Hudson's Judge Miner Seen as Likely U.S. Supreme Court Pick of Bush

BY DIANNE HENK

ALBANY (AP) — Behind the large desk in his office, two framed quotes state the signature of President Reagan adorn the wall.

Both are for appointments to federal judgeships.

Reagan isn't shy about saying that one more presidential certificate, a nomination to the U.S. Supreme Court, would complete his set. Many believe Judge Miner has come close already.

"You never know what's going to happen," Miner said. "Certainly it's a great honor to even be considered and I would certainly hope that I would be considered again. But you know, it's something that comes to so few that I suppose you can't even think about it."

Yet think about it he does.

"I've enjoyed all the work I've done and I've been through the gamut," he said. "There's one more job that I might enjoy."

A justice of the nation's highest court is one of the few legal posts that Miner hasn't held in his 32-year legal career.

Miner started out as a successful trial lawyer with his father in the upstate city of Hudson, where he still lives.

He was a city attorney, county district attorney and a justice on the state Supreme Court, New York City's trial court. In 1981, he was named a federal judge in the Northern District of New York. He moved to the 2nd Circuit Court of Appeals in 1983, which covers New York, Connecticut and Vermont.

For Miner, 54, the prospect of being on the nation's highest court came close to reality when Reagan's nomination of Robert Bork was rejected by the Senate in October 1987 and then Douglas Ginsburg withdrew from confirmation a month later. Miner's name was then a list being considered by senators searching for a nominee acceptable to both political parties.

In the end Reagan's choice was Anthony Kennedy, of the 9th Circuit Court of Appeals in California. But Miner didn't mind being considered.

"I felt very good of course and I felt very happy, having devoted my entire life to this thing that I love the interest of Justice," said Miner.

Miner may well be a contender again.

As George Bush takes his oath of office this month, three of the current liberal Supreme Court justices are over 80. William J. Brennan, recently hospitalized to have his gall bladder removed, Thurgood Marshall and Harry A. Blackmun. Bush, has characterized this as the most important appointment left for him to make.

Miner says the presidential nomination process for the Supreme Court "is more critical than the way the pope is chosen." But others think Miner's name may surface for the high court.

In a survey before the 1986 presidential election by the National Law Journal, 40 court observers named Miner one of 10 likely choices by Bush.

Such speculation may mean little about the actual appointments, according to James F. Simon, dean of the New York Law School. "The attorney's name is on the list."

"I'm a student of the Supreme Court, and the appointments ... depend on the administration and the advisers who have the ear of the president," Simon said.

"As for the list that circulates, Simon said it's hard to say how much confidence they have.

"I'm told that they [presidential advisers] have their own list and don't pay that much attention to the press," Simon said.

"We've already seen that the selection of the Supreme Court justices is to some extent -- no matter what you say -- a political process," Miner said.

Miner is no stranger to politics.

In fact the Republicans have run for office in his district with the endorsement of his County in upstate New York and then for state Supreme Court justice.

Miner's wife, Jacqueline, has been a self-described political activist for 30 years. She co-chaired the 1980 electoral effort to elect George Bush in New York state.

Miner has also been through the ringer of two federal appointments, including extensive personal and professional investigations and appearances for questioning in Washington.

"If Miner, who was the first Jewish justice since Abe Fortas resigned in 1969, was nominated, he would be re-nominated," said Miner.

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"Miner might bring a liberal tilt to the court, which is more conservative than Bork was perceived to be, according to the legal establishment."

Miner said Miner might be considered as a moderate conservative, but added that Miner is sensitive to many issues that make it difficult to characterize him at all.

"He's a conservative but not controversial," said George Kassquf, director of the Judicial Selection Project of the Alliance for Justice, a coalition of about 30 public interest groups.

"It's fair to say that there was no opposition expressed by anybody, at least publicly, by his elevation to the appellate bench, Kassquf said.

Miner was rated well-qualified by the American Bar Association when he was nominated to the circuit and the Alliance of the Federal Judiciary wrote that Miner was highly regarded in all areas -- "courtesy, intelligence, knowledge, fairness, diligence, writing ability."

While Miner may not be perceived as controversial, he has met with some success which have been.

In 1984 as a district court judge, Miner refused to appoint a legal guardian for Baby Jane Doe, an infant with multiple handicaps, when her parents said they didn't want life-sustaining surgery done on the child.

Miner fined Right-To-Life activist attorney Lawrence Washburn $500 under a federal statute that allows fines against lawyers who harass or unnecessarily delay litigation, which was recently upheld by the Supreme Court.

That same year, Miner ruled that parents had the right to refuse to inoculate their children on religious grounds -- even when they didn't belong to an organized religion.

Miner likes to give speeches and often turns his spoken words into articles for publication.

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"I'm constantly thinking about the profession," Simon said. "Once some judges assume the bench, they lose ties to the people."

"I'm tough on politics," Miner said. "I don't believe in the process."

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