

Michael A. Wolff – Freedom Fighter

by William H. Freivogel



Mike Wolff has helped save men on death row, preserve the St. Louis school desegregation program, end capital punishment for juveniles, protect the vote of poor people, establish jury trials in discrimination cases, preserve jury verdicts in personal injury suits and foster efforts to rid St. Louis' municipal courts of longstanding injustices.

Few St. Louisans have made such important contributions to the public good over the past 30 years. As a legal services lawyer, civil liberties lawyer, special counsel to Gov. Mel Carnahan, Missouri Supreme Court judge and chief justice and retiring dean of the Saint Louis University Law school, Wolff has always been on the side of equality, freedom and good government.

This is why the Gateway Journalism Review is awarding Wolff

the Freedom Fighter award at its First Amendment celebration on March 23.

Not only has Wolff accomplished more than just about any community leader, he always seems to be having more fun than anyone in the room. A big man, Wolff has a ready smile and a repertoire of wry, funny stories on the tip of the tongue. He's not averse to chuckling at his own stories.

While on the Supreme Court, Wolff was that rare judge who was willing to explain a court decision to a reporter. Even rarer, he wrote like a journalist in a simple, common sense way that people could understand.

When Wolff was chief justice, AT&T Mobility tried to avoid having to pay tens of millions in taxes due on telephones. The company claimed cell phones were actually two-way radios instead of phones.

Wolff interrupted the technical arguments by holding up a cell phone in front of the lawyers and asking rhetorically if anyone doubted it was a phone.

In a 2011 adoption case, Wolff criticized the majority of the court for delaying the reunion of a boy and his immigrant mother whose parental rights had been unfairly terminated by a lower court. Wolff wrote that the mother and boy should be reunited "not in 90 more days or 900 more days, but now."

Referring to the biblical story of Solomon, Wolff added, "At least Solomon had the option to decree that the child be cut in half. All we lesser judges have is the law, and it is our duty to make sure that the law is obeyed."

In 2009, when the state Supreme Court rejected a challenge to Missouri's school funding formula, Wolff lamented that \$6,342 went to educate each Festus student, but \$16,647 each Clayton student.

“What makes the children of one school district deserving of only about one-third of the education money available for the schools of the children in the highest-spending district?”

he asked.

It's not surprising that Wolff writes like a reporter. After graduating from Dartmouth, he worked his way through the University of Minnesota law school as a reporter and copy editor on the Minneapolis Star Tribune.

Eddie Roth, a lawyer turned journalist turned public official, puts it this way: “Mike's record of judicial leadership has his old reporter's fingerprints all over it. He plied small 'p' politics from the bench the way journalists work from newsrooms; not by throwing his weight around, but by throwing well-reported, incisively expressed ideas around. He used fourth estate methods to advance third branch ideals.

“And by forging consensus through carefully constructed, durable foundations of law and fact, Mike Wolff has created platforms on which many have been empowered and inspired to participate in fights to win and preserve freedom.”

After a stint in legal services in St. Paul, Denver and as director in Rapid City, S.D., Wolff joined the Saint Louis University Law School faculty in 1975. He also served as general counsel to the American Civil Liberties Union of Eastern Missouri.

Wolff was the lone Democrat to challenge Republican Attorney General William Webster in 1988. Terry Ganey, the retired Post-Dispatch reporter who disclosed Webster's Second Injury Fund scandal, recalls the race: “Webster, an incumbent, was considered unbeatable. Wolff at that time raised the issue of the Second Injury Fund being a problem. He was way ahead in making that an issue.”

Wolff lost in 1988 and lost the Democratic primary four years

later to Jay Nixon. But the abuses of the Second Injury Fund helped bring down the Webster in the 1992 race for governor against Mel Carnahan. Wolff became Carnahan's counsel.

One of Wolff's leading accomplishments was to help craft legislation, supported by the governor, business leaders and a bi-partisan group of legislators, that made possible a negotiated settlement of the St. Louis desegregation case. The legislation extended the life of the novel program, which continues to exist, and directed state money to school districts with large percentages of poor children. The legislation finessed resistance from Nixon, who had waged an all-out legal campaign to end the transfer program.

As counsel Wolff reviewed the pleas of death row inmates. After Carnahan named Wolff to the state Supreme Court, Wolff was a leader of the court's close scrutiny of capital cases.

Wolff joined the opinion of his friend, the late Richard Teitelman, in freeing Joseph Amrine from death row after the three key witnesses recanted their testimony. Wolff also took of heat of writing the decision giving Kenneth Baumruk a new trial in 2002. Baumruk had been convicted in the same courthouse where he had killed his wife and shot four others.

The most important death penalty decision led to the U.S. Supreme Court to end the execution of juveniles.

It's not often that a state supreme court leads the U.S. Supreme Court into a new interpretation of the Constitution. But that's what happened after the state Supreme Court ruled 4-3 that Christopher Simmons could not be executed for murdering Shirley Crook because he was under 18 when he committed the crime. The U.S Supreme agreed that evolving standards of decency no longer permitted executing teens because their brains are not fully developed.

In another notable decision, Wolff was part of the majority that ruled photo ID requirements violated the promise of

equality in the Missouri Constitution. That decision has blocked stringent photo ID laws for the past decade.

In other important decisions, Wolff established the right to a jury trial in employment discrimination cases, rejected caps on damage awards as deprivations of the right to trial by jury and upheld the right to collective bargaining for public employees. While on the court he also chaired the Sentencing Advisory Commission and was active in national efforts aimed at more rational, less arbitrary criminal sentencing.

After the court, Wolff became dean of Saint Louis University Law School, righting the ship after a tumultuous period during which the Rev. Lawrence Biondi forced out one dean and appointed an interim dean who did nothing to quiet things down.

The law school became a hotbed of reform of the municipal courts after the death of Michael Brown in Ferguson in 2014. This was a tricky situation because notable alums were on different sides of the municipal court issue. Thomas Harvey, head of ArchCity defenders, led the reform effort, while other graduates were in prominent municipal court judgeships.

Faculty also got heavily involved in the reform, including Professors John Ammann and Brendan Roediger. Wolff saw it as his job as dean to make sure Ammann and Roediger could fully represent their clients, whose lives had been damaged in the muni court shuffle of being locked up for failing to pay traffic fines.

Nor was Wolff afraid to criticize his old colleagues for moving too slowly to bring an end to the unjust practices in the municipal courts. Last summer, Wolff expressed his impatience with the slow response from the presiding judge of the St. Louis County Circuit Court and from the state Supreme Court. That was before the Supreme Court acted at the end of the year to required important changes.

Wolff's wife, Dr. Patricia Wolff, has long run the Meds & Food for Kids foundation that feeds a miracle peanut butter supplement to malnourished children in Haiti, saving hundreds of thousands of children.

It's hard to think of another St. Louis couple that has contributed so much to the public good.