



NEW YORK STATE SENATOR

Shelley B. Mayer

Statement by Senator Shelley Mayer on her “No” Vote Today in the Judiciary Committee on the Nomination of Justice Hector LaSalle as Chief Judge of the Court of Appeals

SHELLEY B. MAYER January 18, 2023

| ISSUE: **JUDGES OR JUDICIAL, JUDICIARY COMMITTEE**

Today the Senate Judiciary Committee, under the able leadership of Chair Brad Hoylman-Sigal, gave Justice Hector LaSalle a thoughtful and complete opportunity to respond to questions posed by my colleagues, explain his judicial philosophy, and get a full and fair hearing. I voted “no” on this nomination, fulfilling my constitutional duty of “advise and consent.” My statement below addresses my decision.

The issues raised in the hearing were broad and expansive, and Justice LaSalle’s responses did not change my prior position — which I reached after meeting with the Justice — that I could not support his nomination.

First, I view Justice LaSalle’s consistent pattern of interpreting statutes and common law extremely narrowly as inadequate because we face a crisis in the law and the courts of this land. We are confronted with a U.S. Supreme Court that has disregarded the rights and liberties of millions of Americans and threatens further infringement on our freedoms with decisions still to come. Just this past year, the Supreme Court overturned *Roe v. Wade*, which protected a woman’s constitutional right to abortion, and struck down New York’s concealed carry law. The current Court of Appeals has consistently ruled with a 4-3 conservative

majority, taking up far fewer cases than in the past, and limiting the rights of workers, defendants, and many others seeking justice. I believe that at this moment we need a Chief Judge who will restore the reputation of New York's highest court to one of national leadership; who will ensure that the Court's decisions are based on a fair and broad interpretation of New York laws and the New York State Constitution consistent with legislative intent; and who will commit to improving the operation of our court system in every town, village and city.

For the past five years, this legislature, and both the current and former governors, joined in moving New York ahead by expanding voting rights, protecting reproductive health care, enacting common sense gun reforms, and expanding workers' rights, among other important developments. Each of the new laws we have enacted is subject to interpretation by the Court of Appeals. I do not believe — given Justice LaSalle's past record, which includes a limited track record of his own written opinions, and my reading of the cases, especially the decisions in *Cablevision Sys. Corp. v. Communications Workers of Am. Dist. 1*, *People v. Bridgeforth*, and *Matter of Evergreen Ass'n, Inc. v. Schneiderman* — that he will bring the perspective of applying a broad and justice-driven lens to the cases before the Court on a consistent basis.

In addition, I am deeply concerned about the operation of our huge court system from the perspective of my constituents. Thousands of New Yorkers, here in the Second Department and throughout the State, seek justice in our local courts – our city courts, family courts, and town and village justice courts every day. Frequently, our constituents go to court without a lawyer, in distress or suffering family trauma, afraid and alone. These are not cases with expensive law firms and corporate litigants. They are regular people in our communities, who view the court with fear and trepidation, and who have little power and few ways to make their claims or defend themselves.

I regret that Justice LaSalle has not made the issues they face a priority, nor did his answers today convince me that he would do so going forward. He was unwilling to take a larger role in these important issues, leaving them to the Chief Administrative Judge, without articulating any clear plan to prioritize them under his leadership. I looked for a candidate who had used his seniority, leadership, and authority as the Presiding Justice of the state's busiest Judicial Department to address these challenges or to discuss them with specificity. I did not see that today.

I have great respect personally for Justice LaSalle, and for all he has accomplished in his career. However it is my constitutional obligation as a Senator, honored to be serving in a co-equal branch of government to the Executive, to exercise my judgment on whether a nominee should be confirmed. I executed this responsibility with the solemnity it deserves, and with the due diligence it requires.

New York deserves a Chief Judge with the leadership, creativity, and vision to take on the immense challenges facing our court system. We need someone with a robust record of jurisprudence who takes on difficult questions because they are hard, someone who considers deeply the rights and liberties of all of our citizens, and someone who views our Courts as truly the guarantor of our democratic process.

For the reasons stated above, and for others, I have voted "no" on this nomination.

Note: After testing positive for COVID, I was unable to be present in the Senate Judiciary Committee Hearing Room today to participate in the hearing on the nomination of Presiding Justice Hector D. LaSalle to be the Chief Judge of the Court of Appeals. I complied with Senate rules, and drove to Albany to check in but did not go inside to the hearing. As with any hearing or committee meeting, so long as a Senator checks in, they are able to vote. Once

checked in, I watched the hearing remotely.