

Six of the Greatest: A Tribute to Outstanding Lawyers in Colorado History

This is the twentieth year that The Colorado Lawyer has honored outstanding deceased attorneys in Colorado. These lawyers were chosen by the Colorado Bar Association Awards Committee from nominations and suggestions submitted by members of the Bar and others.

The Awards Committee, chaired by Ben Aisenberg, selected the following lawyers because, during their careers, they exemplified the high ideals of the legal profession; made significant contributions to the Bar Association; were of aid and assistance to other lawyers, particularly younger lawyers; were active in civic and community affairs; were instrumental in accomplish-

ing some significant changes in the law; promoted public confidence in the legal profession; demonstrated confidence in the practice of law; or were otherwise notable in their careers. Those chosen had to have passed away a minimum of ten years ago.

The Awards Committee needs your assistance in identifying individuals who should be recognized each year. *If you knew someone you believe to be eligible for inclusion in this feature, please send your nomination to the CBA Awards Committee in care of Diane Hartman, Colorado Bar Association, 1900 Grant St., Suite 900, Denver, CO 80203-4336, or call her at (303) 824-5312 or (800) 332-6736, or e-mail: dianeh@cobar.org.*

Alfred A. Arraj

by Robert J. Kapelke



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Robert J. Kapelke is a Judge on the Colorado Court of Appeals and a former law clerk of Judge Alfred A. Arraj.

His former colleague, U.S. District Judge Richard Matsch, described him as “the personification of the ideal trial judge.”¹ The late U.S. Supreme Court Justice Byron White called him “the ideal person the framers had in mind” when a federal judiciary was created to be an independent branch of the government.² U.S. District Judge John Kane, another former colleague, once flatly pronounced that Al Arraj was “the greatest judge in America,” adding, “He’s kind, compassionate, very disciplined. He’s our teacher, our role model, our inspiration. He’s totally fair.”³

Alfred A. Arraj proved that the measure of a great trial judge has nothing to do with headline grabbing or making a big splash. He earned the respect and admiration of his colleagues and the Bar without having presided over a “trial of the century” or hav-

ing written that definitive scholarly opinion on the critical issue of his time. He won his reputation by simply showing up every day, devoting all of his considerable skills and attention to the job, and giving every litigant a fair shake.

Judge Arraj made it all look easy because he loved his work. He also loved people. Each day he brought to the courtroom his common sense, keen open mind, quick wit, dedication to public duty, and compassion. Judge Matsch summed it up nicely: “Simply stated, he knew who he was, what he wanted to do, and why he wanted to do it.”⁴

At the Start

Born in Kansas City, Missouri, on September 1, 1906, Alfred Arraj spent most of his childhood in Swink, the small farming

community in Colorado’s Arkansas Valley. His high school graduating class had four members, one of whom was his brother. The young Al and two of his cousins ran a booming bicycle repair business. The cousins’ job was to do the repairs; Al’s job was to bring in the business, do the paperwork, and never try to fix anything.

Following his graduation from high school, Al Arraj attended the University of Colorado where he earned his LL.B. degree in 1928. It was during his college years at CU that he began a lifelong friendship with Gordon Allott, who later became a U.S. Senator and played a pivotal role in his life.

Law degree in hand, the young Al Arraj initially worked with a Denver law firm, earning a lavish \$15 a week. Believing he needed a more comfortable salary to mar-

ry Madge Connors, his fiancée, he “jumped into his robin-egg blue Model-T Ford called ‘Blue Duke,’ and headed back to Swink.”⁵ He landed a \$200 per month salary with a firm in nearby Springfield, Colorado, and he and Madge married in November 1929. Madge remained his anchor and soul mate for the next sixty-three years; she became the mother of their daughter, Sally Arraj Holford, and grandmother of Sally’s daughter, Kate.

Al Arraj maintained an active practice in Springfield until 1942, when he enlisted in the Army Air Corps following the attack on Pearl Harbor. Stationed in Calcutta, India, and Karachi, Pakistan, he served for nearly three years and ultimately attained the rank of major. At the end of the war, he returned to Springfield and resumed his practice.

Beginning of a Judicial Career

Al Arraj served as County Attorney of Baca County and as City Attorney for Springfield and Walsh, Colorado, for more than ten years. He was a Deputy District Attorney in the Fifteenth Judicial District from 1946 to 1948.

In 1948, he was elected District Judge for the Fifteenth Judicial District, a rural area where, as Judge Matsch has aptly observed, he was a “man of the people,” a “friend and neighbor they could trust.”⁶ His 1954 reelection was without opposition.

