump.

detention decisions for individuals arrested in the District, like Defendant Wingfield, were made based on the government’s charging document (supported by the Gerstein), criminal history record, and other information presented by the government, the defense counsel, and/or a Pretrial Services Agency officer.²⁵

When cases were called in C-10, while fully masked and maintaining 6 feet distances, defendants met briefly with “stand-in counsel” assigned to handle all C-10 cases that day. There was little opportunity for defendants and counsel to confer, challenge the government’s recitation of facts, or develop information favorable to the defendant. While all did their best during this unprecedented period to reach fair resolutions in detention decisions, it was fully expected and reasonable to assume that once assigned, permanent defense counsel would subsequently file bond review motions containing additional information and additionally, would request hearings – which, by all accounts, defense counsel were doing in every detention case.²⁶

In late April and throughout May 2020, Superior Court judges were inundated with bond review motions filed by defense counsel. In addition to the lack of detention hearings, the reported spread of COVID-19 was high. By that time, it was reported that two Superior Court security

²⁵ Pretrial Services officers prepare a Pretrial Services Report (“PSR”) that judges rely on to make detention and release decisions. Some of the information in the PSR is gathered from government databases, and other information is collected from the defendant and supplemented and verified by outside sources including, for example, family members and employers. Based on a computer-based risk profile analysis, the Pretrial Services officer prepares a PSR that determines if the defendant is eligible for release, and if so, provides recommendations and conditions for such release. Unlike in normal times, at the time of the defendant’s arrest, Pretrial Services officers were limited to computer-based research on the defendant’s background with little or no opportunity to confer with the defendant or his or her family, employer, etc. Supplemental information, such as verification of residency, employment, and other information was provided by Pretrial Services only later at the May 22, 2020 hearing before Judge Edelman. *See infra* at 33-36.

²⁶ Under the pretrial detention statute, DC Code § 23-1322(b)(1)(A) (2020), once probable cause was established by the government as confirmed by the judge, initial pre-trial detention for possessory firearm cases was essentially automatic. Defendants were then entitled to a detention hearing within 3 business days, during which the government was required to present witness testimony to establish probable cause, and both sides had the opportunity to present information to support (or refute) the government’s statutory burden of proof for detention. At the time of the *Wingfield* matter, due to the pandemic, these legally required detention hearings were suspended indefinitely, resulting in litigation by the defense bar raising constitutionality concerns and applicable statutory detention release arguments.

officers (CSOs) had died, and other CSOs, Deputy US Marshals, correctional officers, and people in custody were testing positive for COVID, including at the DC Jail where conditions were reported to be deplorable.

3. Detention Reconsideration and Related Events

Once appointed, Defendant Wingfield's permanent counsel sought immediate discovery, and thereafter filed an emergency bond review motion and the release of his client due to, among other things, the defendant's serious pre-existing medical conditions. Defense counsel also presented alternative release conditions for his client that he believed would meet the legal standards for assuring the safety of the community and the defendant's return to court. Defense counsel also sought medical and other records from the DC Jail in support of his motion.

The next day, by written order which erroneously referred to and relied on a government opposition that, in fact, had never been filed, Hon. James A. Crowell IV denied the defendant's emergency bond review motion and the motion for DC jail records. In denying the defense motion, Judge Crowell made high level findings on continued detention, but his Order did not make certain statutorily required detention findings and analysis specific to the defendant, making Judge Crowell's detention order legally deficient. In fact, most of the judge's Order focused on the defense challenges to the constitutionality of the Superior Court's decision to temporarily pause statutorily mandated pretrial detention hearings due to the pandemic, which had much greater legal implications beyond the *Wingfield* case.²⁷

On May 13, 2020, Defendant Wingfield's defense counsel filed a motion to reconsider

²⁷ Given the state of the pandemic and lack of certainty as to when the court could safely reopen, constitutionality challenges regarding the absence of pretrial detention hearings were being made by many defendants, which had much greater significance and legal implications for the Court and criminal defendants. Although the record is not clear as to why Judge Crowell's Order relied on a government opposition when none was filed, one can only presume it was an understandable mistake due to the unprecedented circumstances and the volume of cases the court was handling at the time.

Judge Crowell's order, which came before Judge Edelman on May 20, 2020 as part of his rotating duties on a temporary calendar set up for this purpose. During this period, Felony II judges were handling hundreds of defense motions for release on the papers (including both pre-trial and post-sentencing motions). A group of experienced Felony I judges, including Judge Edelman, was temporarily assigned to telephonic or virtual hearings on bond motions in addition to their regular caseloads.

