



Hon. Scott O. Wright

U.S. District Judge for the Western District of Missouri

by Larry M. Schumaker and Roger C. Geary



Larry M. Schumaker and Roger C. Geary are proud graduates of the University of Missouri–Columbia School of Law and prouder still of having clerked for Judge Wright in the mid-1980s. While they went on to have long and accomplished careers in private practice in Kansas City, each likes to say that, after the privilege of working for Judge Wright as their first job out of law school, it was all downhill from there.

Biography, like other forms of history, can be written only in hindsight. Everyone has a life story that is told through the passage of time. Each of our stories is shaped by the circumstances of our upbringing, by the opportunities and challenges we encounter, and, most of all, by how we respond to those opportunities and challenges. Some individuals are timid, some are measured, and some—like Judge Scott Olin Wright—are fearless.

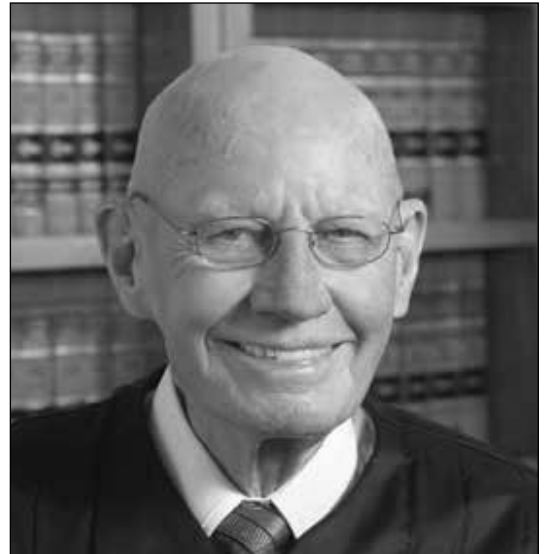
In 1942, before he had any inkling of becoming a lawyer, much less a federal judge, 19-year-old Scott Wright interrupted his college studies to serve his country and enrolled in flight school. After earning his wings in 1943, he had the option of becoming a Naval aviator or joining the Marines. Thinking it would be a quicker way to get overseas and join the fight, he chose the latter and became a Marine dive bomber pilot.

Let that sink in for a moment: at age 20, Judge Wright chose to serve his country as a *Marine dive bomber pilot*, which is a pretty good hint at how he handled his job as a fun-loving and fearless federal judge for nearly four decades.

Origins

Judge Wright was born on Jan. 15, 1923, at his parents' home outside Haigler, Neb. He was the second oldest of six children. Both of his parents grew up in rural Missouri, and both graduated from the University of Missouri. They married in 1918 and three years later bought a 1,500-acre ranch in the southwest corner of Nebraska.

The family home didn't have electricity or indoor plumbing, but Judge Wright fondly remembered exploring the great outdoors and commuting on horseback to a one-room schoolhouse run by Miss Boyle. Daily chores taught him the importance of hard work, but there was plenty of free time to play with his siblings and teach them how to swim in the Arickaree River. Most of all, he enjoyed hanging around the ranch hands and listening to them swap stories. As Judge Wright explained years later, his trademark colorful vocabulary traces all the way back to when he learned a lot of words from the ranch hands that were not part of Miss Boyle's curriculum.



In 1931, the Great Depression hit the Great Plains in full force. Banks closed their doors, and prices for crops and beef plummeted. In 1933, Judge Wright's parents lost the ranch to foreclosure. His father was devastated after working so hard for many years and having nothing to show for it. Judge Wright was 10 years old when his parents moved the family back to their home state of Missouri.

Like many who were facing similar or worse challenges, Judge Wright's family revered FDR for rescuing the country from catastrophe. His mother came from a family of Democrats, but his father had been a reliable Republican until he lost the ranch. There was no way to know it at the time, but this twist of fate played a pivotal role in Judge Wright's appointment to the bench four decades later: as he liked to quip, if not for the Great Depression, he might have stayed on the ranch and ended up a rich Republican from Nebraska.

