

## Judicial Remembrance

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ISAAC ROTHSCHILD

# Hon. John M. Roll Chief Judge, U.S. District Court for the District of Arizona

*The following judicial profile was scheduled to appear in the February issue of The Federal Lawyer. On Jan. 8, 2011, Chief Judge Roll was tragically killed while attending an event hosted by Rep. Gabrielle Giffords in Tucson, Ariz. He had gone to thank Rep. Giffords for her continuing support of the district court in Arizona. Rep. Giffords had recently written a letter supporting Chief Judge Roll's petition for a declaration of a judicial emergency, and she also helped to secure funding for the new federal courthouse in Yuma, Ariz.—a courthouse that will now bear Judge Roll's name. Chief Judge Roll was 63 years old.*

**THE HONORABLE JOHN M. Roll was appointed to the U.S. district court by President George H.W. Bush in 1991 and became chief judge of the District of Arizona in 2006. Chief Judge Roll moved to Arizona from Pittsburgh, Pa., when he was seven years old. His parents, brother, and sister left family**

and the judge's father's good job with Gulf Oil to move to Arizona in the hope that the climate would help soothe the judge's mother's severe rheumatoid arthritis. After the move, his father worked as a carpenter and later as a maintenance man. Neither of the judge's parents graduated from high school. As Judge Roll grew older, he recognized the enormous sacrifices his parents had unselfishly made on his behalf.

By the time he reached the third grade, John had changed elementary school five times. His fifth and final elementary school was Sts. Peter and Paul Grammar School, where he was very nearly a classmate of Chief District Judge Irma Gonzalez of the Southern District of California, who was one year behind him.

Judge Roll attended Salpointe Catholic High School. His mother passed away at the end of his freshman year after battling both arthritis and heart complications. Her sense of humor, bravery in coping with her medical conditions, and convictions forever shaped his life. The judge remembers her emphasis on doing what is right, even if popular opinion is to the contrary, and her belief in the God-given dignity of every human being.

At Salpointe Catholic, Judge Roll foreshadowed his tenacity when he set a school record by doing 1,000 consecutive sit-ups and became the only member of his class to complete a 50-mile hike from Benson,



Ariz., to Tucson. He ran cross-country during the school year and swam competitively during summer vacations, although he was marginal in both sports. He occasionally placed in swim meets, but only because his kind-hearted swim coach, Paul Kershner, when facing weak competition, held back his best swimmers in the judge's event. Judge Roll greatly benefited from the inspiration of his high school coaches.

The judge's fondest memory of high school was meeting his wife-to-be, Maureen O'Connor, at a school dance. She fondly remembers going on skateboarding dates at a nearby grade school. Meeting Maureen also introduced the judge to Maureen's widowed mother. When Maureen's dad drowned on a fishing trip when she was only nine years old, her mother also had two younger children and was pregnant with a fourth child. All of her life, Maureen's mother has displayed enormous faith and strength in the face of daunting adversity. Although she married a much-loved and admired deputy sheriff, she remains the matriarch of the family.

After graduating from Salpointe High School, the judge attended the University of Arizona for his undergraduate studies. He majored in government and concentrated his other studies in speech and English. Toward the end of college, Judge Roll began to think about the law as a possible career path. Although there were no lawyers in his family, he was

inspired by U.S. Attorney General Robert F. Kennedy, who emphasized the importance of the law in guaranteeing the rights of all individuals.

After college graduation, the judge made the smartest decision of his life: he asked Maureen O'Connor to marry him. Luckily for him, she said yes. They married shortly after he began his studies at the University of Arizona College of Law. During law school, the couple's first son was born.

With the support and encouragement he received from his family and from Dean Charles Ares, Judge Roll graduated from law school in 1972. Among his many valuable law school experiences was the opportunity to work as an intern for Pima County Superior Court Judge Ben C. Birdsall. After graduation, Judge Roll worked briefly as a law clerk-bailiff for a superior court judge and later as a city prosecutor. While he was working for the city of Tucson, his importance became apparent when a bomb threat was phoned in and John was asked to remain behind while the building was evacuated so that phone calls from the public would not go unanswered. Because he had a young family to support, he agreed.

From the city attorney's office, he moved to the Pima County Attorney's Office in 1973. He was hired by then Pima County Attorney Dennis DeConcini and his chief deputy, David Dingeldine. For seven years, Judge Roll litigated cases before Pima County's bright and eclectic bench, which consisted of 18 judges at the time. He says that he had the privilege of appearing before truly extraordinary trial judges whom he hoped to emulate. Maureen and John had two more sons during his tenure as a county prosecutor.

He embraced the role of the prosecutor as the representative of the people. A February 1976 profile of the judge in a Tucson newspaper reported that he had tried more than 70 jury trials in three years. Whenever Judge Roll read that article, he was embarrassed to think that a reader would have had no idea that he also had a beautiful spouse and children. During those years, he also began lifelong friendships with some of his fellow prosecutors (including Cindy Jorgenson and Raner Collins, who now serve on the federal bench in the Tucson division).

