

## A TRIBUTE TO JUDGE CARMEN BEAUCHAMP CIPARICK

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The *Albany Law Review* is thrilled to dedicate this year's New York Appeals Issue to Judge Carmen Beauchamp Ciparick, in recognition of her profound influence on New York law.

Instead of taking her spot on the New York State Court of Appeals quietly, Judge Carmen Beauchamp Ciparick inadvertently joined New York State's highest court with a bang. Judge Ciparick had just authored a controversial abortion rights decision only a year and half before.<sup>1</sup> Judge Ciparick's decision in *Hope v. Perales* was affirmed by the Appellate Division, First Department.<sup>2</sup> Although *Hope* was ultimately reversed by the New York State Court of Appeals<sup>3</sup>—a decision in which Judge Ciparick did not participate—her opinion did prove one thing: that Judge Ciparick would bring a liberal perspective to the Court of Appeals.<sup>4</sup>

Carmen Beauchamp Ciparick, the first Hispanic judge on the Court of Appeals, grew up in the Washington Heights neighborhood of Manhattan, where her parents had settled after immigrating to the United States from Puerto Rico.<sup>5</sup> She graduated from George Washington High School, and went on to receive her bachelor's

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<sup>1</sup> See *Hope v. Perales*, 150 Misc.2d 985, 571 N.Y.S.2d 972 (N.Y. Sup. Ct. New York County 1991), *aff'd*, 189 A.D.2d 287, 595 N.Y.S.2d 948 (App. Div. 1st Dep't 1993), *rev'd*, 83 N.Y.2d 563, 634 N.E.2d 183, 611 N.Y.S.2d 811 (1994). For a more detailed discussion of *Hope v. Perales*, see John M. Bagyi, *Carmen Beauchamp Ciparick: The Court Of Appeals' Voice of Compassion*, 59 ALB. L. REV. 1913, 1916–19 (1996).

<sup>2</sup> *Hope v. Perales*, 189 A.D.2d 287, 595 N.Y.S.2d 948 (App. Div. 1st Dep't 1993), *rev'd*, 83 N.Y.2d 563, 634 N.E.2d 183, 611 N.Y.S.2d 811 (1994).

<sup>3</sup> *Hope v. Perales*, 83 N.Y.2d 563, 634 N.E.2d 183, 611 N.Y.S.2d 811 (1994).

<sup>4</sup> See James Dao, *Cuomo Choice for Top Court is Woman*, 51, N.Y. TIMES, Dec. 2, 1993, at B1; see also Jillian Kasow, *Judge Carmen Beauchamp Ciparick: A Glimpse into the Senior Associate Judge's Judicial Philosophy Through Her Dissents*, 73 ALB. L. REV. 953, 953 (2010) ("A study of New York State Court of Appeals Senior Associate Judge Carmen Beauchamp Ciparick's dissents unveils a liberal jurist who supports 'claims of civil rights, liberties, equal protection, government-provided assistance or protections, [and] rights of the criminally accused.'" (quoting VINCENT MARTIN BONVENTRE, STREAMS OF TENDENCY ON THE NEW YORK COURT: IDEOLOGICAL AND JURISPRUDENTIAL PATTERNS IN THE JUDGES' VOTING AND OPINIONS 3 n.6 (2003))).

<sup>5</sup> Daniel Wise, *Described as Personable, Principled*, N.Y.L.J., Dec. 2, 1993, at 21.

degree from Hunter College before attending St. John's University School of Law.<sup>6</sup> Judge Ciparick has candidly admitted that her initial decision to enter law school was not well-received by her parents.<sup>7</sup> To support her dream, she worked at the Junior High School of Central Harlem while attending night classes at St. John's.<sup>8</sup>

After graduating from law school in 1967, Judge Ciparick's first job was as a staff attorney at the Legal Aid Society in the South Bronx.<sup>9</sup> Many of her disadvantaged clients, not accustomed to encountering female attorneys, would greet her with suspicion, often mistaking her for a secretary or Spanish interpreter.<sup>10</sup> Judge Ciparick's presence in the small office paved the way for "more women and more Spanish speaking attorneys."<sup>11</sup>

Judge Ciparick's last job before she began her career as a jurist—although she held a number of jobs in the judicial system along the way—was as counsel in the office of Judge David Ross, a New York City Administrative Judge.<sup>12</sup> Thereafter, in 1978, she was appointed as a judge in the New York City Criminal Court by Mayor Ed Koch, becoming the first Puerto Rican woman on the bench in New York.<sup>13</sup> Within four years, in 1982, she was elected to the New York State Supreme Court.<sup>14</sup>

When Governor Mario Cuomo nominated Judge Ciparick in 1993 to replace Associate Judge Stewart H. Hancock, it was a truly momentous occasion for Hispanics and women in New York.<sup>15</sup> Her confirmation as a judge on the Court of Appeals marked the first time that a Hispanic—and only the second time that a woman—had attained a spot on New York's highest court.<sup>16</sup> In naming Judge Ciparick as his nominee, Governor Cuomo spoke of her "collegiality" and the quality of her writing.<sup>17</sup> He also stressed the harmony between Judge Ciparick's high judicial qualities and the symbolism

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<sup>6</sup> *Id.*

<sup>7</sup> Transcript of the Public Hearing on the Nomination of the Honorable Carmen Beauchamp Ciparick as Associate Judge of the Court of Appeals at 6 (Dec. 15, 1993) [hereinafter Ciparick Hearing].

<sup>8</sup> *Id.*

<sup>9</sup> Wise, *supra* note 5.

<sup>10</sup> Ciparick Hearing, *supra* note 7, at 7.

<sup>11</sup> *Id.*

<sup>12</sup> Wise, *supra* note 5.