The Wright family was more fortunate than most because their father had a degree in agriculture, which qualified him for a private-sector job teaching other farmers how to use state-of-the-art practices so that they could stay on their land. Besides helping his family avoid the devastation that befell so many, this reinforced to Judge Wright and his siblings the importance of education and looking out for others.

After graduating from Chillicothe High School in 1940, Judge Wright attended Central Methodist College in Fayette, Mo., where he was classmates with two other future jurists: Jack Higgins, who served on the Missouri Supreme Court, and Bill Hungate, who served as a federal district judge in St. Louis. In December 1941, destiny and opportunity came knocking on Judge Wright's door when the United States entered World War II, and he did not blink before joining the fight against fascism.

Military Service

After completing his sophomore year at Central College in May 1942, Judge Wright signed up for pilot training in the Navy V-5 program. He had never been in an airplane, let alone flown one, but his fearlessness and ability to focus made him a natural. Judge Wright excelled at every stage of flight training, both in the classroom and the cockpit.

His education also included an expanding worldview as he met other young men from different backgrounds and every corner of the country. The glaring void in the melting pot of military service was the absence of African Americans; the military was segregated throughout World War II and would remain that way until 1948, when President Truman put a stop to it by issuing Executive Order 9981. Judge Wright was troubled by the prejudiced attitudes he encountered—his parents had raised him to regard “people as people”—and he was amazed at how gracious and friendly some of his brothers-in-arms could be, until the topic turned to Black people.

In September 1943, Judge Wright earned his wings and was given the option of staying with the Navy or joining the Marines. He chose the latter because he thought he would get overseas faster, but he spent the next 18 months stateside, where his duties included ferrying brand-new fighter planes from the East Coast to the West Coast. In March 1945, he shipped out from California to Hawai'i on a brand-new aircraft carrier, the *Bon Homme Richard*.

His flight group spent a couple weeks at Pearl Harbor before moving west to the Marshall Islands, from which they patrolled for enemy submarines. They didn't see a lot of action because the fight already had moved closer to Japan, but they were stationed on Saipan preparing for a full-scale invasion when they heard the news about the bombing of Hiroshima and Nagasaki.

After Japan surrendered and World War II ended, Judge Wright spent the next nine months at a Marine air base near Tsingtao, China. His job was flying with a photographer who took pictures of troop movements under the command of Mao Tse-Tung. While his time in China didn't involve any military encounters, it did include a tragic event that stuck with him the rest of his life.

In December 1945, Judge Wright's squadron was assigned to fly from Tsingtao to make a show of force over Peking (as it was known back then). On the way back to base, the squadron split into three divisions of six planes each and ran into a winter storm front that had formed

over a mountain range. Each of the division leaders had to decide whether to fly through the storm or over it. Judge Wright knew it would be even colder at a higher altitude, but he wasn't keen on instrument flying and made the call to lead his division over the front. A second division made the same call, but the third division made the ill-fated decision to fly through the front.

The result was a disaster. Judge Wright and his men could hear it unfold on the radio as the pilots in the third division became disoriented and all six planes crashed in the mountains. Two of the pilots bailed out, and both were injured and captured by rebel forces. The other four pilots and all six gunners were killed. The funeral for the lost men was the most somber day of Judge Wright's young life and reinforced in him the belief that nothing in life can be taken for granted.

Top-Flight Trial Lawyer

When Judge Wright returned to civilian life in June 1946, he had been away for four years and looked forward to getting back home. He also had a pretty good idea what he wanted to do next: he didn't know any lawyers before he joined the military, but an intelligence officer who had been a trial lawyer in Texas made a big impression on him. So, after spending the summer getting reacquainted with family and friends, he moved to Columbia, Mo., to finish his undergraduate studies and enroll in law school at the University of Missouri.

He took his studies seriously but spent most of his time working for a practicing lawyer, Howard Major, because he knew he wanted to be a trial lawyer, not a paper lawyer. He graduated from law school in May 1950 and was thrilled that President Truman was the commencement speaker. After taking the bar exam, Judge Wright and a couple friends set off to Alaska for one last adventure before returning to Columbia and beginning his professional life.