At the first brief hearing (8-minutes) before Judge Edelman on May 20, 2020, all parties participated by phone, including the defense, the defendant, the government, Pretrial Services, and counsel for the Department of Corrections. By this time, the government had filed a written opposition briefly addressing the substance of the defendant's release conditions and motion to reconsider but, like Judge Crowell's order, it too primarily focused on the constitutionality argument many defense counsel were making.²⁸ This initial hearing before Judge Edelman focused on two issues: (i) whether detention hearings were resuming; and (ii) the defense's request for medical and other records from the DC Jail. Thereafter, the case was briefly continued until May 22nd by which date more clarity was expected on the resumption of testimonial hearings.²⁹

On May 22, 2020, the parties and a representative from Pretrial Services again appeared by phone before Judge Edelman. There being no additional guidance on when the requisite testimonial detention hearings would resume and based on the government's estimate of when the defendant might receive a hearing once they did resume (weeks or months), Judge Edelman decided the reconsideration motion, effectively undertaking a *de novo* review of the defendant's

²⁸ The government's opposition included standard language on the constitutionality argument, which was not unique or specific to Defendant Wingfield or his case.

²⁹ In the event detention hearings were to resume, Judge Edelman would not hear the case. However, if such hearings were *not* going to resume anytime soon, Judge Edelman would hear the case given significant delays expected and the defendant's pre-existing medical condition.

detention to make the requisite findings under that statute that were not made by Judge Crowell.³⁰

By law, the government bears the burden of proof on requests for pre-trial detention. Thus, it is important to clarify the information the government relied on and what Judge Edelman did and did not have in front of him on May 22nd, one month after the defendant's arrest. By May 22nd, the government presented no new information beyond what had been filed at presentment (the possession-based gun and magazine charges, arrest paperwork, and prior gun conviction). Notably, the government had not: (i) filed additional criminal charges related to drugs or the possession or discharge of a weapon on another occasion; (ii) filed photographs or other evidence submitted by the government to support such charges or other criminal activity; or (iii) made arguments or advocacy on (i) or (ii).³¹ The government also did not file for revocation of the defendant's then-pending probation, which was within its power and ability to have done.

On the other hand, by the time the May 22nd hearing, the defense and Pretrial Services presented new information including: (i) updated information on the defendant's community ties, employment, and other information favorable to the defendant, as confirmed by Pretrial Services; (ii) medical records presented by defense counsel regarding the defendant's serious pre-existing medical conditions, which the defense argued significantly increased his risk of COVID infection and death; and (iii) information regarding exacerbated COVID infection conditions at the DC Jail

³⁰ Judge Edelman's actions are supported by DCCA precedent. In multiple reported appellate decisions, the DCCA has made clear the requirement that judges must, after balancing the relevant factors, set forth findings of fact in writing, along with a written statement of its reasons for detaining a criminal defendant. *See* D.C. Code § 23-1322 (g)(1); *see also Blackson v. United States*, 897 A.2d 187, 194 (2006) (reversing trial court refusal to reconsider pretrial detention decision; recognizing that “[D.C. Code] § 23-1322 sets forth specific requirements that must be fulfilled before a defendant may be detained. The requirements are ‘strictly construed to ensure that defendants are not detained without bond ‘unless the lawmaker has clearly said they should be.’ . . . Adherence to the statutory requirements is imperative, for ‘liberty is the norm’ to which pretrial detention is intended to be a ‘carefully limited exception.’ ‘Because preventive detention implicates basic constitutional liberties, especially careful review by this court is warranted.’” (internal citations omitted)).

³¹ In other words, the government's argument on the May 22 record was premised on the current possessory offense and the defendant's 2017 conviction for a possessory offense for which he was on probation.

and in the community, which were relevant to (ii). *See* D.C. Code § 23-1322 (e). The PSR and the Pretrial Services officer again confirmed that, if the defendant was to be released, there were appropriate conditions of supervision, namely:

“If the defendant is to be released, PSA makes the following recommendation(s):
PSA General Supervision for Superior Court (SC)

- *Verify your address with Pretrial Services Agency (PSA) immediately or by the next business day.*
- *Report to Pretrial Services Agency (PSA) for evaluation and if positive program placement by PSA*
- *Report to Probation Officer immediately upon release (If Other, specify): Report in person*
- *Other conditions: Report weekly to PSA as directed.”*

At the brief May 22 hearing (13-minutes), after confirming the facts presented and hearing arguments from both sides, including discussions on the gaps in Judge Crowell’s order, Judge Edelman made the requisite rulings and held each side to their respective legal burdens. Specifically, DC Code § 23-1322(b) (2020) requires that: (i) the government must establish probable cause that the defendant committed a dangerous crime;³² (ii) the defense must rebut the presumption that no condition or combination of conditions exist that will assure the safety of the community or the defendant’s return to court (a lower burden for the defense); and (iii) the government must establish by a higher standard – clear and convincing evidence (which is more than probable cause but less than beyond a reasonable doubt) – that no condition or combination of conditions can assure the safety of the community or the defendant’s return to court.

