

INTERVIEW OF ED LARSON BY RICHARD ROSS, NOVEMBER 4, 2022
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Richard Ross: Today is November 4, 2022, a very windy and blustery day in Topeka, Kansas. I'm sitting in the Kansas Supreme Court conference room located in the Kansas Judicial Center, which is directly south of the Capitol Building in Topeka. The purpose of me being here is to interview a longtime jurist and important figure in the Kansas judicial branch, Honorable Ed Larson, who officially retired in 2002, but served continually until many years later, twenty years later, I believe.

My name is Richard Ross. I was the Reporter of Decisions for the State of Kansas for thirty-eight years, and I had the pleasure of working with Judge and then Justice Larson for many of those years. Assisting me today is David Heinemann. David is an attorney. He's a lobbyist, and he was once the Speaker Pro Tem of the Kansas House of Representatives. He is also the videographer for this project.

This interview is part of the Kansas Oral History Project Collection known as the Kansas Courts and the Rule of Law. This series of interviews examines the relationship of the Kansas judicial branch with the other two branches of government, the executive and the legislative. The Kansas Oral History Project is a not-for-profit corporation created to collect oral histories of Kansans who was involved in shaping and implementing public policy for the State. Funding for the project is by individual donors and volunteers and by the nonprofit corporation known as Humanities Kansas. Recordings and transcripts of the oral histories interviews are available for researchers, educators, and the general public. You can see the video or read the transcripts by contacting the Kansas Historical Society, the State Library of Kansas, or you can go online to see these at ksoralhistory.org.

With that introduction for the purpose of this gathering and this interview, it's time to introduce my guest, the longtime Kansas lawyer and jurist, the Honorable Ed Larson, retired. I will allow Justice Larson a little time to either correct or add to my short bio of his distinguished career.

Edward Larson was born in Lincoln County, Kansas, near the town of Denmark, Kansas in 1932. He graduated from Lincoln High School, and he received his BS in Agriculture from Kansas State University, the same degree that his father received. While at K- State, he was a member of Air Force ROTC, and he was commissioned as a Second Lieutenant in 1954. From 1954 to '57, he was in active duty with the Air Force, serving in numerous locations and bases in Texas, Florida, and Ohio.

Following that stint in the Air Force, he went to KU Law School, and in 1960, he graduated from the University of Kansas School of Law, where he was a member of the Order of the Coif, and he also was the Note Editor as well as the Editor-in-Chief of the Kansas Law Review.

After being admitted to the bar in 1960, he quickly went to Hays, Kansas, where he was an associate with the attorney Norman Jeter, and a few years after that, they became partners and had a law practice called Jeter and Larson. He had a general practice of law and practiced all different kinds of law while he was at this law firm, but in 1987 in November, he became a member of the Kansas Court of Appeals, and he was sworn in in Hays, Kansas, but he had his formal swearing in several months later in Topeka.

He was elevated to the position of a Justice with the Kansas Supreme Court in 1995, and he retired in September 2002. That was a mandatory retirement situation at that time, when a person turned seventy, and there were quite a few judges that had to retire at that time. The day after his retirement, however, he began work as a Senior Judge, which is a special designation by the legislature to assist the Court of Appeals and the Supreme Court whenever he was called help them on a case.

He performed that duty for several decades. I've forgotten what year you told me you stopped being a Senior Judge. 2018?

Ed Larson: I think formally around 2015, but I continued to work off and on for several years afterwards. I don't think I've done anything for maybe the last four years.

RR: So it was a very, very distinguished career, even after he officially retired from the Supreme Court. Thank you for your many years of service. Is there anything you'd like to add to what I just said about your background?

EL: That's an interesting history which I share. In thinking back about it, I am the grandchild of a Danish immigrant who came here to Kansas, and that's how we got here and began in the 1870s to move west. I was fortunate to be able to live back in the Depression years, the World War II years, all of the time since. It seems kind of amazing that all of those things have happened, but essentially you have correctly reiterated what the history was.

I enjoyed the fact that I'm a graduate of both Kansas State University and the University of Kansas. Interestingly, so was my father, who graduated from what was then Kansas State College and had a brother, who graduated from the University of Kansas School of Law. I do have a little bit of history of that nature.

I enjoyed tremendously my judicial service and was fortunate to serve on both of our appellate courts and as a senior judge.

RR: What made you decide to go to law school for one thing and what made you decide to leave the private practice of law?

