



THE BALTIMORE SUN

Price \$4.00. Our 186th Year No. 42

BALTIMORESUN.COM

SATURDAY, FEBRUARY 11, 2023

4 The Baltimore Sun | Saturday, February 11, 2023

Before resigning, top Md. grievance lawyer faced questioning on ethics

By Lee O. Sanderlin

Days before her resignation became public, the state's most high-profile ethics lawyer faced tough questions from Maryland Supreme Court Justice Shirley Watts. Chiefly: Did she create a conflict of interest?

Attorney Grievance Commission Bar Counsel Lydia Lawless, an appointed lawyer with investigative and prosecutorial powers overseeing attorney conduct, was in court Feb. 2 to argue in favor of sanctions for attorney and perennial judicial candidate Marylin Pierre, after an Anne Arundel County Circuit Court judge found Pierre had violated the Maryland rules governing attorney conduct.

But Watts' line of questioning for Lawless was less about Pierre's alleged violations and instead about whether Lawless used her position to benefit the political campaigns of four incumbent Montgomery County judges.

Lawless's resignation, dated Jan. 31 and effective March 17, became public knowledge Monday. Lawless, in text messages sent Monday to The Baltimore Sun, said she was not asked to resign and that she was "exploring opportunities." Lawless, the Attorney Grievance Commission and Pierre's attorney all declined comment for this article. A request for clarification about when the Attorney Grievance Commission actually received Lawless's resignation, either on Jan. 31 or after Watts asked questions about a possible conflict of interest, was not returned.

"If we really want to bring our profession into disrepute, you could do no better than looking at a case where a state official that lacked any exigent circumstances forces herself into an ongoing election," Pierre's attorney, Irwin Kramer, said in court.

Watts' questions about whether Lawless had violated the very rules she was supposed to enforce were rooted in the circumstances that led to her opening the investigation into Pierre. Justices also questioned whether the investigation could have been delayed until after the election.

On Aug. 28, 2020, the campaign for the four Montgomery County judges sent a mass email to the county bar association at 3:58 p.m. with the subject line: "Lawyers and the Urgent Need for Action."

The message, written by attorney and campaign manager Stephen McAuliffe III, accused Pierre of lying about her record, misrepresenting her experience and of dishonest conduct when she first became an attorney in the late 1990s. It's not clear whether Stephen McAuliffe and Judge Michael McAuliffe are related.

Less than an hour later, Lawless, who is a

member of the Montgomery County Bar Association, responded to Stephen McAuliffe, and wrote: "I have opened an investigation pursuant to Maryland Rule 19-711(a) to determine whether Ms. Pierre has violated the Maryland Rules of Professional Conduct."

Lawless asked Stephen McAuliffe to provide the source of information for his claims and for the identity of any person who could provide further details. On Feb. 2, Watts questioned whether Lawless was right to respond so quickly and to take campaign literature as a legitimate form of complaint.

"Could these circumstances give rise to an actual conflict or an appearance of conflict that judiciary resources are being used to intervene in the sitting judges election?" Watts asked.

Maryland law required Lawless look into the claims, she said, and that the reason she kept in touch with the campaign and asked for the rest of its information is so she could do her own vetting.

"Your Honor, I don't believe it is an actual conflict of interest or an appearance of a conflict of interest," Lawless said.

Lawless argued in court that these investigations are confidential, and pointed out that the existence of the investigation into Pierre did not become publicly known until after the November 2020 election. Pierre was made aware of the investigation in early September of that year, Lawless said. In her initial email to McAuliffe, Lawless wrote that the investigation into Pierre is confidential under state law, and asked him to honor that. In a response email, McAuliffe said he would not disclose the investigation's existence without her permission, but asked if the rules of non-disclosure applied to him telling the candidates.

"I do have a question about whether the prohibition about non-disclosure extends to Judges Berry, Boynton, Fogleman and McAuliffe who make up the slate," he wrote.

Appointed by Republican former Gov. Larry Hogan, the four judges — Michael McAuliffe, Bibi Berry, David Boynton and Christopher Fogleman — all won their elections. Pierre did not. The judges also successfully obtained a restraining order against Pierre in the run-up to the election, preventing her or any of her campaign surrogates from claiming she was a judge.

In November, Anne Arundel Circuit Judge Donna Schaeffer issued a 54-page ruling determining Pierre had violated the Maryland rules governing attorney conduct on multiple occasions, and that she had lied about her record and legal experience.

The Supreme Court of Maryland is expected to issue a ruling in Pierre's case in the coming weeks or months.