

16 CASES THROWN OUT

JADA LOUTOO Wednesday, May 10 2017

A WEEK after she was told of her elevation to the High Court, former chief magistrate Marcia Ayers-Caesar went to the Couva Magistrates' Court and in one sitting in March, dismissed 16 outstanding cases in seven unconnected matters. This was revealed yesterday by the Judicial and Legal Services Commission (JLSC), which described the action as "unusual." After weeks of public condemnation, the four-member JLSC chaired by Chief Justice Ivor Archie yesterday broke its silence on the imbroglia surrounding the appointment and subsequent resignation of Ayers-Caesar. In a damning two-page statement signed by CJ Archie and JLSC members Roger Hamel-Smith, Humphrey Stollmeyer and Maureen Manchouck, the Commission hinted at the possibility that she will not return to either the High Court or Magisterial bench.

The JLSC statement detailed Ayers-Caesar's appointment process and even more startling, information which they became aware of when she resigned on April 27, 15 days after her was appointed by President Anthony Carmona. The JLSC described as unfortunate but warranted, the concerns raised on Ayers-Caesar's appointment as a judge and her eventual resignation.

It was also revealed that two days before her swearing in on April 12, Ayers-Caesar provided Archie with a written list of cases she left behind.

She detailed, "three short trial matters" and, "a few paper committals" which could be restarted by another magistrate. The former chief magistrate told her boss in a telephone conversation that same day, that she had no other outstanding matters in the St George West, Couva or any of the other magisterial districts.

Following a sustained chorus of protest from prisoners and attorneys, Ag Chief Magistrate Maria Busby Earle-Caddle was asked to conduct an audit to ascertain the true state of affairs. It turned out the list of Ayers-Caesar's outstanding matters was much larger than the CJ was led to believe and many were "quite substantial matters in which several witnesses had already been cross-examined." "The list of the number of trials had risen from 3 to 10 and the total number of matters was now in excess of fifty (50)," the JLSC statement said. "...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 outstanding cases arising out of at least seven unconnected incidents. Without knowing all the details of the matters the JLSC notes the unusual nature of this action," the JLSC said.

Ayers-Caesar was notified of her selection as a judge on March 15.

"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 recognised 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 statement said.

The JLSC also revealed that disciplinary action against Ayers-Caesar was considered at an emergency meeting on April 27, but members agreed that she should return to the magistracy to complete matters she left unfinished. However, the JLSC revealed that no promises were made to Ayers-Caesar that if she finished her part-heard matters, she would be returned to the High Court. "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," the statement said. Archie and the JLSC members further said it welcomed 'constructive suggestions from interested parties for the efficient disposition of the part-heard matters that remain outstanding.' .

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In its statement the JLSC said where a prospective appointee was already in the employ of the Judiciary, the Chief Justice would enquire from them if they were not leaving behind a body of unfinished work that would negatively impact the Judiciary.

The statement pointed out that Ayers-Caesar and former magistrate Avason Quinlan-Williams, who was also appointed as a judge on the same day, were judicial officers in the magistracy and two other candidates who ranked ahead of the former chief magistrate in the selection process requested and was given more time to complete their outstanding cases. They are yet to be sworn in.

The JLSC said it would have been impractical for them 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," the statement said.

Further revealing that there was no electronic case management information system in the magistracy and that records were kept manually, the JLSC said the only way to determine the state of any magistrate's list was to physically examine the case sheets for each district.

"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," the statement said.

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TIME LINE OF EVENTS

April 2016: Notices of vacancies on the High Court Bench advertised.

January-February 2017: Short-listed candidates are invited to participate in assessment process.

March 15: Successful candidates informed of their selection.

April 7: Opposition Senator Gerald Ramdeen calls on CJ Archie and the JLSC to disclose criteria used for appointment of judges.

April 9: Archie attempts to reach Ayers-Caesar by phone April 10: Ayers-Caesar details only three short trials and a few paper committals she left behind.

April 12: Ayers-Caesar, Kevin Ramcharan and Avason Quinlan-Williams take the oath as judges from President Anthony Carmona.

April 12: CJ Archie defends the process used by the JLSC for selection and appointment of judges.

April 19: Judiciary in statement, says Ayers-Caesar's promotion would not negatively affect the lower court.

April 23: Law Association expresses concern about Ayers-Caesar's appointment.

April 24: Madame Justice Ayers-Caesar makes her debut in the San Fernando Third Criminal Court.

April 25: Several inmates, mostly murder accused, riot in court as their cases left in abeyance on Ayers-Caesar's elevation.

April 27: Ayers-Caesar resigns as a judge. She apologises for the effect of her actions on the prisoners.

April 27: CJ Archie says Ayers-Caesar will be restored to the Magistracy.

May 4: Lawyers asked to sign petition expressing loss of confidence in CJ Archie and the JLSC.

May 5: 11 Senior Counsel hold historic meeting expressing alarm at Ayers-Caesar's judicial appointment.

May 5: Law association agrees to hold special general meeting to discuss a resolution calling on CJ Archie and the JLSC to resign.

May 8: Former AG Anand Ramlogan initiates legal action against the JLSC over the legality of two members, retired judges Roger Hamel-Smith and Humphrey Stollmeyer.

May 9: CJ Archie and JLSC break their silence on the Ayers-Caesar imbroglio.