EL: I was in the military at the time of the Korean War. Leaving Kansas State and the ROTC program, I went through navigation school because I could no longer pass a pilot's physical. So my navigation training overlapped the end of the Korean War, but as that downplayed, and I was finishing my time, I was eligible for the GI Bill of Rights.

But Kansas was not a hospitable farming area in the 1950s. It was very dry. It did not look very promising. So I made the decision that since I could receive assistance, that I would try law school and found that I enjoyed law school much more than I had as an undergraduate. I did better academically, and it made a great move into a different area.

After practicing a number of years and enjoying a very general practice, in 1987 there were suddenly five new openings on the Kansas Court of Appeals, and it seemed like it might be

interesting to do something different. I was working hard and enjoying the practice, but my children were all graduating from high school, and we were at a time where a move would not have been too difficult. So I applied for all of the open positions on the Court of Appeals and fortunately I got one of them. That's how I moved here.

After being a Court of Appeals judge, there suddenly was an opening on the Kansas Supreme Court. While in retrospect, I might have been able to have served longer on the Court of Appeals had I stayed where I was, but several of our Court of Appeals judges had made a transition to serve on the Supreme Court—Bob Davis, Bob Abbott, Fred Six. I actually followed them. At one time there were four of us that had formerly been on the Court of Appeals that served on the Kansas Supreme Court.

RR: I know just as a little background when you said there were five openings, at the time the Court of Appeals was established, there were seven judges. I think that was in 1977. And then in 1987, the legislature expanded the Court of Appeals to ten judges. And right about that time, two of the judges retired. So that left those five openings and gave you an opportunity to serve.

On the Supreme Court, I remember that there were many, many years where a Court of Appeals Judge for whatever reason could not get appointed to the Supreme Court. Many applied, and the Governor just didn't select. And suddenly one of the Governors made that transition, appointed a judge from the Court of Appeals, and that suddenly seemed like a springboard, a very deserving springboard to move to the Supreme Court. So there was an interesting background there before that happened.

EL: I don't know the reason for that, but I know exactly what you're talking about, whether there was sort of a prejudice there that sort of went away and became an opportunity. But that seemed that way because as I said, when my appointment was made, there was a majority of us that had Court of Appeals experience that were on the Kansas Supreme Court.

RR: That makes sense, that experience. I was thinking as you were talking and still today there's some talk about representation of judges from the western part of the state. You happen to be one of those. Do you have any comments about attorneys moving from that part of the state on to the courts?

EL: You know, I think historically there was an attempt to sort of find people in different parts of the state with the idea that they gave a little better diversity. We didn't really use the word back in those days in that sense, but it was apparent and an opportunity for me. [Corwin Spencer](#) had been one of the original judges who had been from Oakley. I think maybe I was the second. Not too long after I was appointed, several years later, Bob Lewis Jr. came from Atwood. In all fairness, we've not really had quite that same movement from southwest Kansas, although we've had very many people from southeast Kansas that were on the appellate bench. Don Allegrucci was one that comes to my mind first, and before that, others. But in the earlier days, we had, sort of, justices from all over the state.

RR: I'm sure that Norman Jeter was certainly a mentor to you. Were there mentors that you consider mentors on the appellate courts?

EL: Well, when I came to the Court of Appeals, Bob Abbott was actually the Chief Judge. Bob was sort of the mentor to all of us. After you've had almost thirty years of experience as a practicing lawyer, you figure out pretty much what the routine is and what your position is in it.

The big change, of course, over a period of time was the tremendous increase in the number of criminal cases that became appealed. That sort of blossomed with the drug time. So I think we went from a situation where there was a heavier percentage of civil cases maybe to criminal cases to just a flip-flop of that of about 80 percent criminal cases to maybe 20 percent civil cases. So your experience in the private practice, at least mine as a general practitioner, some of that sort of evaporated with the increase in the criminal appeals.

RR: When you were practicing in Hays, did you ever argue a case before the Kansas Supreme Court?

EL: I did, and they were normally more often civil appeals, but like everybody, I had criminal cases that I had to, and I remember specifically arguing a case before the Supreme Court in the old courtroom where among other issues I had raised on the 1507, the competence of the trial counsel, and one of the justices said, "Well, Mr. Larson, it appears you were the trial counsel. Do you think it's necessary that you raise that?" and I said, "Well, Your Honor, I think I was required to raise every issue that I could possibly raise in this appeal, and it seemed to me that it was only natural that you ought to take a look at my history of the case as well." [Laughter]

RR: What were the biggest challenges, if you can remember, that you faced when you went from the private practice to becoming a judge on the Court of Appeals, because that's a big switch.

