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For Judge in Firefighter Discrimination Case, an Evolving Opinion

By MOSI SECRET

One after another, nearly 150 white firefighters approached a lectern facing a federal judge and, voices sometimes trembling with anger, decried what they called a perversion of justice. Years of hard work to make it into the ranks of the department were being tossed aside to make way for unqualified minority candidates, they said, all in a questionable effort to end discrimination.

The target of their wrath sat silently before them: Judge Nicholas G. Garaufis of Federal District Court in Brooklyn, whose expansive rulings have forced the New York Fire Department — “a stubborn bastion of white male privilege,” in his words — to overhaul its practices to hire more minority candidates.

One fireman, Sean Fitzgerald, bluntly accused the judge of playing a “social experiment” and questioned whether he was driven by “socioeconomic problems, personal ambition or inner guilt.”

The remarkable demonstration of opposition, which played out over four days in federal court last week, underscored the degree to which Judge Garaufis has emerged as the most prominent and provocative figure in New York City’s most contentious integration battle in decades. Critics have dubbed him “Emperor Garaufis” and have accused him of being a publicity-seeking liberal crusader whose imposition of racial quotas has jeopardized public safety. Mayor Michael R. Bloomberg has called for his removal from the case.

But the case has highlighted the evolution of his thinking on the government’s role in helping minorities. A product of the machine-driven world of Queens politics, he fiercely opposed federally mandated integration efforts as a young school board member from a mostly white district in the 1970s. Decades later, he pulled aside a black colleague on the federal bench and asked him searchingly, “How does it feel to be a black person in society?”

That question came in the early days of the now five-year-old firefighter case.

Since then, Judge Garaufis, 64, has become a relentless critic of the Fire Department, unafraid to use the considerable powers of the bench to advance his notions of racial justice.

Though his rulings are under scrutiny from an appeals court, after complaints from the city that he “lost any semblance of neutrality,” Judge Garaufis found a measure of vindication last month when he lifted a prohibition on hiring in the Fire Department after a new test used to screen

applicants was passed by a record number of black and Hispanic applicants. He ordered the city to grant minority hires retroactive seniority and pay, at a cost of as much as \$70 million.

Supporters, including the black firefighters who joined a suit filed by the federal government, claimed the rulings were necessary to fix a biased system that had withstood previous efforts to increase diversity. The department remains 90 percent white despite New York's demographic transformation: a majority of residents here are now nonwhite.

This is not the first case to bring publicity to Judge Garaufis; even other judges marvel at how often he is in the spotlight.

He ordered a sweeping overhaul of the state's system of housing people with mental illness — the ruling was recently overturned on appeal on technical grounds. He also twice took the unusual step of urging a presidential administration to reconsider a death penalty case.

In scores of drug cases and mob trials, he has filled his fourth-floor courtroom with occasional eruptions, jokes and dramatic flair. In one encounter, a juror tried to escape her service by detailing her many racial biases, and he punished her by ordering her to continue serving in perpetuity. In another, one that showed his sense of humor, he lent his shirt and tie to Vincent Basciano, the fashion-conscious Mafioso nicknamed Vinny Gorgeous who had been accused of plotting to kill him.

"Judges can't afford to worry about what other people think of them," Judge Garaufis said in an interview, which he agreed to on the condition that he would not answer questions about the firefighter case.

Judge Garaufis, the grandson of Greek immigrants, has spent nearly his whole life in Bayside, Queens. He began his career as a lawyer in the late 1970s, worked for the state attorney general and returned to private practice.

In one of his earliest positions in public life, he won a seat on the local school board, representing a district in northeastern Queens known for its strong schools and stable neighborhoods where many of the longtime Irish, Italian and Jewish residents were unnerved by efforts to integrate their children's classrooms.

He quickly found himself at the center of that battle — espousing an opinion sharply at odds with the ones he has written in the Fire Department case. Joining with a narrow majority of the school board, he fought to prevent the district from collecting demographic data on the school population, viewing it as a first step toward establishing quotas, and turned down federal money meant to help the poorer minority students who were being bused in. As a result, he was among those called racist by black parents and eventually stripped of power by the school chancellor.

