

'Hold JLSC accountable'

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"THE case for the members of the (Judicial and Legal Service) Commission to demit office is overwhelming," Martin Daly, SC, said yesterday, in an indirect call for resignations and a direct appeal for accountability in the Judiciary.

Daly described as "monumentally troubling" the appointment, subsequent resignation and purported re-appointment of former chief magistrate Marcia Ayers-Caesar, as a magistrate, to handle outstanding court matters which she did not fully declare when appointed a judge.

Commenting on the latest round of appointments to the High Court bench and the ensuing fiasco, Daly, a former Law Association president, said: "It is unthinkable that the JLSC could be blissfully unaware of the impropriety of appointing or restoring someone to the judicial office of magistrate after that person has admitted providing

incomplete information to the JLSC in pursuit of appointment to the High Court bench."

On account of that impropriety alone, the members of the commission should consider whether they can credibly continue in office," he said. Daly said the JLSC's decision to put back Ayers Caesar in the magistracy "will gravely undermine confidence in the administration of justice".



'DAMAGING TO CREDIBILITY':
Martin Daly

If judges could play, who is we?

According to Daly, "Members of the public will perceive that telling an untruth by omission is not a disqualification for holding judicial office and will no doubt say, 'if a judge can lack candour, so can I. It is the equivalent of if the priest could play, who is we?'"

He said it is not only the presence of the appointee back on the magisterial bench that brings the administration of justice into disrepute, but stressed the lack of discernment on the part of the appointing officials

in putting Ayers-Caesar back in the magistracy was "equally or more damaging to the credibility of the Judiciary".

"In making judicial appointments, how could the members of the commission, in the first place, rely exclusively on what the applicant for office told them about the state of her list in her Magistrate's Court?" he asked.

He said it was incumbent upon the commission to do its own due diligence, particularly because the decisions of a judge are capable of affecting the life of every citizen.

Daly noted that in addition to the impropriety of foisting a person who misled them back on the public, the commissioners were careless at the earlier stage when they were considering the appointment, and for that the public will pay dearly. It should be emphasised judicial appointments, once made, are difficult to unmake, he pointed out.

Lack of clarity

"I should also point out that the statements about the state of the docket of the former chief magistrate are lacking in clarity. We have not

been told with any precision what unfinished business she did disclose to the commission, and what unfinished business there actually was, at variance with what was told to the commission," Daly said.

Because of this, he added: "A not unduly suspicious person might conclude that an opaque explanation is conducive to a belief that Mrs Ayers-Caesar took the fall to protect others."

Daly said the fiasco raised the urgent need to find a constitutional mechanism to hold the JLSC accountable. "Steps must be taken with a far less leisurely timetable than the one recently suggested by the Law Association for making the appointments process more transparent," he said.

CJ wrong to tout successor

Daly also took issue with the Chief Justice's statements on another matter.

"This is also an appropriate occasion to ask how could the chairman of the commission tout someone (however meritorious that candidate might be) as a future chief

justice, as was recently reportedly done on a social occasion.

"No candidate for judicial office should be perceived to have an inside track with the commission or with persons in a position lobby the President of the republic in respect of any appointment of a chief justice that he might be called upon to make after appropriate consultation," he said.

"The statements made by the chairman of the commission about the rigorous selection process now lie in tatters," Daly concluded.

Speaking at a function on April 13 at Queen's Hall, St Ann's, Archie, in paying tribute to Industrial Court president Deborah Thomas-Felix, stated: "She has all these firsts. I am getting a little nervous. It may be there is a first female chief justice, and, if it ever happens, I will be willing to give more than proxy to 'Debbie'."

"Debbie has become an outstanding president. She is way too bright. She has gone on to the United Nations Appeal Tribunal. I knew Debbie's time would come. She has that kind of talent that comes along once in a generation; particularly in small societies such as ours."

Ramdeen: Ayers-Caesar can't resume part-heard matters

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CAN Marcia Ayers-Caesar resume her duties as Chief Magistrate and preside over preliminary enquiries for capital offences (namely, murder) now that she has resigned as a High Court judge?

United National Congress (UNC) Senator Gerald Ramdeen is of the opinion she cannot, and that there are authorities which indicate as such.

Ramdeen, who held a news conference yesterday at his Woodbrook law chambers, said it was his understanding that although Ayers-Caesar may be re-absorbed into the magistracy, there were precedents which would prevent her from resuming the part-heard matters she left behind when she took up the appointment to be a judge.

Among the precedents Ramdeen relied on were *Samos Ltd v Miriam Tyrell* and *Sydney Frederick v Chief of Police*—cases in which magistrates

were not allowed to continue the hearing of a case after leaving.

"I want to say this afternoon (Thursday) that the decision of the Judicial and Legal Service Commission (JLSC) to reappoint or restore, to use their words, Marcia Ayers-Caesar to the magistracy is not going to eliminate, not going to improve, not going to remove any of the problems created by this appointment.

"Because as the law stands, it is very clear to me on a number of authorities that Marcia Ayers-Caesar cannot resume those matters which were part heard... and seek to continue them from the position she was in when she resigned as a magistrate to take up the position."