<sup>13</sup> Ciparick Hearing, *supra* note 7, at 8.

<sup>14</sup> Wise, *supra* note 5.

<sup>15</sup> See Dao, *supra* note 4.

<sup>16</sup> Ciparick Hearing, *supra* note 7, at 9; Wise, *supra* note 5.

<sup>17</sup> Dao, *supra* note 4.

of gender and race equality her placement on the court represented.<sup>18</sup> Judge Ciparick's appointment represented not only a great judicial advocate, but also a beacon of hope for those supporting diversity in New York State's elected officials.

At the public hearing on Governor Cuomo's nomination of Judge Ciparick, Senator Joseph A. Galiber noted that she had "earned . . . the right to be [t]here with [her] background."<sup>19</sup> While noting that she was "an absolutely outstanding lawyer [and] able administrator," Judge Richard J. Bartlett emphasized the energy, ability, and commitment that she would undoubtedly bring to the bench.<sup>20</sup> Justice Betty Weinberg Ellerin of the Appellate Division, First Department, posited that it was not long after meeting Judge Ciparick that she understood why she was so highly regarded among her colleagues: the breadth of her knowledge and understanding was "remarkable."<sup>21</sup> Justice Ellerin further noted that Judge Ciparick "had that all too rare ability to translate legal concepts into the pragmatic necessities of the actual courtroom."<sup>22</sup> Sandra Otero, former President of the Puerto Rican Bar Association echoed the sentiments of many: Judge Ciparick was the epitome of "total independence, fairness, sincere concern and sensitivity."<sup>23</sup>

Judge Ciparick's long tenure on the Court of Appeals is widely celebrated by colleagues and admirers. Her personality is "very honest and unassuming," according to former Chief Judge Judith Kaye.<sup>24</sup> Although she exudes the utmost humility with regard to her accomplishments, Judge Ciparick made an indelible mark on New York jurisprudence through her participation in the court's decisions.

For example, Judge Ciparick joined the dissent in the case of *Hernandez v. Robles*.<sup>25</sup> In *Hernandez*, the Court of Appeals upheld the denial of marriage licenses to same-sex couples.<sup>26</sup> Judge Ciparick joined Chief Judge Kaye's dissenting opinion,<sup>27</sup> which argued that the court had a duty to remedy constitutional

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<sup>18</sup> *Id.*

<sup>19</sup> Ciparick Hearing, *supra* note 7, at 49.

<sup>20</sup> *Id.* at 76.

<sup>21</sup> *Id.* at 92.

<sup>22</sup> *Id.* at 93.

<sup>23</sup> *Id.* at 156–57, 159.

<sup>24</sup> Joel Stashenko, *An Unassuming Judge Leaves Her Mark on N.Y.'s High Court*, N.Y.L.J., Dec. 26, 2012, at 1.

<sup>25</sup> *Hernandez v. Robles*, 7 N.Y.3d 338, 855 N.E.2d 1, 821 N.Y.S.2d 770 (2006).

<sup>26</sup> *Id.* at 356, 855 N.E.2d at 5, 821 N.Y.S.2d at 774.

<sup>27</sup> *Id.* at 397, 855 N.E.2d at 34, 821 N.Y.S.2d at 803.

violations, in the hope that the state legislature would follow suit and change the violation within the statutory scheme.<sup>28</sup> Judge Ciparick's steadfast adherence to her own morals proved admirable when the New York State Legislature approved a bill legalizing same-sex marriage in 2011.<sup>29</sup>

The last case in which Judge Ciparick authored a majority opinion was *People v. Garcia*.<sup>30</sup> In *Garcia*, Ciparick's decision held that a police officer may not ask the occupants of a vehicle if they possess a weapon without a "founded suspicion for the inquiry."<sup>31</sup> *Garcia* proved that Judge Ciparick had not changed since writing for the trial court in *Hope v. Perales*, the first decision analyzed after her appointment to the Court of Appeals: she was still a liberal judge, one who fiercely believed in justice for the litigants who appeared before her.

All in all, Judge Ciparick wrote the majority opinion in 322 cases at the Court of Appeals.<sup>32</sup> She wrote sixty-two dissents and seven concurring opinions.<sup>33</sup> Judge Ciparick was, and still is, well-respected by both former chief Judge Kaye and current Chief Judge Jonathan Lippman.<sup>34</sup> It is apparent to all that her zealousness and integrity will be truly missed on the Court of Appeals.

Judge Ciparick's opinions exemplify judicial excellence, attained through hard work, integrity, and adherence to one's own morals. Judge Ciparick humbly possessed these qualities, and her impact on New York jurisprudence will carry on as precedent for years to come. To honor the significance of her tenure on the court, and in celebration of her remarkable career, the *Albany Law Review* Editorial Board for Volume 76 proudly dedicates this issue to Judge Carmen Beauchamp Ciparick.

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<sup>28</sup> *Id.* at 396, 855 N.E.2d at 34, 821 N.Y.S.2d at 803.

<sup>29</sup> Nicholas Confessore & Michael Barbaro, *New York Allows Same-Sex Marriage, Becoming Largest State to Pass Law*, N.Y. TIMES, June 25, 2011, at A1.

<sup>30</sup> *People v. Garcia*, 20 N.Y.3d 317, 983 N.E.2d 259, 959 N.Y.S.2d 464 (2012); Stashenko, *supra* note 24.

<sup>31</sup> *Garcia*, 20 N.Y.3d at 319, 983 N.E.2d at 259, 959 N.Y.S.2d at 464–65.

<sup>32</sup> Stashenko, *supra* note 24.

<sup>33</sup> *Id.*

<sup>34</sup> *See id.*