



SERVICE COMMISSIONS DEPARTMENT

Cipriani Plaza

52-58 Woodford Street, Port of Spain

Tel: (868) 623-2991-6 Fax: (868) 623-5972 Website: www.scd.org.tt

PRESS STATEMENT

JUDICIAL AND LEGAL SERVICE COMMISSION

The concerns raised in the public domain surrounding the appointment and subsequent resignation of former puisne judge Mrs Ayers-Caesar though warranted, are unfortunate.

The Judicial and Legal Service Commission (JLSC) is mindful of its responsibility to the public to inform and clarify any misunderstandings that may have arisen due to gaps in publicly available information. The JLSC is not insensitive to the calls for increased transparency in the constitutionally scripted process for the appointment of judicial officers and, to that end, would be pleased to engage in appropriate consultations with the Law Association of Trinidad and Tobago, the wider legal community and all stakeholders to improve the selection and appointment process in a manner that sustains public trust and confidence in the administration of justice.

The JLSC feels obligated to put on record the factual matrix surrounding the recent appointment of judicial officers to the High Court Bench and the unfortunate sequence of events that led to the resignation of Mrs. Ayers-Caesar.

The JLSC in April of 2016 caused to be published locally and internationally notice of vacancies on the High Court Bench of the Judiciary of Trinidad and Tobago.

Short-listed candidates were invited to participate in the assessment process which involves a face to face interview, written assessment, review of samples of the candidates' written work, submissions by referees and psychometric testing. That assessment process was undertaken between January to February 2017

On March 15th 2017, successful candidates were informed of their selection based on the outcome of the process.

In respect of recruitment interviews for any professional position, candidates are routinely asked when, should they be successful, they would be in a position to assume duty, having regard to their outstanding professional commitments. It is a question that requires full and frank disclosure from the candidate as it guides the management of the transition to the office if the applicant is successful.

Once the office of the DPA [which provides the secretariat for the JLSC] notifies a candidate that they have been successful, further discussion then ensues between the DPA, the successful applicant and the Office of the President for the co-ordination of the swearing-in of judges. The JLSC is kept apprised but is not ordinarily a part of the detailed discussion and the date for the swearing in is fixed by the Office of the President.

Where the prospective appointee is already in the employ of the Judiciary, the Chief Justice seeks the assurance of the prospective appointees that they are not leaving behind a body of unfinished work that would negatively impact the Judiciary or their colleagues. That assurance was sought with regard to the appointments of both Mrs Ayers-Caesar and Mrs Quinlan-Williams, who were judicial officers in the Magistracy at the time of their appointment. Indeed two of the candidates who ranked ahead of Mrs. Ayers-Caesar in the selection process requested and were given more time to complete outstanding work and are yet to be sworn in.

It should be further noted that, as with an appointee from the private bar, it would be impractical for the JLSC to delve into the case files of a successful applicant from the Magistracy. Reasonable 'due diligence' is satisfied by seeking an assurance that the appointee has done all that is required with respect to his/her professional obligations to put themselves in readiness to assume duty. In the past, the JLSC has regarded the word of a judicial officer as sufficient.

There is no electronic case management information system in the magistracy, records are kept manually. The only way to determine the state of any magistrate's part-heard list is to physically examine the case sheets for each district to which a magistrate has been assigned - there is no single file or 'docket' that can simply be retrieved and examined at a moment's notice. The computerization of records in the Magistracy is currently being addressed by the Judiciary as a matter of priority.

It is the professional responsibility of every judicial officer irrespective of the nature of the record keeping system, to keep track of his/her case load. If called upon to give account, a magistrate may be assisted by calling around to the Clerks of the Peace in each district to assist in compiling a list. However, no list produced by a Clerk is regarded as definitive unless it is vetted and signed off by the relevant judicial officer. This applies equally to the Chief Magistrate.

On 9th April 2017, the Chief Justice became aware that some disquiet had seeped into the public domain about Mrs. Ayers-Caesar's imminent elevation to the High Court Bench. His Lordship tried unsuccessfully to reach her by phone and was only able to do so on the morning of the 10th April 2017.

He enquired whether she had any outstanding part-heard matters and she assured the Chief Justice that, apart from 3 short trial matters which for reasons beyond her control could not be completed within a reasonably short time, all she had outstanding were a few 'paper committals' which could be restarted by another magistrate without incurring undue delay (this refers specifically to preliminary inquiries in which only statements had been filed and tendered into evidence before Her Worship and there had been no cross examination of any witnesses). In such a scenario the inquiry could be restarted before another magistrate by having the statements produced by the custodian of such Court documents and thereafter having witnesses cross examined on request by Defense Counsel if necessary. This is not uncommon to the Magistracy, when magistrates, for various reasons, demit office without being able to complete all of their outstanding matters.