EL: Well, it's always difficult when you've been an advocate for one side of the case to suddenly realize that you no longer have that position, that you have to be somewhat like the referee of an athletic event, and that you have to look at both sides of the situation and view the litigation from a different view. You have the position that the issues of an appellate lawyer that are brought in front of you are the issues you need to decide and determine, much as you'd probably like to raise some of the issues on your own that you sort of see and find.

So you have to learn how to approach things from a slightly different point of view. They often talk about how you as a trial lawyer have judges that, they are maybe more directly involved. As an appellate lawyer, you just look at things in a different manner.

RR: Were there other challenges that you faced as a justice on the Supreme Court that you did not have on the Court of Appeals?

EL: Well, I think you always realize that on the Court of Appeals that there's a chance that somebody at a higher level, appellate wise, will review your decisions. When you get on to the Supreme Court of a state, most of the time your decision is final. However, there are also situations where your appellate decision on the Supreme Court is viewed by the United States Supreme Court as it was in several of the cases that we had before them. So I think what you do

is you do the best you can at the level that you are, and you don't try to shape what you're doing with any idea other than reaching a correct decision.

RR: I think that hopefully there will be quite a few people that look at this interview or read the transcript who really have no knowledge about what an appellate judge does. Can you give a brief synopsis of how the appellate courts work?

EL: In Kansas, the Court of Appeals was developed to make appeals available to many more people at a more economic method. The Court of Appeals traveled throughout the state to hear appeals. You could hear lesser amounts. They enabled litigants to have a review in an easier and less costly manner. They also can appeal in every process, it enabled a final resolution of issues, and the number of cases that were coming up on appeal at the time the Court of Appeals was established was frankly somewhat staggering for the Kansas Supreme Court, and it enabled our justice system to serve more people in more matters in a quicker, more efficient, and better manner.

I think time has shown that that was a correct decision that was reached in the 1970s. The lawyers involved bring the issues up on appeal. They argue them. They're decided on appeal. Hopefully that all is a very fair process that is held in high regard by the public. Sometimes people say, "Well, I just wanted my views to be heard," and what we're doing at this time is essentially we're satisfying that obligation.

RR: And the Court of Appeals travels, as you mentioned, around the state in panels of three. The Supreme Court sits normally in Topeka. Occasionally they've gone to other locations in the state, but they sit all seven justices at one time. Do you think that's a good system?

EL: You know, I think the traveling situation has been proven to be an extremely good situation, and evidence of that is is that in the last number of years, the Kansas Supreme Court has done some traveling as well, going to different cases, places. They've been to Greensburg. They've been to I think southeast Kansas.

RR: Garden City.

EL: They've been to places that exist, and I can remember having courtrooms in small towns—northwest Kansas, southwest Kansas, southeast Kansas, all over with school children and big groups seeing the judicial system working. I think that's really one of the big advantages that we've had out of the establishment of the Kansas Court of Appeals.

RR: I think something I could insert here is there are no cases before either court that is not open to the public.

EL: I don't remember a time when we haven't had really a substantial number of people in any procedure that I was ever a part of, whether it be in a smaller community, a larger community. We have always had an audience which I think is very, very positive.

RR: Yes. If you can recall certainly during your long career, there probably are cases where you—that stand out to you for whatever reason. Maybe the difficulty of it or the interest in the case or whatever. Can you talk about any of those cases that you remember?

EL: I always thought that the most important cases that we did on the appellate level and even as I did as a private practitioner was those involving the conditions of people, specifically juveniles, a question that many people might not think would be as much of a moment as a statewide issue. To somebody whose custody, whose history, whose involvement, whose family-- I think that solving problems that involved individuals was always the most important.

Now the ones that got the most publicity, of course, were the statewide issues. As a Supreme Court Justice, we had the first death penalty cases that we'd had before. And those appeals have not only resolved here, but they eventually went to the United States Supreme Court. We had cases that involved important issues of administrative agencies, one, thinking back in the Supreme Court, involving whether or not an out-of-state group could buy Kansas Blue Cross and Blue Shield was a case that many people would think involved important things that not always did as well.