After reviewing the information before him, noting this case was a close call, Judge Edelman made the requisite statutory findings and held:

- (i) In favor of the government meeting its burden on (i), meaning probable cause on the gun possession and extended magazine charges;
- (ii) In favor of the defense meeting its burden on (ii), meaning the defense was able to

³² Unlawful possession of a firearm, even if not discharged, is a dangerous crime.

rebut the presumption that there was no condition or combination of conditions to ensure his return to court and safety of the community; and

(iii) Not in favor of the government meeting its burden on (iii), meaning the government did not meet its clear and convincing evidence burden that there were no conditions that would ensure the defendant's return to court and the safety of the community.³³

After Judge Edelman's finding on (iii), the government was silent and made no additional arguments.³⁴

In determining appropriate conditions of release, Judge Edelman acknowledged the Pretrial Services recommendations but, rather than release the defendant under the lesser conditions recommended by Pretrial, Judge Edelman imposed high intensity supervision requirements (above and beyond the PSR recommendations) including but not limited to GPS monitoring pending trial.

This May 22, 2020 hearing was Judge Edelman's final contact with the case before it was assigned to a permanent Felony II judge. Following Judge Edelman's ruling, the government did not: (i) appeal or seek reconsideration of Judge Edelman's decision; (ii) seek a reconsideration or revocation hearing before the permanently assigned Felony II judge; or (iii) file a motion before the judge assigned to the defendant's 2017 case to revoke his probation based on his rearrest (or other information in the Gerstein). In other words, the government did not challenge Judge Edelman's decision as wrong or incorrect, nor did it seek to reverse the decision.

4. Defendant Wingfield's Rearrest

In July 2020, Defendant Wingfield and three co-defendants, Carlo General, Marcel Gordon, and Daryle Bond, were arrested in connection with the July 4th shooting which resulted in the tragic death of 11-year old Davon McNeal, who, by all accounts, was beloved by family and

³³ The government pointed to the defendant's prior record and the charge in the instant case.

³⁴ Based on the Commission's review of the audio files of this hearing, it is apparent that the government neither strongly challenged the judge nor relied on anything other than the fact of the defendant's prior conviction and the instant charge.

friends. At the 2022 plea hearing, the government proffered – and all four co-defendants agreed – on the following facts: While attending a neighborhood “stop the violence” July 4th picnic arranged by Davon McNeal’s mother, the lead defendant Carlo General began shooting in response to a mistaken impression that they were being fired upon. Defendant General was followed by Defendants Bond and Gordon, who also fired shots, and Defendant Wingfield, who was armed but not a shooter. As Defendant General ran ahead of the group, one of the bullets he fired tragically struck and killed Davon McNeal as he was going to an apartment to borrow a phone charger. All co-defendants, including Mr. Wingfield, fled the scene.

In 2022, each of the co-defendants pled guilty to reduced charges of Voluntary Manslaughter While Armed based on their respective roles.³⁵ At the sentencing hearing, after noting that Defendant General appeared to lead the other three defendants down the street at the time of the shooting, the prosecutor said “[b]ecause of [General’s] actions, [Davon] McNeal is dead . . . Carlo General is the most cold-blooded of all the defendants. Carlo General is the reason we are here today.” Defendant General was sentenced to 16 years in prison. Defendants Gordon and Bond received sentences of 10 years in prison and 8 years in prison respectively. Defendant Wingfield, who pled guilty as an aider and abettor, was sentenced to 9 ½ years in prison.³⁶

C. Commission Analysis

All Commissioners agree that the death of Davon McNeal was tragic. They are deeply empathetic to the victim and his family. They share the community concerns and frustrations about

³⁵ The government faced criticism for the reduction of charges from First Degree Murder to Voluntary Manslaughter, which the sentencing judge acknowledged, but also noted plea offer decisions rest with the government. At the time, the government stated the plea agreements followed a thorough investigation, including analysis of admissible evidence and case law.

³⁶ The gun possession case that had been before Judge Edelman briefly was dismissed as part of the plea agreement. It is notable that Defendant Wingfield’s criminal history score for sentencing purposes under the District’s Sentencing Guidelines was a “Level 1,” meaning that it is on the lowest end of the criminal history guideline scores.

gun violence and the importance of prosecuting dangerous crimes in the District.

