

Pataki Selects Judge for Appeals Court He Sees as Lenient

By RAYMOND HERNANDEZ

ALBANY, Nov. 2 — Gov. George E. Pataki said today that he would nominate Victoria A. Graffeo, a Supreme Court justice in upstate New York with strong ties to the Republican Party, to the state's highest court, the Court of Appeals.

If approved by the State Senate, as is expected, Justice Graffeo, 48, would replace Associate Judge Joseph W. Bellacosa, who stepped down this year, with his 14-year term set to expire.

The departure of Judge Bellacosa, an independent who was one of the longest serving and most respected members of the Court of Appeals, gave Mr. Pataki the opportunity to make his third appointment to a court that he has frequently attacked as being too sympathetic to criminal defendants.

The selection of Justice Graffeo may change the court's ideological composition, but only slightly, because she does not appear to have — in her legal opinions, anyway — the conservative leanings of Judge Bellacosa, legal experts say. She would become the third woman on the seven-member court.

The experts describe Justice Graffeo as a moderate who has virtually always joined in the majority opinion of the Appellate Division of the State Supreme Court in Albany. "Governor Pataki's rhetoric has indicated that he wanted a very conservative judge who was very strong on law and order," said Vincent M. Bonventre, an Albany Law School professor who is an expert on the Court of Appeals. "But there is no indication that he is getting that in Justice Graffeo.

"She is obviously a team player, collegial," he added. "There is no indication that she will be as conservative as Judge Bellacosa."

Her selection was not considered altogether surprising, particularly since Justice Graffeo is one of Mr.



David Jennings for The New York Times

Justice Victoria A. Graffeo, a political protégé of Gov. George E. Pataki, was his choice to join the state's highest court, the Court of Appeals.

Pataki's political protégés. In 1995, Mr. Pataki appointed her to fill a vacancy on the Third Judicial District of New York State Supreme Court, a trial-level court in Albany that regularly handles cases involving disputes between the governor and the Legislature.

She won re-election in 1996, with strong support from the state's Republican leaders. The governor appointed her to the Appellate Division in 1998.

In announcing the nomination, Mr. Pataki said Ms. Graffeo was among seven high quality recommendations made by an independent judicial screening committee. All seven candidates were rated qualified by the New York State Bar Association.

Mr. Pataki said he was impressed with the breadth of government experience offered by Justice Graffeo, who served as counsel to the Republican minority in the New York State Assembly for a decade before be-

coming solicitor general under former Attorney General Dennis Vacco, a Republican, in 1995.

"Justice Graffeo has greatly distinguished herself throughout her diverse career in public service, and I am confident that she will make an outstanding addition to the New York State Court of Appeals," Mr. Pataki said, citing her "keen intellect."

Justice Graffeo, who was born in Rockville Centre on Long Island and grew up in the Albany area, received a B.A. from the State University of New York in Oneonta and her law degree from Albany Law School of Union University. She lives in Guelderland, a suburb of Albany, with her husband, Edward Winders.

Justice Graffeo was notified of Mr. Pataki's decision Wednesday night and traveled this morning to the State Capitol, where she appeared alongside the governor at a news conference in the ceremonial office known as the Red Room. She still looked excited over the news.

Justice Graffeo refused to answer questions regarding her views on abortion and the death penalty, saying it would be inappropriate for her to discuss matters that might come before the court. "Each case should be judged on its merits," she said.

Court of Appeals judges, who serve 14-year terms, are paid \$151,200 a year. The State Senate has never rejected any of Mr. Pataki's nominees to the Court of Appeals. It was not clear when the Senate would take up Justice Graffeo's nomination.

The Court of Appeals already has two women, Chief Judge Judith S. Kaye and Associate Judge Carmen Beauchamp Ciparick. Both were appointed by Mr. Pataki's predecessor, Mario M. Cuomo, a Democrat, as were Judges Howard A. Levine and George Bundy Smith. Mr. Pataki's previous appointments to the Court of Appeals were Judges Richard C. Wesley and Albert M. Rosenblatt.

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B11

EX 7-2