But every case is important to the people who are involved in it. As a lawyer representing people and as a judge or justice hearing them, you've got to treat every case as the most important thing that is in front of you at the time that you're there. If you do that, you somehow or other don't ration justice. You apply it equally. And having done that, I think that's the way you approach things.

RR: That's excellent. That's why you were a good jurist.

EL: I hope that's what people feel because that's always what I did from the time I started. I had good mentors. When you mentioned Norman Jeter, [Paul Wilson](#) was one of my very, very favorite law school professors, and Paul Wilson was a marvelous person in the state of Kansas. He is just a legend to all of us for [arguing the losing side](#) of one of our Kansas most important cases, but Paul, Professor Wilson was a mentor to us when we were law students.

Mentorship is a tremendously important thing, and I was blessed to have a great mentor in not only Mr. Jeter. Many of the judges and other lawyers who you have on other sides of lawsuits, they mentor you as well if you're smart enough to learn from them as you're both representing people.

RR: When you talked about high profile cases, often those or sometimes those decisions irritated some of the legislators or the Governor. Sometimes there was political pressure or at least it seemed like there was pressure. Did you ever feel that?

EL: I think that I was maybe blessed to be comfortable enough in my skin to realize that I was in a position where I was the best person, along with others, to make a decision over something, and that outside sources had absolutely nothing to do with the result that we should reach. We resolved those matters on what statutes said, on what the constitution said, on what prior

decisions have been, and I never in all the years that I served as an appellate judge really felt any outside pressure other than the inside obligation to get something decided correctly.

Now I always felt pressure when I was a practitioner representing somebody individually because they were my client. I had an obligation to them to do the absolutely best that I could do, and they had entrusted their problem to my skills, and that I think I always felt much more pressure back in those days than I did once I became an appellate judge.

RR: What did you like most, or one of the things you liked most, on being an appellate judge?

EL: Well, the relationship—you lose the relationship with your client, and that's something that you cherish as a practitioner. When you become an appellate judge, your relationship with the people that you serve with, the people that are your law clerks, the people that are on your panels, the individuals involved, the collegiality of serving a system and doing a job is the thing that is the most or always was the most important thing to me.

I learned to enjoy different personalities, different people, different views of things. Many of the people that you come on thinking that they have a certain view on things you find that they're essentially trying to do the same thing you are and that sometimes the process of conferencing cases helps you to make changes. Sometimes it helps you to think that you have to rely on a certain position. And in that case if you're in the minority, you dissent respectfully, and you treat everybody the way you like to be treated.

RR: What do you think might be the biggest challenges today for the judicial branch just going forward? Things have changed over time from when you first started.

EL: I think probably the judicial branch like the country has changed because of the polarization of political views all over America. We're much more extreme I think in our views, and people have a tendency to try to impose that on the judicial systems. I think it's tremendously essential that the judicial departments all over America try to continue to view things as they have traditionally viewed them and not be drawn into what is happening in our political world.

I realize that maybe the idea of [whether you elect judges or appoint judges](#) might be sort of a microcosm of that situation. I don't think it's a good idea to have a judicial system which has to rely on the political parts of society. I think in terms of conferences that I went to as an appellate judge where justices and judges from other states had to essentially run political campaigns. I think that's probably a difficult situation. I think we've been blessed here in Kansas since the [infamous triple play](#) which occurred as I was a law student actually in the 1950s and that we've essentially appointed judges and justices. I think that system has worked extremely well. I realize it's under some attack at times. We've had essentially a sixty, seventy year, a pretty good run with a system that's worked quite well.

RR: You and I have both worked with a lot of judges, you with colleagues and I worked for the judges. But I think the quality that we have in Kansas is excellent.

EL: You know, one thought process in this room we're sitting in is that justices on the Supreme Court a long time ago served probably too long because we didn't have a retirement system. So I think that one of the things that we've got to give the State of Kansas credit for in helping our judicial system is establishing and making judge and justices a part of a retirement system where you're able to serve hopefully honorably up until a period of time and that you can retire with dignity and benefits and not continue to serve probably longer than you should. And I think that's been a very, very positive thing for our judicial system.

RR: If you—well, you have this chance when I ask this question. If you think of anything about the appellate courts that you would like people to know that you don't think that they know--how it operates or—

EL: I think we've done a pretty good job of informing people about our work in the justice system. We need to realize that that extends over a very, very long situation from the lowest decision of a person becoming involved in an individual controversy to a law enforcement officer arresting somebody for a violation up to the highest decision of our appellate court. It's a huge area that we cover of people's involvement with other people.