The Commission's role, however, is strictly limited by statute and it must not conflate community frustrations and concerns with its limited decision-making here, nor stray into areas of lawmaking, policy, or the jurisdiction of other government agencies responsible for prosecuting crime. Likewise, the Commission cannot allow or use such frustrations to hold Judge Edelman (or any other judge) to impossible or unreasonable standards; or worse – to pressure judges into abdicating their role as neutral arbiters, or to shy away from making the most difficult decisions requiring reasoned judgment and faithful application of the law.

One commenter, Abbe Smith, Esq., a professor at Georgetown University law school with expertise in legal ethics and criminal law, expressed concern about the impact of attacks on judges for release decisions that comport with the law but, unfortunately, “*go wrong.*” Ms. Smith stated:

“No one can predict with one hundred percent certainty who will be law-abiding and who will reoffend. Pretrial detention is supposed to be used sparingly because of the presumption of innocence and the impact of detention on the accused—both personally and legally. It is much harder for people accused of crime to participate in their own defense from behind bars. Judicial independence and impartiality are key to our adversarial system of justice. Judges who constantly look over their shoulder out of fear of being roused off the bench are not serving the rule of law.”

A majority of Commissioners shares this concern. Judges who do not follow the law or judge out of fear do a disservice to their oath and the community they serve. Inevitably, they become the subject of public concern, court of appeals reversals, and ethical complaints.

The Commission is aware that many judges agree that Judge Edelman's exercise of discretion was reasonable. Some indicated they would have made the same decision standing in his shoes, especially during the unprecedented challenges in May 2020. Some judges signed letters of support that not only highlighted Judge Edelman's exceptional record but also addressed the *Wingfield* decision and the weight of responsibility judges carry in making these decisions.

In a November 28, 2023 letter signed by twenty-three (23) judges, Judge Edelman's colleagues wrote:

Each of us has had the grave responsibility to decide whether to release or detain defendants pending trial. Predicting another person's future conduct is extremely difficult in the best of circumstances, and we are forced to make these decisions based on limited and incomplete information, and under tight time constraints – problems compounded during the early stages of the COVID pandemic when hearings were conducted entirely by telephone.

D.C. law presumes pretrial release and allows pretrial detention only if the prosecution proves by clear and convincing evidence that not even strict release conditions could protect the community. In this particular case, Judge Edelman faithfully applied the law and reasonably concluded that the prosecution had not carried its heavy burden: the defendant was charged with a nonviolent crime and had no convictions for a violent offense; the Pretrial Services Agency recommended his release under the strict conditions imposed by Judge Edelman; and the defendant had medical conditions that made him vulnerable to COVID at the D.C. jail when the court was trying to minimize the number of inmates there to protect both them and correctional staff.

Automatic detention based on the information available to Judge Edelman at the time he made his decision would have been inconsistent with the statute that his oath required him to uphold. That Judge Edelman's decision was solidly based on the D.C. pretrial release statute is substantiated by the prosecution's decision not to appeal it.

It turned out that the defendant later was involved in an altercation that resulted in another man firing shots that tragically killed an eleven-year-old child, but the reasonableness of Judge Edelman's decision should not be judged in hindsight. Of the literally tens of thousands of decisions that Judge Edelman has made over the course of 13 years as a judge, this is the only one that has been questioned in the confirmation process. His performance and fitness as a judge should be evaluated based on his entire body of work – not on any single decision. His full record as a judge reflects his fairness, his wisdom, and his commitment to public safety and the rule of law.

In a separate February 7, 2023 letter to Senator Richard Durbin, Chairman of the Senate Judiciary Committee, Judge McKenna, the judge who made the initial C-10 presentment decision to detain and hold Defendant Wingfield for further proceedings, wrote:

Like all judges, D.C. Superior Court judicial officers' decisions are governed by applicable law, which in the District of Columbia creates a presumption in favor

of pretrial release absent a determination by clear and convincing evidence that no conditions or combination of conditions will reasonably assure the safety of the community or the defendant's return to court. At the time of ...Christian [sic] Wingfield's release ... for a possessory firearms offense, he had a single adult conviction for a non-violent offense and was reported by the Court Services and Offender Supervision Agency to have been compliant with the conditions of probation imposed in that case. In addition, the Court's Pretrial Service Agency, which maintained an average 99% arrest free rate for violent crimes for individuals under its supervision from 2016-2020 according to its Congressional Budget Justification and Performance Budget Request for Fiscal Year 2022, screened Mr. Wingfield at the time of his arrest and recommended release to general supervision with weekly reporting.