He was fearless in the courtroom and tried as many cases in a year as most contemporary litigators try in their entire careers. He learned early on that finding and developing witnesses was more important than spending most of his time in a law library. He handled cases in every county in Central Missouri and tried hundreds of them to verdict. At the end of his career in private practice, he held the highest verdicts in Boone County, Cooper County, Adair County, and Callaway County.

In the 1950s, Judge Wright joined the Young Democrats and served as president of the local chapter, which led to him being hired as city attorney. He then ran for and was elected Boone County prosecutor for two terms. His campaign strategy was simple: he basically outworked the other candidates, knocking on as many doors as possible and getting up early so he could visit local farmers at the crack of dawn, which made a very favorable impression on them.

As a prosecutor, Judge Wright was tough on serious crime but had a sense of compassion for defendants who could be rehabilitated. His role as Boone County prosecu-

tor also proved pivotal in leading him to the federal bench. The circuit attorney for the city of St. Louis at the time was a young Harvard Law School graduate named Tom Eagleton, who went on to serve Missouri as attorney general, lieutenant governor, and three terms as a U.S. senator. Judge Wright and Sen. Eagleton became great friends from the moment they first met at a statewide gathering of prosecuting attorneys in 1957. Twenty-two years later, Sen. Eagleton called his friend with a question that opened the next chapter of Judge Wright's professional life and changed the history of the U.S. District Court for the Western District of Missouri.

An Uncommon Judge

On Sen. Eagleton's recommendation, President Carter appointed Judge Wright to the bench in 1979, along with Judge Howard F. Sachs. Judge Wright first met Judge Sachs at their confirmation hearing before the Senate Judiciary Committee. Over the following four decades, they became fast friends despite having distinctly different demeanors. Judge Sachs was tall and soft-spoken, sported a flowing mane of white hair, and was recognized as having a brilliant legal mind. Judge Wright was a wiry 5'7" athlete with close-cropped hair, a boisterous personality, and colorful vocabulary, and he quickly earned a reputation as a man of action. Despite these superficial dissimilarities, both were incredibly intelligent, took their role and responsibility seriously, and shared a passion for doing justice.

Many lawyers underestimated Judge Wright's intellect, but he had an uncanny ability to cut through the fog of sophistry (though he would have called it something else) and, like a chess player, he was able to anticipate how a case or trial would play out. He also was decisive and fearlessly independent in his rulings; as he often quipped, he did not worry about being reversed by the Eighth Circuit because "if all my rulings were affirmed, what's the use of having a court of appeals?"

Judge Wright had the same attitude about his six decisions that were reviewed by the U.S. Supreme Court. Four were upheld—including the case that set the standard for punitive damages in § 1983 cases¹ and a ruling that invalidated the "board of freeholders" provision in the state constitution²—and in the other two,³ Judge Wright said he would have made the same decision if he had to do it over again. As he saw it, his

job was to make the right decision and do the right thing, even if others might come to a different conclusion.

Judge Wright understood that his job was to serve the public, not the wealthy and powerful, and he admittedly had a soft spot for the underdog. His rulings did not necessarily favor the little guy, but he made sure to give everyone a fair shot in his courtroom, even if they lacked the resources of the government or big business. This commitment to equal justice for all manifested itself throughout his time on the bench, including hundreds of Social Security cases in which the government tried to deny or revoke benefits to people with disabilities, a precedent-setting case protecting farmers from foreclosure by the Farmers Home Administration,⁴ and a class action challenging the state of Missouri's attempt to discontinue subsidies to families who adopted special needs children.⁵ He also presided over an antitrust trial that resulted in a \$35 million verdict in favor of a local cable television company against an industry giant.⁶

Judge Wright also was a fierce protector of civil rights, including rulings upholding a woman's right to reproductive freedom, a consent decree requiring sweeping changes in the conditions of confinement at Missouri State Penitentiary, a gender-discrimination class action against the Missouri Department of Transportation,⁷ a controversial decision staying what would have been the first execution in Missouri since the Supreme Court reinstated the death penalty in 1976,⁸ a single-plaintiff sexual harassment case that resulted in a \$50-million verdict,⁹ and hundreds of lower profile cases that were just as important to the parties. He also presided over one of the first—and to this day, few—criminal prosecutions under 18 U.S.C. § 245, which prohibits race-based assaults by private individuals.¹⁰

