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A voice of justice bids farewell

George Bundy Smith hears last cases after 14 years on Court of Appeals

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ALBANY -- The three cases were fairly routine on Thursday.

Nothing to merit the capacity crowd of judges, lawyers and courthouse employees who filled the seats and lined the walls of the elegant Court of Appeals Hall.

All became clear, though, when Court Crier Joe Welch resoundingly adjourned the session, prompting a thunderous applause. It echoed and endured, as outgoing Associate Judge George Bundy Smith rose to his feet and, after 14 years on the state's highest bench, quietly said his goodbyes.

Visibly emotional high-court colleagues kissed and hugged the soft-spoken New Orleans native, shook his hand, patted his back and blotted their tears.

Bundy Smith's official last day is Sept. 23, but Thursday's calendar was the last the respected jurist would hear as New York's only black Court of Appeals judge.

A Democrat, he sought to be reappointed to a one-year term until he reached the mandatory retirement age of 70. Gov. George Pataki instead nominated fellow Republican Eugene F. Pigott Jr., 59.

Pigott's nomination sailed through the Senate Judiciary Committee Thursday. A confirmation vote is scheduled for today.

"You know what it is like to be in the trenches," Sen. John DeFrancisco, R-Syracuse, who chairs the committee, said to the nominee.

Pigott drew praise for his efforts as an Appellate Division justice to be more responsive to lower courts, including an initiative in which he traveled across his western New York judicial department to convene court in various locales.

Supporters also spoke of his understanding that legislators, not judges, make the law. That was important to Republican members of the Judicial Committee, some of whom have complained that Cuomo-era appeals judges were too activist and liberal for their tastes.

Earlier in the day, Sen. Malcolm Smith, D-Queens, said he wouldn't oppose Pigott's nomination, even though his appointment, following the expired term of Bundy Smith, means there will be no African-Americans on the state's highest court.

Noting that New York's next governor will appoint three of the Court of Appeals' seven judges during his first 18 months in office, Sen. Smith, who is African-American, said he planned hearings on judicial diversity.

"These appointments will shape the state's highest court for many years to come and should reflect New York's ethnic, gender and geographic diversity," said Smith, who has been mentioned as a possible successor to Senate Minority Leader David Paterson, who is running for lieutenant governor.

On Thursday, Bundy Smith offered no public comment. But in a statement released at Pigott's nomination, he wished his successor, and his judicial colleagues, the best.

"I think he has been a face of righteousness for morality and justice," said retired high-court Judge Howard Levine, who stopped by.

Family members said they felt bittersweet as Bundy Smith heads into a new phase of life.

"He loved the law and always looked forward to being a judge," said his wife, Alene, indicating that her husband may return to teaching.

Sydney Smith said his younger brother has served as a role model to all the children in their family, many of whom, because of him, became lawyers.

Inez Smith, who sits on the District of Columbia's Court of Appeals, said she never would have become a judge if her twin brother hadn't encouraged her: "He ruled with a sense of integrity."

For Bundy Smith's son, George Jr., the transition offers more time together. He said he is looking forward to more spirited family games of Scrabble: "As good of a jurist as he is, he's a better father."

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