

Governor Phil Murphy

REMARKS: Governor Murphy Announces Nomination of Judge Douglas Fasciale As Associate Justice of the New Jersey Supreme Court

09/14/2022

Remarks as Prepared for Delivery

Good afternoon, everyone.

It is my honor today to announce my nomination of Judge Douglas Fasciale to serve as the 42nd justice in the 75-year history of the New Jersey Supreme Court.

His ascension to our state's highest court will send a strong message to all New Jerseyans – and I hope to leaders throughout our nation – of the importance of judicial independence and impartiality, and of the critical need for restoring balance over partisanship in our courts.

I say this because we are seeing, across the nation, too many of our core democratic institutions losing credibility.

And none has done more so more tragically than the United States Supreme Court.

We have seen an unprecedented politicization of the Supreme Court in recent years. The confirmation process has become a spectacle, serving as a forum for ugly partisanship instead of reasoned debate.

Many Americans, across the political spectrum, now feel that the most consequential issues in our public life are resolved in favor of whichever party happens to control a majority of seats on the Court.

Over just the last few months, we saw decades-old precedents wiped away because a single member of the Supreme Court passed away in the final months of the former President's term.

When Americans see that something as random as that can have a major impact on our constitutional rights, they rightly sense that something is amiss.

Here in New Jersey, we do things differently. We have a state Supreme Court that has maintained its reputation and respect even as the U.S. Supreme Court's standing has fallen in the eyes of so many.

And that is because here jurisprudence doesn't swing wildly from year to year. Justices don't insult each other in their opinions, or swipe at each other in public.

They may disagree – and disagree passionately – but they do so civilly and with respect for each other, the institution they serve, and the people who look to them for balanced and reasoned decisions.

Since the New Jersey Constitution was approved by the men and women chosen to draft it on September 10, 1947 – 75 years ago this past Saturday – the institution of the New Jersey Supreme Court has been protected from the excesses of politics in two ways.

First, there has been a tradition that justices, regardless of ideology, would be reappointed by the Governor as long as they had conducted themselves honorably. This ensures that they have the ability to issue rulings without fear of upsetting a Governor who may hold their fate.

My predecessor abandoned this tradition when he declined to reappoint Justice John Wallace. I was proud to restore it in my first year by reappointing Justice Anne Patterson, who even though I may not always agree with her philosophy, is unquestionably qualified and an outstanding Justice.

And I was equally proud to reappoint Justices Faustino Fernandez-Vina and Lee Solomon, who, despite being from a different party than me, have served the Court honorably.

Second, there has been a tradition that no more than four members of the Court may belong to one political party. This prevents the Court from lurching too far in one direction or the other. It forces Governors to select nominees from among the best lawyers and judges in the state, regardless of party.

To his credit, Senate President Sweeney fought to uphold this tradition against enormous pressure by my predecessor, who sought to undermine it. I know Senate President Scutari shares this respect for partisan balance and I credit him as well for putting the institution of the Court above politics.

And for the last year and a half, I have heard from Senator Schepisi how important the tradition is to her, as well, as a Senator and as a lawyer and member of the New Jersey Bar.

So today, I am proud to uphold this second tradition as well and nominate Judge Douglas Fasciale to the New Jersey Supreme Court.

Since the beginning of this month, he has been temporarily filling one of the vacancies on the Supreme Court at the assignment of Chief Justice Stuart Rabner. If confirmed, he will permanently fill this seat.

He has served with distinction on our second-highest court, the Appellate Division, since 2010, having written 52 published opinions. And from 2004 to 2010, he served as a Superior Court Judge in Union County in the Civil, Criminal, and Family Parts, as well as in Drug Court.

His service as a judge spans nearly every part of the New Jersey Judiciary, preparing him well to serve on our state's highest court.

Judge Fasciale earned both his undergraduate and juris doctorate degrees from Seton Hall University. Prior to becoming a judge, he worked in private practice as a civil litigator for nearly two decades.

And I must take a moment to acknowledge Judge Fasciale's family, who join us today – his wife Teresa, an accomplished attorney at the firm Riker Danzig, and their sons, Michael and Steven.

Michael just graduated from Seton Hall Law School, and Steven is a second-year student there. I can only imagine how proud both of your parents must be to watch you start your own legal careers.

Judge Fasciale may be a registered Republican, but he commands universal respect across the legal community. He also has my tremendous respect.

And he was unanimously confirmed by my Judicial Advisory Panel, whose membership includes two former Chief Justices – one from each party. I will formally send his nomination to the New Jersey State Bar Association's Judicial and Prosecutorial Appointments Committee, and then to the Senate.

I am proud to nominate Judge Fasciale. I eagerly await the day when both he and Rachel Wainer Apter are confirmed by the Senate and take their seats.

I would like to close by once again referencing the tremendous reputation that the New Jersey Supreme Court enjoys.

As the New York Times wrote about our Court in 1999:

"Whatever the rest of the country says about New Jersey, it accepts that the state has the legal equivalent of the New York Yankees. It has the New Jersey Supreme Court. The words that consistently come up are 'pre-eminent,' 'path-breaking,' even 'brilliant.' For years, law professors have told their classes to pay attention to this court's decisions."

When Associate Justices Fasciale and Wainer Apter join the Court, I know this statement will continue to ring true.

It is now my pleasure to ask the President of the New Jersey Senate, Nick Scutari, to provide a few words.

Governor Phil Murphy

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