In 1980, Judge Roll transitioned to the U.S. Attorney's Office in Tucson. He was hired by U.S. Attorney Michael D. Hawkins (who now sits on the Ninth Circuit Court of Appeals) on the recommendation of First Assistant A. Bates Butler III. Judge Roll began as a prosecutor trying general crimes and then was assigned to the organized crime drug task force by the new U.S. attorney, Stephen M. McNamee (who was appointed to the district court in 1991). Judge Roll also became familiar with, and admired, the three federal judges before whom he regularly practiced: District Judges Richard M. Bilby, Alfredo Marquez, and Mary Ann Richey. After Judge Richey's death, Judge Roll had the privilege of regularly appearing before another judge who became his mentor—Judge William D. Browning.

While in the U.S. Attorney's Office, he spent a year-and-a-half in the civil division, where he gravitated to tort law. He also wrote 27 appellate briefs and presented 18 oral arguments before the Ninth Circuit. For a professional who prided himself on preparation, the concept of being able to depose the other side and know what facts their case would be turning on added a new level of enjoyment to his practice.

Almost immediately after joining the U.S. Attorney's Office in 1980, the judge experienced a life-changing event. While away at a seminar in San Diego, he received a telephone call from Maureen's mother, who told him that the youngest of their three sons—who was only four years old—was in the pediatric intensive care unit experiencing seizures, which were continuing unabated because of a fever. A priest had come to the hospital and performed last rites on the young child. Their son had suffered from an idiopathic seizure disorder since he was a baby and experienced periodic seizures. John hurried home and arrived to see their young son asleep on a hospital bed connected to various tubes and wires to monitor his condition. Their son's health improved and he eventually grew out of his seizure disorder. However, Judge Roll learned a powerful and painful lesson about what was important in life and he resolved to reprioritize his own life.

In 1987, Judge Ben Birdsall (for whom John had interned) retired from the Arizona Court of Appeals in Tucson, creating a vacancy. Because he had enjoyed the appellate portion of his practice at the U.S. Attorney's Office, John applied for the position. On a Saturday morning in May, the day after the governor interviewed the three merit selection finalists, the governor phoned John's home. When Maureen told the governor that John wasn't home (for years he had been attending Mass every Saturday morning), the governor asked Maureen if she would take a message. Maureen pluckily replied, "Governor, I'll be happy to take a message if it's good news, but if it's bad news, you'll have to call back and tell him yourself." It was good news, and John was honored to replace Judge Birdsall, whom he had admired both for his legal acumen and his even-tempered demeanor, which emphasized the importance of patience and civility as a judicial officer. While on the appellate bench, Judge Roll took the opportunity to earn his LL.M. from the University of Virginia.

After four years on the state intermediate appellate court, District Judge Alfredo Marquez assumed senior status, and Judge Roll was considered for the district court. Judge Roll was gratified by the number of judges and lawyers who encouraged him, one of whom was attorney John Gabroy. After a blue-ribbon screening committee created by Sen. John McCain interviewed approximately two dozen candidates, the committee referred three finalists to him; Judge Roll was one of the three. Thereafter, Sen. McCain recommended Judge Roll for the U.S. district court, and he was appointed to the federal bench by President George H.W. Bush on Nov. 25, 1991.

Judge Roll attributed his time as an appellate jurist to his development as a “neurotic” trial judge, who was very much aware of how the record would present itself to an appellate court and careful to explain his rulings. After joining the federal bench, he served on the Ninth Circuit’s Jury Committee, which was responsible for drafting and distributing all Ninth Circuit pattern jury instructions. He also served for six years on the Judicial Conference’s Advisory Committee on Criminal Rules. He authored four editions of the *Judges’ Benchbook on Pretrial Criminal Proceedings*, which was distributed to all federal judges in the Ninth Circuit by the Circuit Executive’s Office. He also testified before congressional committees about the structure of the Ninth Circuit and immigration issues. In April 2006, Judge Roll became chief judge of the District of Arizona.

As chief judge, he had administrative responsibilities for the entire District of Arizona. The Phoenix Division hears most of the district’s civil cases, whereas the Tucson Division’s caseload is overwhelmingly criminal in nature. Enforcement along the southwest border has greatly accelerated during the past several years—the U.S. Border Patrol now has 3,000 agents assigned to the Tucson Division, and the U.S. Attorney’s Office has doubled the number of prosecutors in the past two years. During the past fiscal year, the Tucson Division had more felony cases and defendant filings than the entire district had two years earlier. During the past fiscal year, with the invaluable assistance of visiting district judges by arrangement of the U.S. Judicial Conference’s Intercircuit Assignment Committee, each of the five district judges in the Tucson Division averaged 643 felony sentencings, as compared to the national average for district judges: fewer than 100 felony sentencings per year.