Under normal circumstances, Judge Edelman's decision to release Mr. Wingfield under the much stricter conditions of GPS monitoring and home confinement would be reasonable based upon his limited criminal history and positive social factors. However, as we all recall, May 2020 presented a set of unprecedented circumstances that only further justified this decision. The COVID-19 infection rate at the D.C. Jail, where Mr. Wingfield was detained, was over seven times that in the community and increasing rapidly due to the Department of Corrections' failure "to take comprehensive, timely, and proper steps to stem the spread of the virus." Banks v. Booth, 2020 U.S. Dist. LEXIS 68287, at 42 (D.D.C. 2020). Mr.

Wingfield's medical records established that he had several medical conditions that made him more vulnerable to death or serious disease should he contract COVID-19, including asthma, a heart condition, and a spinal cord injury that caused permanent nerve damage and compromised his immune system. Due to the public health emergency, preliminary hearings, at which a defendant could challenge the basis of their arrest and petition for release, and jury trials had been indefinitely suspended. . . .

The vast majority of the inputs received by the Commission in 2025 were consistent with the sentiments expressed in the above-referenced letters.

The majority acknowledges that Commissioner William Lightfoot and, in his dissent, Commissioner Thomas Fitton disagree. They believe that Judge Edelman made a mistake in the *Wingfield* matter; that is, that the defendant should not have been released back into the community. Commissioner Lightfoot believes that the record before Judge Edelman showed clear and convincing evidence that no condition or combination of conditions would reasonably assure the safety of the community, and that any view to the contrary is wrong and not reasonable. He

believes the criminal history available to Judge Edelman, including the April 2020 arrest information, 2017 probation matter, and his juvenile history attached to the defendant's motion for reconsideration (which is under seal),³⁷ showed he had committed dangerous acts and would again in the future. According to Commissioner Lightfoot, "Whether the mistake was caused by a systemic failure such as error by Pretrial Services, or the failure of the US Attorney to describe the criminal history of Mr. Wingfield; the responsibility to know the record rests with the judge." Commissioner Lightfoot and Commissioner Fitton assert that "the standard of a good judge is to know the record in the case and that the judge should be held accountable when the judge mistakenly reviews the record." Notwithstanding the above, Commissioner Lightfoot asserts that the mistake is outweighed by Judge Edelman's many years of outstanding judicial service and the lack of similar mistakes. Accordingly, Commissioner Lightfoot voted Judge Edelman Well Qualified.

Based on the entire record here, the rest of the Commission majority found such second-guessing and judgment in hindsight to be a bridge too far – and inconsistent with long-standing Commission precedent. The facts asserted in the above paragraph and in the dissenting opinion also oversimplify the issues and omit important facts concerning the record before Judge Edelman and other judges. Commissioners further were deeply troubled not only by the second-guessing of Judge Edelman's decision, but by inflammatory statements and insinuations that Judge Edelman's decision was responsible for Davon McNeal's death. To be clear, no one excuses Defendant Wingfield for his criminal conduct nor his role as an aider and abettor to the shooting. However, given the express facts laid out by the prosecution, including the defendant's role as a non-shooter and his relative position behind the shooters, he was not the lead actor. If one were to remove him

³⁷ Laws of confidentiality of juvenile records prohibit public disclosure of facts listed in the juvenile record.

from the equation of this terrible crime as reported by the government, the outcome very sadly would be the same.

Commissioners also were greatly troubled by the view that judges should be accountable for mistakes or lapses of the prosecution (or Pretrial Services), or that judges should be required to usurp prosecution advocacy contrary to their role as neutral arbiters. Such a view sets dangerous precedent and puts judges in a “no win” situation that could unduly pressure them to detain defendants to avoid criticism. In the alternative, it sets judges up for retribution for making difficult decisions the law both empowers and requires them to make – even if unpopular.

The Commission majority acknowledges that judges in our busy local courts carry the heavy and difficult burden of making weighty decisions every day, such as pre-trial detention, sentencings, probation revocations, child custody or conservatorship decisions, and many other difficult matters. They must make grave decisions that implicate the most basic constitutional liberties. Judges do not have a crystal ball, nor should they be judged or held to a standard that assumes or requires one. To hold judges to such an impossible standard is contrary to established laws, principles of ethics, and precedent; worse, it could cause judges to be less independent and potentially to make unwise decisions – not based on the rule of law or a sound application of the law and facts – but on the fear of negative public opinion, retribution or of being removed or disqualified as a judge.