'IT'S UNLAWFUL':
Gerald Ramdeen

Distancing themselves

Ramdeen added: "It is embarrassing that the JLSC is responsible for the position that the administration of justice finds itself in today, and one has to wonder what is going to happen when the

inmates, lawyers and the Director of Public Prosecutions (DPP) present themselves in this matter before Ayers-Caesar, whether in capacity of chief magistrate or senior magistrate.

"One would understand that the DPP, someone I have great confidence in, Roger Gaspard, SC, as a minister of justice and his staff, would advise Ayers-Caesar of what the law is, that it is unlawful, and it will constitute an illegality for her to continue those matters from the position they were left in from the position when she resigned from the magistracy."

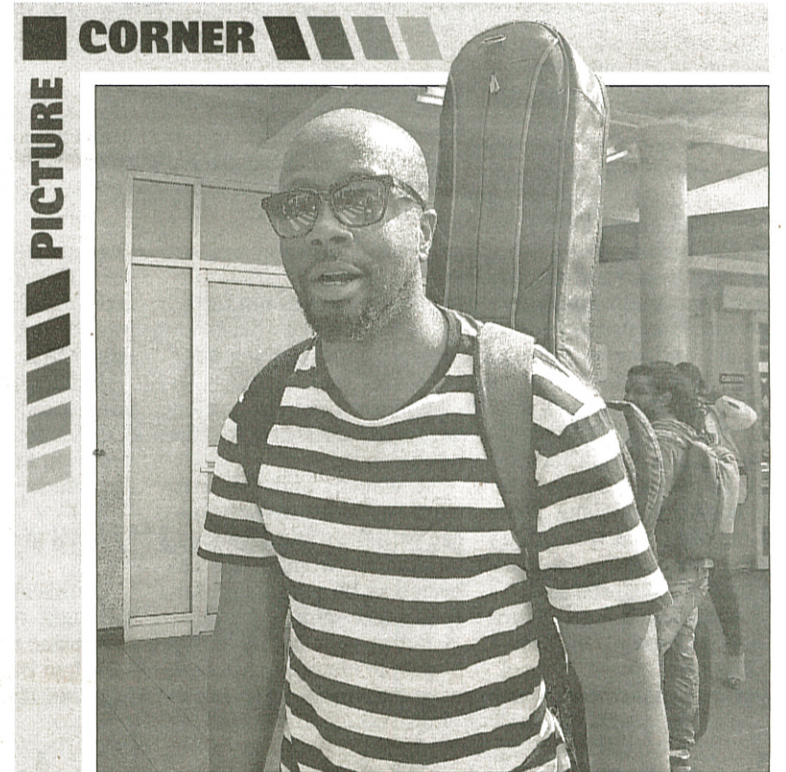
He also reiterated his calls for the entire JLSC, including the Chief Justice, Ivor Archie, to resign as a result of the fiasco.

He questioned how the JLSC allowed this to happen, and how those responsible for the appointment appeared to be the ones distancing themselves from the debacle and seem to getting away "scot-free".

"What transpired yesterday (Thursday) is a serious erosion of the administration of justice and those people responsible should do the honourable thing and resign. If they don't, we will see what the consequences would be," Ramdeen said.

Laying blame

Ramdeen, an attorney, recalled that initially the Judiciary had issued a news release supporting the elevation of the then-chief magistrate to the rank of judge, yet two weeks later, a subsequent release



WYCLEF IN TOWN: Grammy Award-winning Haitian rapper Wyclef Jean arrives at the Arthur MR Robinson International Airport yesterday in Tobago, where he was expected to perform last night at the World Music Festival as part of the Tobago Jazz Experience 2017.
—Photo: ELIZABETH WILLIAMS

was issued in which it stated they were not in receipt of disclosure on the full extent of Ayers-Caesar's case load at the time of her appointment.

"So we will see what will take place in the future, whether those persons who issued these press releases for the past two weeks, trying to convince the population about what they did was right... will admit that what they did was wrong. Even in the face of a resignation of a judge in the Supreme Court.

"So I will wait. And we will

see and we hope the freedom-of-information applications will be answered, and then let the chips fall where they may.

"Let us see if the persons who are responsible for these decisions will continue to lay the blame at the feet of other persons. I say this because Marcia Ayers-Caesar didn't appoint herself.

"And what has happened here is quite unfortunate as anyone with an inkling of common sense and understanding will realise that she has taken the fall for this and that is not right," Ramdeen stated.

Today's Weather

Sunny, hazy and at times breezy conditions will be interrupted by light or moderate showers, mainly during the afternoon. Increasing cloudy periods with showers in few areas can be expected during the night.

Seas: Slight to Normal Up to 2 m in open waters; Near calm in sheltered areas.	Cumulative: 12.6 mm (Piarco) Maximum Temp: 34°C (Piarco) Minimum Temp: 24°C (Piarco)	Port of Spain Tides: High: 5.49 a.m. 6.58 p.m. Low: 12.29 p.m.
Rainfall: Trace (Piarco; to 2pm Friday)	Sunrise: 5.48 a.m. Sunset: 6.17 p.m.	Scarborough Tides: High: 5.21 a.m. 6.23 p.m. Low: 12.01 p.m.