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Breach of trust

COREY CONNELLY Sunday, April 30 2017

Respected Senior Counsel Kenneth Lalla yesterday said Marcia Ayers-Caesar's failure to declare the status of her unfinished cases in the lower court to the Judicial and Legal Services Commission (JLSC), prior to her recent appointment as High Court judge constituted a breach of trust and integrity that must not be taken lightly.

"She failed to inform the JLSC of her part-heard matters and that is a breach of trust that ought not to be treated lightly," he told Sunday Newsday.

"I mean, a persons holding such high office as Chief Magistrate, in my view, has forfeited any integrity to be reappointed, having not disclosed those facts which were within her knowledge.

"So that withholding those facts showed that she either wilfully or deliberately did so." Lalla argued that trust and confidence was a key ingredient in the job of a magistrate or judge in the High Court.

"The public reposed in her that trust and confidence and having failed to do what is right and misled the JLSC by failing to disclose very fundamental and important facts shows that you have breached that process of integrity, which is crucial to be appointed a judge or magistrate," he said, adding that the issue must be properly challenged.

It is unclear whether Ayers-Caesar will resume her position as Chief Magistrate this week following her resignation on Thursday in the wake of vociferous complaints from prisoners about having their matters heard in a timely fashion.

Chief Justice Ivor Archie's response to her resignation late on Thursday merely stated: "Given Mrs Ayers-Caesar's commitment to address her outstanding matters and having regard to the hardships likely to be experienced by accused persons, witnesses and the legal fraternity should matters be restarted, the JLSC has met and agreed to restore Mrs Ayers-Caesar to the Magisterial bench." Acting Chief Magistrate Maria Busby Earle-Caddle is hearing matters in the Eighth Magistrate's Court.

Attorney and Opposition senator Gerald Ramdeen, at a news conference on Friday, called on the Chief Justice and the JLSC to come clean on the issue. He argued that there was no consultation with the stakeholders on the fraternity on the decision to reinstate Ayers-Caesar to the magistracy.

Lalla yesterday wondered whether Ayers-Caesar could still be seen as someone with integrity if she is reappointed as Chief Magistrate.

"The Judiciary is the third limb of our democracy and it has always been regarded for its integrity and non-political stance. It is supposed to be an institution without bias." He also wondered if Ayers-Caesar would have been appointed a High Court judge if the JLSC was apprised of her unfinished case load in the magistrate's court or did she mislead the commission into making the appointment.

Lalla also said the CJ and the JLSC were equally guilty of "gross dereliction of duty" in the controversial matter.

"They had failed to request a report from the Chief Magistrate of the status of cases when she was being considered for the position of High Court judge. So the error is more theirs than hers," he said.

Attorney Keith Scotland reasoned that Ayers-Caesar can be restored to the position of Chief Magistrate "in circumstances where there is an initial resignation and not an expiration of time when you are sitting as a magistrate." "So, in those circumstances it can be done but it's an area in the magistracy which may need some clarification.

But I know that the JLSC would have thought it through and it seem to be plausible and legally possible," he said.

"It seems to be the correct approach to be taken in order to alleviate the hardship caused by the demitting of office

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