Chief Judge Roll said that, “the addition of what sometimes seems to be an inexhaustible number of law enforcement agents and federal prosecutors in [the] Tucson Division has now produced a tsunami of federal felony cases far beyond the management capacity of the four active district judges in [the] Tucson division.” (The Tucson Division’s fifth active district judge recently assumed senior status.) Out of necessity, Chief Judge Roll petitioned Ninth Circuit Chief Judge Alex Kozinski to have the Ninth Circuit Judicial Council declare that a judicial emergency existed in the District of Arizona—a step that would potentially give the district judges much-needed flexibility from the statutory deadlines under the Speedy Trial Act. (*Editor’s note:* Chief Judge Roslyn Silver declared a judicial emergency for the District of Arizona on Jan. 21.)

His work on the district court in general as well as his last four years as chief judge, had given him a renewed appreciation of the judiciary. Chief Judge Roll was the first to acknowledge that the judicial branch is not, and should not be, the pre-eminent branch of the three branches of government. He also recognized that overreaching by the judicial branch may be the greatest threat to judicial independence. On the other hand, his

contact with members of the federal judiciary—from Chief Justice Roberts, through the circuit, district, magistrate, and bankruptcy judges—left him firmly convinced of the remarkable overall quality of the federal judiciary.

A predecessor to Chief Judge Roll, former Chief Judge Robert C. Broomfield, once commented that previous chief judges instantly become the best friends of the new chief judge. Chief Judge Roll said that, in his own case, that was most certainly true, as he would routinely contact Judge Broomfield and former Chief Judge Stephen McNamee for counsel. Chief Judge Roll was also the beneficiary of advice (always solicited) from his friend, Judge Jim Teilborg, who sits in the Phoenix Division. Chief Judge Roll did not limit the judges he claimed as mentors as those who served in Arizona; he routinely communicated with Ninth Circuit Judge Richard Tallman and former Chief District Judge Lloyd George of Nevada. Judge Roll would say that he would go to work every day in awe of the privilege of working with such dedicated and brilliant colleagues.

He also claimed that his responsibilities as chief judge were not only manageable but also often pleasant because of District Executive Richard Weare—the longest serving clerk of courts in the federal system—and his chief deputies. Chief Judge Roll pointed out Weare’s remarkable institutional knowledge of district court issues and magnificent administrative skills. Chief Judge Roll described the time he and the clerk went to Washington, D.C., for joint leadership training: the judge was unnerved when one of the speakers described various skills important to being a successful administrator, then said, “If one of you has all of these traits, the other one is probably superfluous.” Chief Judge Roll said that he instantly knew who was superfluous between himself and Rick Weare!

His administrative responsibilities were intermeshed with his day job—a district judge with a full docket. Chief Judge Roll, as do the other district judges in the Tucson Division, would meet with probation officers at the beginning of each day. He would point to the individuals who worked in the probation office, on pre-trial proceedings, the clerk’s office, and all the chambers units, saying that all of them perform their duties conscientiously and professionally under the deluge of criminal cases.

Chief Judge Roll described Katy Higgins, who served as District Judge Alfredo Marquez’s judicial assistant before becoming Chief Judge Roll’s judicial assistant 19 years ago, as the rock and foundation of his chambers. “The former law clerks keep in touch with her long after I stop hearing from them,” he said, adding that “I try not to take it personally!” After becoming chief judge, he also greatly benefited from the service rendered by a second judicial assistant on his chambers staff, Barbara Wentz. He recognized the invaluable role that his chambers family—law clerks, courtroom deputies, and court reporters—always played in fulfilling a mission of stewardship and competence.

Early in their marriage, Maureen stayed at home

with their three young children, but at the age of 40 she started college and, in quick succession, earned her associates degree, bachelor's degree, and master's degree—all with honors. She then began working for the Tucson branch of Catholic Social Services as a social worker and became the director of the program, focusing on pregnancy services, only recently retiring. As their life together progressed, Maureen's support and influence allowed John to maximize his potential. The chief judge would bluntly acknowledge that, without Maureen's love and support, he would never have graduated from law school, let alone become a judge. Maureen is a die-hard fan of the Arizona Diamondbacks, even when that major league team is down on its luck. John used to joke that he was fortunate that Maureen never gave up on her guys.

Chief Judge Roll began each day reading from the Bible, followed by swimming laps, then working on a few cases before arriving at chambers for the day's work.

John Roll was indelibly influenced by his wife Maureen, her mother Leona Williams, and the lessons he learned from his own mother. He developed a life,

a legal practice, and a judicial reputation of discipline, preparation, equality, public service, and stewardship. He recognized how blessed he was to have five grandchildren, three sons and their wives, and his own wife of 41 years. He also felt blessed to serve as a United States district judge. **TFL**

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