Fueled by his fearlessness and focus on doing justice, Judge Wright was one of the most innovative judges in the history of the Western District of Missouri or, for that matter, the entire country. After the 1981 Hyatt Skywalk disaster in which more than 100 people died and hundreds more were injured, he certified one of the first mass-tort class actions because he thought it would be more fair and efficient for the victims and their families instead of litigating individual cases over the next decade.¹¹ The Eighth Circuit reversed Judge Wright's certification of the Hyatt litigation as a mandatory class

action but affirmed the certification of an opt-in class.¹² Without skipping a beat, Judge Wright set a trial date, which led to a classwide settlement on the issue of liability and established a fund for the payment of punitive damages, all within 18 months after that terrible tragedy.

Judge Wright also defied convention when he appointed a special master to help him manage one of the first Superfund environmental cleanup cases under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. In 1982, the government filed suit against the defunct proprietor of a toxic waste dump near the Missouri River, along with four companies that had generated some of the hazardous materials at the site. The Big Four, as they were called, first challenged the government's assertion of strict liability, and when their motions to dismiss were denied,¹³ they filed third-party complaints against more than 200 companies that had contributed to the waste site. If anyone thought this would slow the litigation down, it had the opposite effect. Realizing that his docket did not afford time to focus on just one case, Judge Wright appointed a local law professor with expertise in land use and environmental law as a special master. With the help of the special master, Judge Wright kept the case on a fast track and the parties were able to reach a global settlement less than two years later.¹⁴

Throughout his time on the bench, Judge Wright was willing to try and adopt many other procedural innovations that made the process more efficient and served the interests of justice. He was a champion of the Accelerated Docket in the Western District of Missouri, in which the entire court set aside three weeks every April and October for civil jury trials. He adopted a similar procedure for the Central Division based in Jefferson City and cleared the backlog of cases on that docket within a few years by setting multiple cases during three-week stretches. From his years of private practice, he knew that setting cases for trial was the best way to “motivate” the parties to settle. His experience as a trial lawyer also allowed him to move seamlessly from one case to another and once resulted in a unique situation in which he had three juries working at the same time: two were in deliberations and one was in the box hearing evidence in a third case.

Judge Wright also pioneered the use of telephone conferences to resolve discovery disputes, which saved time and money for the parties and allowed him to spend more time in the courtroom instead of wasting time wading through lengthy paper filings. He was the first in the district to use electronic recording instead of a stenographer, and he experimented with various forms of alternative dispute resolution (ADR), including summary jury trials, nonbinding arbitration, and mediation. After several years of trying various forms of ADR, he was a leading advocate for a districtwide Early Assessment Program, which required the parties to engage in good faith settlement negotiation at the outset of a case and became a model for the country.

Judge Wright also was an early adopter of in-trial procedures that improved the quality of justice by considering the role and perspective of jurors. When he became a judge, jurors were forbidden to take notes or ask questions until they went into deliberations. Judge Wright thought the ban on notetaking was odd, given that he and the lawyers were constantly making notes during a trial to help them remember what they had heard, and his practice of giving each juror a notebook at the outset of trial is now commonplace. He also saw how lawyers could be so deeply involved in a case that they would overlook important details or background information that jurors needed to know. He also questioned why judges, but not jurors, were allowed to ask questions, so he became one of the first in the country to let them submit questions (subject to his approval over whether they were appropriate) during trial.

Judge Wright also was instrumental in overhauling the jury instructions used in federal court. When he joined the bench, he was astounded by the long-winded and often incomprehensible instructions given to the jury, so he and Judge Ross Roberts spearheaded a project to focus and simplify them. The result was the Eighth Circuit Model Instructions, which are the most comprehensive and useful in the federal judicial system.

