

Marie Garibaldi, First Woman on New Jersey Supreme Court, Dies at 81

By Sam Roberts

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Marie L. Garibaldi, who as the first woman to serve on the New Jersey Supreme Court voted to uphold the death penalty and wrote decisions that defined sexual harassment in the workplace and declared Princeton's all-male eating clubs discriminatory, died on Friday in Hackensack, N.J. She was 81.

The cause was complications of a stroke, Robert Tanzola, a cousin by marriage, said.

When Justice Garibaldi was appointed in 1982 by Gov. Thomas H. Kean, the courthouse chambers in Trenton lacked a women's room. When she retired in 2000, three of the seven justices were women, including the chief justice, Deborah T. Poritz.

Justice Garibaldi, a judicial pragmatist who tilted conservative in criminal cases, served on a court that gained a national reputation in the 1970s and '80s as innovative and progressive through its pioneering rulings on school financing and local zoning.

Justice Garibaldi, a Republican, ruled that a divorced parent could leave the state with her children if the move would benefit them. She upheld the right of a murder victim's survivor to address the jury in death-penalty cases. And she declared that a prosecutor's use of challenges to exclude black jurors violated a defendant's right to an impartial trial.

She supported capital punishment in several cases, including the sentence of Jesse Timmendequas, who was convicted of raping and strangling 7-year-old Megan Kanka in 1994. The case prompted the federal Megan's Law, requiring local law enforcement authorities to notify neighbors about a sex offender's presence in their community.

In 1990, Justice Garibaldi's ruling in *Frank v. Ivy Club* found that the exclusion of women from Princeton's private undergraduate eating clubs violated state antidiscrimination laws.

She was prolific, writing more than 225 opinions, including several notable dissents. She sustained the validity of Breathalyzer tests in drunken-driving cases but dissented when the court ruled that party hosts were responsible if a guest to whom they served liquor drove away intoxicated and got into an accident.

In addition, in the wake of a landmark right-to-die case in which the court held in 1976 that a respirator could be removed from a comatose patient, Karen Ann Quinlan, Justice Garibaldi, in three rulings in 1987, expanded the right of individuals to refuse life-sustaining medical treatment, granted immunity for individuals involved in making those decisions “in good faith,” and provided guidelines for doctors, patients and their families.

The decision was believed to be the first by any state court establishing the primacy of a patient’s wishes when they conflicted with the policies of a medical institution.

“Death comes to everyone,” Justice Garibaldi wrote. “However, in our society, due to great advances in medical knowledge and technology over the last few decades, death does not come suddenly or completely unexpectedly to most people.”

“Questions of fate,” she noted, “have become questions of choice.”

In 1993, ruling in a case brought by a former Toys “R” Us employee, the court for the first time defined which conduct constituted sexual harassment and when employers could be held liable for an employee’s behavior.

Generally, according to the court’s definition, a woman would have to prove that the conduct occurred because of her sex and that the harassing behavior was “severe” or “pervasive” enough to cause a reasonable woman to believe that the work environment had become “hostile” or “abusive.”

When Governor Kean nominated Ms. Garibaldi, then a 47-year-old tax lawyer, as an associate justice, she was only the 18th woman to serve on any state’s highest court. In an interview on Tuesday, Mr. Kean said that his faith in her had been validated.

“She was so full of intelligence and integrity, you couldn’t quarrel with her, and she was willing to stand up alone sometimes in her dissent,” he said. “I knew if I appointed the first woman it had to be a great one.”

Her death came a week after that of Judith S. Kaye, the first woman named to the highest court in New York and the first to serve as the state’s chief judge.

Marie Louise Garibaldi was born in Jersey City on Nov. 26, 1934, to Louis Garibaldi, a doctor, and the former Marie Seventi. No immediate family members survive.

She received a bachelor’s degree in 1956 from Connecticut College, where she majored in economics. After hearing that no business schools would accept women, she enrolled in Columbia University Law School. (Among the 11 other women in her class of 250 was Ruth Bader Ginsburg, a future United States Supreme Court justice.) Ms. Garibaldi graduated in 1959 and received a master of laws degree from New York University School of Law.

She worked for the Internal Revenue Service but left to join a New Jersey law firm, Riker, Danzig, Scherer, Hyland & Perretti, where she was named a partner within three years. She then served as a municipal judge in Weehawken, N.J., was a co-chairwoman of Mr. Kean's successful campaign for governor in 1981 and was the first woman to head the State Bar Association.

Justice Garibaldi said she retired from the bench almost five years before reaching the mandatory retirement age of 70 because she wanted more time for herself.

As a trailblazer in a former all-male preserve, Justice Garibaldi believed that though men and women could be equally qualified for the judiciary, they might bring different perspectives to the job.

"When you come to the court you bring your life experiences, and I think a woman has different life experiences than some men would have," she said when she was appointed. "I expect I may bring a particular point of view, and it will be affected by the fact I'm a woman, but my reasons will be grounded in the law."

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