



## **Empathy from the Bench: Chatigny's Shocking Judicial History**

By Martha Kleder

Judge Robert Chatigny, nominated to the U.S. Court of Appeals for the 2<sup>nd</sup> Circuit, has a documented history of judicial activism. He has actually acted as an aggressive defense attorney — *while on the bench* — specifically when the cases involve sexual sadists.

- Chatigny has repeatedly given light sentences for sexual crimes like possession of child pornography.
- He overturned Connecticut's Megan's Law which required registration of sex offenders (later reinstated unanimously by the U.S. Supreme Court).
- In a speech, he advocated that judges should rely on "empathy" in their judicial decision-making.

Chatigny vividly demonstrated what he meant by judicial "empathy" in the case of Michael Ross. The serial murderer and rapist known as "the Roadside Strangler" terrorized New England from 1981 to 1984. While in prison, Ross was filmed for a documentary on serial killers during which he described how he kidnapped, brutally raped, and sadistically murdered eight young women and teenage girls.

It was Chatigny's actions during the Ross case which led seven state prosecutors to file complaints of judicial ethics violations against him including:

- Exceeding his judicial authority
- Abandoning neutrality
- Acting as an advocate to prevent Ross' execution
- Defying the rulings of higher courts.

Why?

- Chatigny described convicted killer Michael Ross, as "the least culpable of the people on death row," adding "He should never have been convicted. Or if convicted, he never should have been sentenced to death."
- Chatigny said that Ross' sexual sadism — the condition that prompted Ross to rape and murder — "is a mitigating factor," something that should be considered in sentencing and lead to a lesser punishment.

Even when Chatigny's two stays of execution were overturned by a higher court and the U.S. Supreme Court upheld Ross's death sentence, Chatigny continued his advocacy for the serial killer. On January 28, 2005, just hours before Ross' scheduled execution, Chatigny called the attorneys in the case together for a teleconference. There he stated:

- "I bring a fresh eye," adding that "he (Ross) should never have been convicted."

Upon referring to Ross' expressed wish to be executed, to end the suffering of his victims' families, Chatigny said:

- "He is effectively boxed in now. ... Even if he changed his mind, he would be hard-pressed to admit it. He doesn't want to go back to [death row] and be the subject of ridicule [as] somebody who had backed out at the end."

Chatigny made a clear violation of judicial neutrality when he toured Ross' prison to better understand "what its effect would be on an individual inmate." Chatigny determined that Ross' acceptance of his fate was the result of "death row syndrome," a finding that should be made by a medical professional and not a judge. While that visit alone violated judicial ethics by allowing him to consider evidence not placed before him in the courtroom, Chatigny failed to balance his fact finding by visiting the home of even one victim's family to gain "empathy" for their horrific loss.

The activist judge also threatened and bullied Ross' defense attorney into seeking yet another competency hearing and still more appeals, even though Ross had already been found competent, and had said himself that he didn't want to appeal, wishing to be executed on schedule. When T.R. Paulding, Ross' attorney and death penalty opponent, tried to defend his client's wishes, he was browbeaten by Chatigny who told him:

- "If I were his lawyer, I'd be in his face. ... What you are doing is terribly, terribly wrong. No matter how well motivated you are."
- "And you had better be prepared to deal with me," Chatigny warned. "I'll have your law license."

It was later discovered that Chatigny had represented Ross before he became a judge, a clear conflict of interest Chatigny had failed to disclose to the State's attorney, even when asked.

When questioned by the Senate Judiciary Committee about this lapse, Chatigny said that his early involvement in this high-profile death penalty case involving a notorious serial killer, a case that made national headlines — and the only death penalty case Chatigny worked on in 25 years — had simply "slipped his mind."

These actions warrant the impeachment of Robert Chatigny, not a promotion to a higher court.

**For more information visit:**

[Chatigny's nomination should be withdrawn](#), CWA's CEO Penny Nance on the *Washington Times*

[Obama's 'Empathy for Sexual Sadists' Judge](#), CWA President Wendy Wright on *Human Events*

[CWA's Letter of Opposition](#) (A PDF resource which includes an article from *The Hartford Courant*)

[Obama Nom: Chatigny's Empathy for a Serial Rapist and Killer](#) (YouTube video) **Warning:** contains excerpts from Ross' death row interview and may not be suitable for young children.