All of these innovations—and his entire approach to being a federal district judge—were grounded in Judge Wright's love of the law, his belief that there always is room for improvement in the administration of justice, and his faith in the jury system. He often said, and genuinely believed, that the collective wisdom of a group of jurors was more valuable than the view of any single judge. He also recognized that the justice system is not the province of the privileged but an integral part of government of the people, for the people, and by the people.

Legacy

Like so many members of his generation, Judge Wright cherished our system of government and his responsibility as a citizen of this great republic. He also understood that, while his role as a federal judge carried even greater responsibility, it did not make him better or smarter than the people he served; he simply had a different job in the legal system and wearing a robe had little effect on his fun-loving personality.

Every lawyer who ever appeared before Judge Wright has a story to tell about him, and many have playfully imitated his distinctively loud and high-pitched voice or his boisterous cackle. His self-effacing and plain-spoken manner also led many to overlook his razor-sharp mind and uncanny ability to cut to the core of complex legal issues, which they did at their peril. His casual manner also made him a favorite of court personnel, and his law clerks treasured the time they spent working for him.

Through it all, Judge Wright made his job appear deceptively simple by focusing on doing the right thing, never being afraid to try something new, and trusting the jury system. He was a living embodiment of the maxim

“actions speak louder than words,” and while he never said it directly, his example left this lasting legacy for everyone who knew him: to take our responsibilities seriously but never take ourselves too seriously, and to make sure we have a little fun along the way. ☺

Endnotes

¹*Smith v. Wade*, 461 U.S. 30 (1983).

²*Quinn v. Missouri*, 681 F. Supp. 1422 (W.D. Mo.), *rev'd*, 855 F.2d 856 (8th Cir. 1988); *see also Quinn v. Millsap*, 491 U.S. 95, 105 (1989).

³*Reprod. Health Servs. v. Webster*, 662 F. Supp. 407 (W.D. Mo. 1987), *aff'd*, 851 F.2d 1071 (8th Cir. 1988), *rev'd in part*, 492 U.S. 490 (1989); *United States v. Johnson*, 682 F. Supp. 1033, 1035-39 (W.D. Mo. 1988) (en banc) (dissenting opinion), *aff'd sub nom. Mistretta v. United States*, 488 U.S. 361 (1989) (affirming majority decision).

⁴*Allison v. Block*, 556 F. Supp. 400, 404 (W.D. Mo. 1982), *aff'd*, 723 F.2d 631, 638 (8th Cir. 1983).

⁵*E.C. v. Sherman*, No. 05-726-CV-W-SOW, 2006 WL

1307641 (W.D. Mo. May 9, 2006).

⁶*Cent. Telecomms., Inc. v. TCI Cablevision, Inc.*, 610 F. Supp. 891 (W.D. Mo. 1985), *aff'd*, 800 F.2d 711 (8th Cir. 1986), *cert. denied*, 480 U.S. 910 (1987).

⁷*Catlett v. Mo. Highway & Transp. Comm'n*, 589 F. Supp. 929 (W.D. Mo. 1983), *rev'd in part*, 828 F.2d 1260 (8th Cir. 1987), *cert. denied*, 485 U.S. 1021 (1988).

⁸*Smith v. Armontrout*, 626 F. Supp. 936 (W.D. Mo. 1986).

⁹*Kimzey v. Wal-Mart Stores, Inc.*, 907 F. Supp. 1309 (W.D. Mo. 1995), *rev'd in part*, 107 F.3d 568 (8th Cir. 1997).

¹⁰*See United States v. Bledsoe*, 728 F.2d 1094 (8th Cir. 1984).

¹¹*In re Fed. Skywalk Cases*, 93 F.R.D. 415 (W.D. Mo. 1982).

¹²*In re Fed. Skywalk Cases*, 680 F.2d 1175 (8th Cir. 1982).

¹³*United States v. Conservation Chem., Co.*, 589 F. Supp. 59 (W.D. Mo. 1984).

¹⁴*United States v. Conservation Chem. Co.*, 628 F. Supp. 391 (W.D. Mo. 1986).