

THURSDAY, DECEMBER 2, 1993

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Cuomo Picks Hispanic Judge

Governor Cuomo said he would nominate a State Supreme Court justice to be the first Hispanic judge on New York State's highest court. Page B1.

Cuomo Choice For Top Court Is Woman, 51

Child of Puerto Ricans Sets Ethnic Precedent

By JAMES DAO

Special to The New York Times

ALBANY, Dec. 1 — Gov. Mario M. Cuomo said today that he would nominate Carmen Beauchamp Ciparick, a state Supreme Court justice in Manhattan who grew up in Washington Heights, to be the first Hispanic judge on the state's highest court, the Court of Appeals.

If approved by the State Senate, Justice Ciparick, 51 years old, will replace Associate Judge Stewart H. Hancock Jr., a Republican from the Syracuse area, who is required to step down at the end of the year because he has reached the mandatory retirement age of 70.

Justice Ciparick, a Democrat who lives on the Upper East Side of Manhattan, is considered a liberal jurist who will be replacing one of the court's more conservative members. But court watchers said they do not expect her to shift the court significantly from its centrist position on most issues.

A Variety of Concerns

Her selection was not considered a surprise, particularly after Mr. Cuomo narrowly passed over a Hispanic candidate, Justice John Carro of the Appellate Division, when making his last selection to the court in August. Since then, Hispanic legal and elected officials have quickened the drumbeat urging Mr. Cuomo to select a Hispanic nominee.

"This was a long time in coming," said Juan A. Figueroa, president and general counsel to the Puerto Rican Legal Defense and Education Fund, a civil rights group. "Latinos only represent 1.7 percent of all the state's judiciary even though we represent 12 percent of the population."

But in making his choice, Mr. Cuomo had to balance geographic concerns against the politics of ethnicity and sex. After Jan. 1, the court will have no members from western New York, and legal officials from that

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Hispanic Woman Is Named To Highest Court by Cuomo

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region have pressed Mr. Cuomo to nominate one of their own.

"The decision suggests that the Governor has one eye on the upcoming election," said Sidney Stein, a Manhattan lawyer who writes a column on the Court of Appeals for the New York Law Journal. "It adds another group to the court. And it certainly assists the Governor in his stated aim of making the court a more diverse institution."

Mr. Cuomo has not said whether he will run for re-election next year.

The court currently has one woman, Chief Judge Judith S. Kaye, and one black member, Associate Judge George Bundy Smith, both appointed by Mr. Cuomo.

In a news conference, Mr. Cuomo said his decision was complicated by the high quality of recommendations provided by a state commission. Of those seven names, five had been recommended before, including Justice Ciparick, and five had been rated as highly qualified by the New York State Bar Association, the group's highest rating.

Justice Ciparick was rated qualified, the middle ranking.

Mr. Cuomo said he was impressed by Justice Ciparick's collegiality and the clarity of her writing. And while he cited the goal of diversity, he said competence was his first concern in selecting her.

"If you made someone a judge or elected them a governor because of

their ethnicity, you'd be doing the wrong thing," Mr. Cuomo said. "If you are able at one and the same time to select a superb talent, a truly competent person, and make the point that sex, culture and ethnicity will not stand in the way of a competent person, then that is a glorious opportunity, and I'm glad we had it with Judge Ciparick."

Court of Appeals judges, who serve 14-year terms, are paid \$120,000 a year.

Vote Expected in December

The State Senate, which has never rejected one of Mr. Cuomo's nominees to the Court of Appeals, has until Dec. 31 to decide on Justice Ciparick, and they are expected to vote on her in a special legislative session on Dec. 16.

Justice Ciparick, who has served on the State Supreme Court since 1983, is probably best known for a landmark 1990 decision in which she ruled that a state program to provide prenatal care for the working poor was unconstitutional because it did not pay for abortions.

Legal experts said that the decision, which has been upheld by the Appellate Division, established a constitutional right to abortion in New York State at a time when anti-abortion groups were challenging Federal protections for abortion rights before the United States Supreme Court.

The state has appealed the ruling, *Hope v. Perales*, to the Court of Appeals. Justice Ciparick said she would recuse herself from the case, which is scheduled to be argued in early 1994.



David Jennings for The New York Times

Carmen Beauchamp Ciparick after she was nominated yesterday to the state's Court of Appeals.

Justice Ciparick also played a role in the 1988 court battle between yachting teams from New Zealand and the United States over the America's Cup.

After the American team won the cup, the New Zealand team filed suit challenging the legality of the Americans' double-hulled catamaran. Justice Ciparick ruled in the New Zealanders' favor. But her decision was overturned by the Court of Appeals, and the cup was returned to the San Diego club.

The second of two daughters of Puerto Rican New Yorkers, Justice Ciparick grew up in Washington Heights and attended public schools in Manhattan. She received a bachelor of arts degree from Hunter College and her law degree from St. John's University Law School, Mr. Cuomo's alma mater.

Justice Ciparick was notified of Mr. Cuomo's decision late last night and was flown by state helicopter to Albany this morning, where she seemed still giddy at the turn of events.

"It was very heart-rending to me to think that as a youngster growing up in Manhattan, as the female child of a Puerto Rican family from Washington Heights, that I could ever be in this position," she said, speaking before an audience that included her husband, father and 10 Hispanic members of the Legislature. "I just hope that I live up to the expectations all these wonderful people have of me."

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