Commissioners further acknowledge Commissioner Lightfoot’s and Commissioner Fitton’s concerns with Judge Edelman’s belief that his analysis was legally appropriate based on all of the factors considered at that time; Commissioner Fitton interpreted this belief to mean Judge Edelman would make a similar decision in the future. Again, the Commission majority respectfully disagrees for two reasons: (i) the scenario facing Judge Edelman will never present again; and (ii)

it would be inappropriate for Judge Edelman to make promises or pronouncements as to his future decision-making. *See* Canons 1 and 2 of the District of Columbia Code of Judicial Conduct.

Commissioners found it is highly unlikely the exact circumstances facing Judge Edelman during the global pandemic in May 2020 will ever present again. In addition, every criminal case presents unique facts that judges must consider individually and independently based on the evidence presented and applicable law. Further, Judge Edelman’s exemplary record belies concerns regarding the quality of his decision making and ability to faithfully apply the law. Judge Edelman’s five plus years of Criminal Division assignments (over 100 jury trials and thousands of hearings, including detention hearings) resulted in rave reviews by both government and defense attorneys regarding his handling of extraordinarily difficult issues in criminal cases. Based on the entirety of his record over fifteen (15) years of service, the Commission majority determined that Judge Edelman’s decision-making has been, is, and will continue to be outstanding – and the public will be well-served by his continued judicial service.

IV. The Commission Majority’s Determination of Judge Edelman’s Qualification for Reappointment

The Commission’s statutory responsibility is to evaluate the declaring candidate, Judge Edelman’s, “performance during the present term of office and the candidate’s fitness for reappointment to another term.” [DC Code § 1-204.33\(c\)](#). Under the statute, the Commission has three options: (i) Well Qualified; (ii) Qualified; or (ii) Unqualified.

As stated earlier, the Commission has never determined a judge’s qualifications for reappointment in a context like this based on a single case. Any historical circumstances are not even remotely comparable to Judge Edelman’s consistently exceptional judicial record.³⁸

³⁸ In fact, historically, when a majority of the Commission has not been supportive of a judge’s reappointment and presents its preliminary findings to the judge, the judge has typically chosen to retire before a final decision is made and report is issued by the Commission finding the judge less than “Well Qualified.” The one exception was in the

Nevertheless, the Commission gave due consideration to *Wingfield* and examined whether, as suggested by the dissenting opinion, Judge Edelman’s decision has resulted in a lack of public trust in his continued service as a judge. The Commission majority, including Commissioner Lightfoot, disagrees. The extensive record here does not support a lack of confidence in Judge Edelman’s performance or decision-making. The Commission majority concludes his judicial record and the record of support he has received is one of the best the Commission has ever seen. Further, the Commission majority concludes that a single lawful, ethical, discretionary decision by a judge that, in hindsight, reasonable minds may disagree over does not negate a Well Qualified determination – nor should it ever be so.

The Preamble to the District of Columbia Code of Judicial Responsibility states:

“An independent, fair and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the Rules contained in this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.”

As the Commission stated in its 2005 public Determination, signed by then-Chairperson William Lightfoot, regarding the Hon. Judith Retchin, who came under scrutiny for incarcerating a defendant who subsequently died in jail:

“Canon I of the Code of Judicial Conduct provides that it is to be construed so as not to impinge on the essential independence of judges in making judicial decisions. Specifically, it provides that: ‘a. An independent and honorable judiciary is indispensable to justice in our society’ The Commentary to Canon I observes that ‘deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges.’”

1975 case of Hon. Charles Halleck, where the Commission voted a judge merely “Qualified” in a letter to President Gerald R. Ford after finding the judge engaged in a pattern of misconduct including, for example, verbal abuse of court staff and inquiries into “*the personal and sexual conduct and attitudes of individuals appearing before him although such inquiry had no bearing on any judgment he was required to make.*”

Consistent with its determination regarding Judge Retchin, the Commission finds “[t]here is no area of judicial decision making where these principles are more important” than in determining a person’s individual liberty – whether pre-trial or post-trial – “which affects so many in our community (defendants, victims, and the public at large), which decisions can be so contentious, and about which people have such passionate and deeply held beliefs.” See [Commission Determination Regarding Hon. Judith Retchin \(Jul. 15, 2005\)](#) at 11-12.

The presumption of innocence is deeply rooted in our system of justice as are constitutional guarantees of due process and equal protection under the law. Pretrial detention – i.e. stripping a citizen of his or her liberty, or on the other hand, granting pre-trial release of a presumed innocent defendant, while balancing community safety concerns – are among the most important decisions judges must make. The wisdom of such judgments regarding the most basic of constitutional liberties must be left to the judge’s application of the law and the exercise of the judge’s sole, thoughtful discretion.

