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## Lawyers defend judge in teacher-sex case

PAULO LIMA

Attorneys lined up Friday in support of embattled Superior Court Judge Bruce A. Gaeta, who came under fire this week for giving probation to a 40-something teacher from Lyndhurst who had sex with a 13-year-old student.

Prosecutors and defense lawyers alike expressed admiration for Gaeta, largely in response to comments of Assemblywoman Rose Marie Heck, who on Thursday broached the idea of removing Gaeta from the bench.

"These politicians ought to stay the hell out of our judiciary," said criminal defense lawyer Robert Galantucci. "When they make these outrageous political statements, it shows they have no understanding of what our constitutional system provides."

Galantucci and fellow lawyers suggested politicians leave the situation to the state Appellate Division. That's where the case was headed Friday after Bergen County prosecutors filed an appeal of the controversial sentence.

Rather than send her to prison, Gaeta gave Pamela Diehl-Moore, 43, five years probation for her tryst with the boy, who was a student in her seventh-grade class at Woodrow Wilson Middle School in Clifton. Diehl-Moore had sex with the boy at her Lyndhurst home throughout the summer of 1999, authorities said.

Diehl-Moore had pleaded guilty to sexual assault in exchange for what prosecutors expected would be a three-year prison sentence. But Gaeta scrapped the deal, citing Diehl-Moore's history of serious psychiatric problems and the fact that prosecutors presented no evidence to show the boy had been harmed by the offense.

Among his comments during Wednesday's sentencing, the judge said: "I really don't see the harm that was done here, and certainly society doesn't need to be worried



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"It's just something between two people that clicked beyond the student-teacher relationship."

Gaeta added: "Maybe it was a way for him [the boy], once this happened, to satisfy his sexual needs. People mature at different ages."

The judge also cited a state-ordered evaluation that deemed Diehl-Moore a low risk to repeat the crime and said she was not a sexual predator. The divorced mother of two lost her teaching license as a result of her guilty plea.

On Friday, Heck tempered her statements somewhat but continued to call on the judge to make public amends.

"I'm not happy about what he said," Heck said. "I'd like to see him retract those statements or qualify those statements publicly. His leniency was his prerogative. I thought it was a bit liberal, but what upset me were his statements."

Heck said she believes Gaeta needs additional training in the field of sexual assault and vowed to introduce legislation calling on judges to receive such instruction.

When called for comment on Friday, Assignment Judge Sybil R. Moses had her secretary call a reporter and say: "This matter is on appeal and she cannot comment at this time."

Gaeta also declined comment.

A lawyer since 1970, Gaeta was appointed a Superior Court judge in December 1986 and has been sitting in the criminal division longer than any of his colleagues on the bench in Bergen County. He also served as a municipal prosecutor in South Hackensack and was the municipal judge in South Hackensack and Wyckoff.

Several lawyers who regularly appear before Gaeta were eager to defend him on Friday.

"I don't have any problem with someone saying they disagree with the decision," said Jay Atkins, a partner in a River Edge law firm. "I have a big problem with people saying he should resign or he should be thrown off the bench.

"He's fair and he's got the [guts] to make a decision - even a controversial one."

Hackensack defense attorney Kevin Roe agreed.

"He has the capacity for compassion. He will abide by the law, but if a situation calls for exceptions to be made under appropriate legal circumstances, then he'll do so."

Two other Bergen County defense lawyers, former prosecutors Carl Losito and Albert Carilli, called directly on Friday to express their displeasure with her remarks and defend the judge.

"I know in my heart that the judge always protects the victims," said Losito. "He prides himself on that."

Like Losito, Carilli has appeared before Gaeta from both sides of the legal aisle.

"I was a prosecutor for six years and I loved him," Carilli said. "You know a judge is good when you like him as a prosecutor and as a defense guy. Judge Gaeta is a credit to the bench. That's the bottom line."

The defense lawyers contested the notion that Gaeta is soft on convicts. Gaeta presided over the 1990 trial of John M. Martini Sr., who received the death penalty for the kidnapping and murder of businessman Irving Flax. Gaeta issued the death warrant, although the sentence has yet to be carried out.

If anything, Galantucci said, Gaeta is too prosecutor-friendly for his tastes.

"I disagree with him more than I agree with him," Galantucci said. "There's nothing wrong with a judge exercising an independent judgment. To try and take that away is a big mistake."

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