We don't emphasize any one particular part over the other. I think we work hard to license attorneys that represent people. One of the things that I did that I always enjoyed was to be on the group that gave the bar exam in Kansas, involved in hopefully that we put people out to practice law that knew what they were doing and did the right thing to help people. We do the best we can, and I think that people generally know that they have a justice system that strives tremendously hard to give service to everybody.

RR: I know on the Supreme Court as opposed to the Court of Appeals, one of your duties has to do with administrative work. Can you describe what that entailed?

EL: Well, they divide up the judicial areas over the State of Kansas, and each justice is responsible for a particular area. And while the overall administration work is largely done by the Chief Justice along with other places, at the statewide level, each individual justice has responsibilities for the district judges. I remember going out into the area of my responsibility and helping with the selection of new judges and doing things and being able to be available for those district court judges at times when maybe they had a question that they could ask you and hope that you could respond to.

Actually my administrative involvement as a Supreme Court justice, I never really felt that it was a very burdensome situation or something that I did a lot of. Many times what happens in administrative while I was here in Topeka was dealing with the legislature. More important in thinking about that, I became a Supreme Court Justice at the time when [Justice Kay McFarland](#) became the Chief. So my experience in the seven years that I served on the Supreme Court involved with Justice McFarland and how she worked. She was very effective I'd say as an administrator. I always appreciated the fact of everything that she did during that period of time.

RR: And she was the first woman Justice.

EL: Her appointment I think took place, I don't know what year, but by the time I was appointed in 1995, she had worked herself up to where she was Senior Justice on the Supreme Court, and she had maybe been on it for twenty years.

RR: Quite a while. I don't recall.

EL: I don't remember the exact time.

RR: The Supreme Court was located at the Capitol Building at the time she was appointed.

EL: I know that for sure.

RR: We moved here in '78, I think. So she served a long time.

EL: [Bob Bennett](#) was the governor who appointed her.

RR: Correct.

EL: Whatever that situation was. We have a tendency over time to sort of remember eras but not specific years.

RR: Right. Is there anything else that you would like to talk about that we haven't covered?

EL: In thinking back, I did suggest that—I became #7 on the Supreme Court, and the Court didn't change in number from the time I went on until I left, and that started with the beginning of our first woman Supreme Court Chief Justice which I think was very significant. And to now, one of the things that has happened tremendously to the law practice all over the state in the years that I've been involved is the tremendous change in diversity, principally of women being involved at all levels and practice of law, and the judges at the district court law, at the appellate level, and at others. So that's been a tremendously significant change. I think maybe today the beginning law school classes at Washburn and the University of Kansas are maybe pretty much equally divided. So one of the big things that we've seen is the involvement of women in the judicial system much to the better in my mind.

I think that we've become much more technically involved. The ability to handle things in the middle of a pandemic problem and doing things electronically even though many of us feel very electronically challenged as I tell people I am. But our whole system is able to function, and people have much more involvement. You can get online. You can find things. You can do things. You don't have to get in your car and drive to Topeka to have things happen. So those have been tremendous changes.

Maybe finally is this, I began at the time when we were in a deep Depression in Kansas. So while we've had up and downs economically, we're in a much better position today than we certainly were at the time I was born.

RR: Well, Justice Larson, you and I have been friends for quite some time. It's such a pleasure to have the opportunity to visit with you about your career, and I appreciate your taking that time to have this interview. It will be preserved. Anybody around the world can watch this interview and maybe glean some information about how our system works in Kansas, and how significant the judicial branch is in the State of Kansas.

EL: Well, I've been very blessed in terms of my time and experience, beginning with law school and ending during these years. That's been very significant to me, and having an opportunity to be a lawyer and be involved in all of these systems has been, along with my family, the most important part. So I'm pleased to have been able to have done this and to tell anybody looking at this that the judicial system is full of people who in the entirety I think do the very, very best that they can.

RR: I started to conclude this, but I thought you should have the opportunity to shout out to your family. So if you could describe your family.

EL: My wife made the transition here. My children have supported me. I've been blessed with grandchildren. As I finish this interview, I've indicated to you that I'm about to be blessed next week, I think, I hope, with my first great-grandchild. So certainly that's a big involvement along with everything. Everything that happens to us career-wise, family-wise are equally important.

RR: It's a pleasure to talk to you. Thank you very much.

EL: Thank you. And I thank you.

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