V. Conclusion

Judge Edelman reported to the Commission that it has been his privilege to serve as an Associate Judge of the Superior Court, calling it challenging, stimulating, and immensely rewarding. He would consider it an honor to have the opportunity to continue in a second term.

The Commission reserves the recommendation of Well Qualified for those judges whose work product, legal scholarship, dedication, efficiency, and demeanor are exceptional on the bench, and where the candidate’s performance consistently reflects credit on the judicial system. Six (6) Commissioners, a majority of the Commission, find that Judge Edelman is not only a well-qualified judge, but an exceptionally well-qualified judge whose judicial performance is a model for the bench and whose judicial service has greatly benefited the DC Courts, colleagues, and staff,

as well as the Bar, those who appear in the DC Courts, and the public at large. Commissioner Thomas Fitton issued a dissenting opinion.

For the foregoing reasons stated in this report, the Commission majority finds that Judge Edelman's judicial performance merits the highest category rating permitted by statute. The Commission majority, therefore, determines Hon. Todd E. Edelman to be **Well Qualified** for reappointment, and that his term shall be automatically extended for a term of fifteen years upon expiration of his term on June 23, 2025.

Respectfully submitted,

DISTRICT OF COLUMBIA COMMISSION ON
JUDICIAL DISABILITIES AND TENURE



Amy L. Bess, Esq.
Chairperson



Hon. Diane M. Brenneman (Ret.)
Vice Chairperson



Dr. Patrick G. Jackson, MD, FACS
Commissioner



Hon. Colleen Kollar-Kotelly
Commissioner



William P. Lightfoot, Esq.
Commissioner



Nikki Sertso
Commissioner

CJDT/ach

cc: Hon. Todd E. Edelman

**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

Members

Amy L. Bess, Esq., Chairperson
Hon. Diane M. Brenneman (Ret.), Vice Chairperson
Thomas Fitton
Dr. Patrick G. Jackson, MD, FACS
Hon. Colleen Kollar-Kotelly
William P. Lightfoot, Esq.
Nikki Sertsu

Interim Executive Director & Special Counsel
Amy Conway-Hatcher, Esq

April 23, 2025

The Honorable Donald J. Trump
President of the United States
The White House
Washington, D.C. 20500

DISSENTING OPINION

Evaluation of the Honorable Todd E. Edelman

I respectfully disagree with my fellow Commissioners' conclusion that Judge Edelman is "well qualified."

On July 4, 2020, a neighborhood in Washington DC was beset by a tragedy that claimed the life of 11-year-old Davon McNeal, a beloved boy who had dreams of NFL stardom. As reported by The Washington Post (June 3, 2022), Davon's mother, Crystal McNeal, a committed advocate against gun violence, organized an anti-violence cookout that was attended by members of the community. After Davon was dropped off to meet his mother and while fetching a phone charger from his aunt's house, he was struck and killed by a stray bullet, collapsing on a sidewalk. His mother, heartbroken, called him "my baby, my everything" ([District of Columbia | Three Men Plead Guilty in 2020 Slaying of 11-Year-Old Boy | United States Department of Justice; D.C. men sentenced in 2020 fatal shooting of 11-year-old Davon McNeal - The Washington Post](#))).

The Honorable Donald J. Trump
April 23, 2025

At the core of this catastrophe were four young men, including Christen Wingfield, who was on release in an illegal gun case six weeks earlier by Judge Todd E. Edelman. Wingfield, would eventually plead guilty to voluntary manslaughter for his role in Davon's death. Wingfield, armed and violating the conditions of his release by Judge Edelman, was among those whose actions led to the murder, his culpability affirmed by his guilty plea.

Davon's grandfather, John Ayala, voiced the community's outrage and concern about the judiciary's contributing role, stating, "It's ridiculous that people like [Wingfield] are being released due to the pandemic – from D.C. to New York City. We have to put more pressure on the judges because these guys, if they are violent criminals dealing with firearms, these guys should not be released. The only ones, if they're going to release somebody, they have to be non-violent offenders" (<https://www.fox5dc.com/news/dc-police-make-2nd-arrest-in-killing-of-11-year-old-davon-mcneal>).

It is because of Judge Edelman's misjudgment in this tragedy that I respectfully dissent from the District of Columbia Commission on Judicial Disabilities and Tenure's majority determination that he is "Well Qualified" for reappointment as an Associate Judge of the Superior Court, which would automatically extend his term for fifteen years. Based on his release decision in *United States v. Christen Wingfield* and its catastrophic outcome, I find Judge Edelman unqualified for reappointment due to the grave threat to public safety posed by his exercise of judicial discretion.