"We already have an integrated school district," Judge Garaufis said during the battle, in 1978. Using language strikingly similar to that of some of the firefighters who testified before him three decades later, he added: "What I feel is unreasonable and unfair is a marathon of surveys and statistical breakdowns that is unnecessary to achieve what we have already achieved."

Judge Garaufis declined to talk about the school integration case in the interview, or to explain how his thinking had changed.

After making an unsuccessful run for State Senate — during which he secretly recorded a damaging conversation with a rival politician and later released it to the news media — he established himself as a legal adviser for the Democratic Party and officials, including Congressman Gary L. Ackerman and the former Queens borough president Claire Shulman. “He is willing to absorb punches in order to do what he believes is the right thing,” Mr. Ackerman said.

In 1995, President Bill Clinton appointed him chief counsel of the Federal Aviation Administration and five years later nominated him to the bench.

Judge Garaufis’s first wife, Eleanor Prescott, a journalist, died unexpectedly in 1997, leaving him to raise two young sons. In 2002 he married Betsy Seidman, a director of a philanthropic foundation who was one of the members of the Senate’s judicial search committee that recommended him for his current role.

The legal community did not know what to make of a behind-the-scenes political player with almost no trial experience who was suddenly presiding on the federal bench.

“They had no idea who I was,” Judge Garaufis recounted. “I wasn’t a former prosecutor. I wasn’t a former partner in a major New York law firm. I wasn’t a former magistrate judge. I wasn’t a former state judge. I didn’t hold any of the positions where they might have learned something about me.”

From the start, he did not hesitate to demonstrate his authority, making quick decisions in the courtroom and showing little patience for lawyers who questioned him. He also, drawing on skills honed in his Queens days, showed an aptitude for pushing intransigent bureaucracies and working the press.

The case that has defined him more than any other has been the civil rights lawsuit against the New York Fire Department, which claims that the department’s entrance exams illegally discriminated against minority applicants. That case, brought by the United States Department of Justice and supported by the Vulcan Society, a group of black firefighters, was the latest effort in an integration battle that dragged on for decades without resolution, landing in Judge Garaufis’s courtroom in 2007.

After receiving the case, he turned to a mentor, Judge Sterling Johnson Jr., for guidance. As they discussed the underlying issues he posed the startling question of “how does it feel” to Judge Johnson. An officer with the New York Police Department as a young man, Judge Johnson, 78, described to his colleague what it was like to serve in the department before it was fully integrated — how, for example, he was prohibited from riding in squad cars with white officers. Judge Garaufis, he realized, was trying to understand something deeper than the normal legal issues.

After a bench trial in which he was the sole arbiter, Judge Garaufis ruled that the entrance exams were not only flawed, as judges before him had found, but that the city had also intentionally kept its firefighting ranks mostly white. He called the city's failure to integrate the department a "shameful blight on the record of six mayors."

In January, the city appealed, accusing the judge of bias and of being enamored of news media attention. Hundreds of people gathered in Manhattan this summer to watch the oral arguments at the United States Court of Appeals for the Second Circuit. Judge Garaufis, who had recently been rebuked and reversed by the court in another high-profile case, did not attend but his law clerks listened as the appeals judges questioned his rulings.

The appeals court may not issue its opinion for months, but even though his rulings are in jeopardy they seem to already be having an effect. For the first time in five years, the city stands ready to resume hiring firefighters after a record number of minority and female applicants took and passed a redesigned firefighter exam this spring; nearly half of the 42,000 applicants were nonwhite and nearly 2,000 were women. Even the city, whose lawyers fought the court-ordered requirements at almost every step, praised the test results.

That is one reason so few black and Hispanic firefighters showed up at the hearings last week, which allowed the public to comment in favor of or in opposition to Judge Garaufis's rulings — leaving the parade of comments to their white colleagues. By most measures, they said, they had already won.

This article has been revised to reflect the following correction:

Correction: October 7, 2012

An earlier version of this article gave an inaccurate account of Judge Nicholas G. Garaufis's ancestry. He is the grandson of Greek immigrants, not the son.