The Chief Justice took the precaution of asking her to provide a written list with short explanations which she did on the evening of April 10th 2017. Before leaving office for the day, the Chief Justice had sight of the document and followed up with a further telephone conversation during which she reiterated that she had no other outstanding matters in St. George West and that there were no matters in Couva or any of the other magisterial districts.

The list, which was printed under the letterhead of the Chief Magistrate, omitted any information about of the nature and seriousness of the offences. Mrs Ayers-Caesar gave no indication that, apart from the very short trial matters discussed, viva voce evidence had already been given in any of the matters. Having regard to the document presented and the conversations held, His Lordship remained satisfied with Mrs Ayers-Caesar explanations.

Almost immediately after the swearing in of Mrs Ayers-Caesar on April 12th 2017 a sustained chorus of protest arose from prisoners and Attorneys-at-law about the hardship and dislocation occasioned by Mrs Ayers-Caesar's 'sudden' elevation; and in response to questions raised by stakeholders, and the news media, Mrs Ayers Caesar was asked to provide an explanation, vet and approve a press release intended to address those concerns. However, it subsequently became apparent that the concerns were also being raised about matters not previously brought to the attention of the Chief Justice and the JLSC.

In light of the foregoing the Chief Justice requested the Acting Chief Magistrate to conduct an audit to ascertain the true state of affairs. The Acting Chief Magistrate, in reporting to the Chief Justice, provided evidence that the list of outstanding matters was much larger than he had been led to believe and that many of them were quite substantial matters in which several witnesses had already been cross examined. The list number of trials had risen from 3 to 10 and the total number of matters was now in excess of fifty (50). Had the JLSC been aware of this state of affairs before April 12th, the Office of the President would have been requested to postpone the appointment of Mrs Ayers-Caesar.

After raising the matter of the new list with Mrs Ayers-Caesar, His Lordship brought the new information to the attention of the other members of the JLSC and caused an emergency meeting to be convened on April 27th. 2017. The JLSC was unanimously of the view that the discrepancy between the two lists was large enough to call into question one of the bases upon which Mrs. Ayers-Caesar had been selected - her case management ability - and, the JLSC recognized that, if the second list represented the true state of affairs, it could seriously erode public confidence in the administration of justice and, by extension, the whole selection process as it was apparent from comments in the public domain that no distinction was being drawn in the minds of many observers between the selection process and Mrs. Ayers-Caesar's management of her transition to the High Court Bench.

The JLSC was of the view that the situation was sufficiently grave to trigger a disciplinary enquiry but after some further discussion it was agreed that Justice Ayers-Caesar should be given an opportunity to return to the Magistracy to complete the matters that she had left unfinished. The JLSC was of the view that it was a viable course of action as a means relieving possible hardship to defendants, victims and other interested parties.

Accordingly the Chief Justice summoned Mrs Ayers-Caesar to a meeting on 28th April 2017 in the presence of his Administrative Secretary where he reminded her of the importance of her accepting personal responsibility for the manner in which events had unfolded and invited her to consider her options. Mrs Ayers-Caesar decided to resign from the High Court Bench as a means of acknowledging her default. No promises were made to Mrs Ayers-Caesar that if she finished her part heard matters, she would be returned to the High Court Bench.

It should be reiterated that Mrs Ayers-Caesar had a professional duty to conclude matters as far as reasonably possible before taking up office.

She was offered the opportunity of explaining to the public why she was taking such action before the Chief Justice issued any public statement on behalf of the JLSC. The wording of the press release which was issued by Mrs. Ayers-Caesar was approved by her before she signed it.

Subsequent to the 28th of April 2017, it has come to the attention of the Chief Justice and the JLSC that Mrs Ayers-Caesar on March 22nd 2017 went to the Couva Magistrates' Court and dismissed sixteen (16) outstanding cases arising out of at least 7 unconnected incidents. Without knowing all the details of the matters the JLSC notes the unusual nature of this action.

The JLSC wishes to underscore its commitment to the review and improvement of the process for selection and appointment of candidates to judicial office and welcomes constructive suggestions from interested parties for the efficient disposition of the part-heard matters that remain outstanding. In the meantime Mrs. Ayers-Caesar will not be presiding on the magisterial bench while the JLSC gives further consideration to the several issues raised

Signed
The Honourable the Chief Justice Ivor Archie (Chair)
Mr. Justice Roger Hamel-Smith (Ret.)
Mr. Justice Humphrey Stollmeyer (Ret.)
Ms. Maureen Manchouck