The public expects judges to exercise discretion with utmost caution, particularly in cases involving obviously dangerous defendants with criminal convictions or arrests. By releasing

The Honorable Donald J. Trump
April 23, 2025

Wingfield, Judge Edelman failed to adequately weigh the clear and present danger to the community, a lapse that cannot be excused by any other aspects of his record.

On April 22, 2020, almost three months before the shooting death of Davon McNeal, Christen Wingfield was arrested in Washington, D.C. and charged by the government for the illegal possession of a Glock handgun and an extended magazine, a configuration designed to maximize its lethal capacity. At that time, he was on probation under the Youth Rehabilitation Act for a 2017 felony conviction for illegal possession of a handgun under the Youth Rehabilitation Act. His criminal history was extensive, with a demonstrated pattern of dangerous criminal behavior. In the arrest paperwork, the police also included information regarding the alleged discharge of a weapon in a public area during daylight hours—that, if true, was an act of reckless disregard that could have endangered innocent lives. In the least the record shows he was on probation for one felony gun conviction, had a new felony gun charge, and there was information about a dangerous firearm firing on a public street. Wingfield's record, which includes both public and non-public information, persuades me that Wingfield was a clear and present danger to the community, and I do not believe he should have been on the streets at all.

Two experienced Superior Court judges effectively recognized Wingfield's dangerousness and did not release him despite the discretion under law to do so. On April 23, 2020, the day after his arrest, the Honorable Juliet J. McKenna, ordered Wingfield held without bond. Her decision was based on the 2020 pre-trial detention statute that has an initial presumption of detention for dangerous crimes, a decision I agree with. I understand her decision was based on the information before her including, the government's new felony gun and extended magazine charge, arrest paperwork filed in court, Wingfield's prior criminal history including a 2017 felony gun conviction, and other information presented by the Pretrial Services Agency.

The Honorable Donald J. Trump
April 23, 2025

Subsequently, on May 7, 2020, the Honorable James A. Crowell IV reviewed an emergency bond review motion filed by Wingfield's counsel, which sought Wingfield's release based on, among other things, alleged health risks from COVID-19 in the D.C. Jail and procedural arguments about the Superior Court's temporary suspension of full detention hearings due to the pandemic. Judge Crowell denied the motion. Although Judge Crowell's written order was later challenged as legally deficient, his ultimate conclusion was also to keep Wingfield off the streets. Together, these rulings by Judges McKenna and Crowell establish a significant judicial record that Wingfield's release would jeopardize public safety

So, Judge Edelman's subsequent release of Wingfield on May 22, 2020 seems oblivious to the clear evidence of Wingfield's dangerousness. and the combined import of the prior detention orders of Judges McKenna and Crowell.

The consequences of Judge Edelman's decision were catastrophic and irreversible – and foreseeable generally, if not specifically. On July 4, 2020, Wingfield violated the terms of his release, was present and armed at the scene of the shooting death of Davon McNeal. After McNeal was killed, Wingfield cut off his GPS monitoring device and fled the jurisdiction. His subsequent guilty plea to voluntary manslaughter legally affirmed his culpable role in the child's homicide. The murder's impact on the community was profound. DC residents, already burdened by the scourge of gun violence, reported pervasive fear, with parents restricting their children's outdoor activities to shield them from further harm. Judge Edelman continues to assert the propriety of his releasing Wingfield, even though the motion for reconsideration filed by Wingfield attached information about his juvenile history, and Judge Edelman was aware of his 2017 felony conviction for illegal handgun possession, active probation status, possession of a high-capacity Glock handgun, and credible evidence he fired a gun in a public area during daylight hours. As Judge

The Honorable Donald J. Trump
April 23, 2025

Edelman remains convinced that releasing a defendant with Wingfield's profile was justified, the public may fairly presume he will make similar reckless decisions in future cases involving defendants with, at best, dangerous criminal histories, firearm offenses or probation violations.

The *Wingfield* decision is not a minor judicial lapse but a decision with devastating consequences—the death of an 11-year-old child—and it demands a central focus in the Commission's evaluation.

Indeed, the *Wingfield* decision garnered intense criticism during Judge Edelman's 2022 nomination to the United States District Court for the District of Columbia. Nominated by President Biden on September 27, 2022, the Senate's response was definitive: he was not confirmed.

Judge Edelman's continued presence on the court is an unacceptable risk in a position where public safety and trust are paramount. The judiciary and the Commission must prioritize accountability and public safety and my conclusion finding Judge Edelman unqualified for reappointment reflects that imperative.

Therefore, I respectfully dissent.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'TFITTON', written in a cursive style.

Thomas Fitton
Commissioner