One of Al Arraj’s favorite stories from his tenure as a state district court judge captures his devotion to judicial duty. On his way to Lamar one morning, he discovered the bridge had been washed out by a severe storm. Returning home, he grabbed his hip boots and phoned his clerk to meet him on the other side of the stream. He then drove back to the stream’s edge. With his briefcase and shoes held over his head, he forded the stream, arriving at the courthouse right on time, as always. As he loved to say with his broad grin, “Come hell or high water, old Al Arraj will be there.”⁷

He also liked to recall the day when a criminal defendant, who was on the stand and sitting right next to him in the small courtroom, attempted to duck a tricky question by responding, “Hey, Judge, I object . . . how ‘bout you?”

During his years in private practice and tenure as state district judge, Al Arraj took a leadership role in his profession. He served as president of the Southeast Colorado Bar in 1940, senior vice-president of

the Colorado Bar Association in 1950, president of the Colorado State District Judges’ Association in 1954, and as a member of the Board of Governors of the Colorado Bar Association from 1955 to 1958.

In 1957, President Dwight Eisenhower appointed him to the U.S. District Court for the District of Colorado, an appointment enthusiastically spearheaded by his old friend Senator Allott and applauded by the Colorado legal community.

Nineteen years later, Judge Robert McWilliams of the Tenth Circuit Court of Appeals served as presenter at a ceremony for the hanging of the official portrait of Judge Arraj in Courtroom A of the U.S. Courthouse in Denver. On that occasion, Judge McWilliams described the honoree as “a truly great judge,” who “has been a great judge for a long time.”⁸ Those in the courtroom that day probably would not have been surprised to learn that Al Arraj would continue to be a great judge for another sixteen years, right up to the time of his death in 1992 at age 86. His thirty-five-year stint on the federal district court is the longest in Colorado history.

At that portrait-hanging ceremony, Judge Arraj wryly observed with a twinkle, “I suspect that when the news gets around in Denver that they hung Judge Arraj down at the courthouse, there likely will be a ‘hot time in the old town tonight.’”⁹ From 1959 to 1976, he was Chief Judge of the court or, as Judge Fred Winner preferred to call him, “Boss.”

The Complete Judge

Over the course of his long career on the federal bench, Judge Arraj had to break in nearly forty law clerks, each a shiny new law grad anxious to change the legal world in a single year. The Arraj clerkship was a special experience. Tom Whittington, one of the judge’s first clerks, expressed the sentiments of most in saying, “I would not trade that period of time for any other time in my life.”¹⁰

Judge Arraj did not look for “yes persons” in his law clerks. As Chris Bearman, another former clerk, put it, “The Judge was a devout Republican who only tolerated Democrats, which is what many of us law clerks are. He always bragged that he liked for his law clerks to be Democrats because it virtually guaranteed that he would be forced to consider every silly idea before he made a decision on a case.”¹¹

The special bond Judge Arraj developed with his clerks led to camaraderie among them, as well. At what became annual gatherings, the clerks joined the Judge for

a special dinner at which roasts and toasts were the order of the day. Each clerk would celebrate the hero of Courtroom A by sharing war stories, a pastime Judge Arraj always called “swapping lies.” On these occasions, the Judge himself, of course, always managed to get in the last—and best—laugh. After a little coaxing by his clerks and a swig or two of bourbon, the Judge would sometimes even break into song. Two of his favorites were such jazzy 1920s tunes as “Fire, Fire” and “Sadie Green (the Vamp of New Orleans).” The law clerks’ shared memories and anecdotes provide a warm and revealing portrait of Judge Arraj on and off the bench.

Modesty and Dislike of Pretentiousness

During the clerkship of Jim Scarborough and Russ Rowe, Judge Arraj presided over a criminal bank fraud case involving high-profile defendants and flashy attorneys. Each day at noon, two chauffeur-driven limousines swept up to the curb in front of the courthouse. One chauffeur opened the door for a defendant and the other, for one of the attorneys. When his law clerks called this daily little drama to his attention, the Judge gleefully adopted their suggestion. Jim drove the Judge’s battered little white ’64 Corvair behind the limousines and held the door open for the Judge, who smiled and waved to the astonished chauffeurs. For the duration of the trial the limos were nowhere to be seen.

On another occasion, Judge Arraj had agreed to handle a contentious trial in Cheyenne, Wyoming, for Judge Ewing Kerr who had been having health problems. On the first day of trial, Judge Arraj and his law clerk entered the judges’ elevator and were greeted by two women who apparently worked in the clerk’s office. One said, “So, you guys are sneakin’ a ride on the judges’ elevator too, huh?” The Judge grinned and whispered conspiratorially, “Yeah!”

Courage and Compassion

Katherine Clark, another former law clerk, was coming out the back hall from the courtroom one day with Judge Arraj when a formidable man in army fatigues came up to the Judge and growled, “Are you a judge?” Since the Judge was in his robe, a plausible denial was out of the question. The man began ranting about not having enough money to file for Social Security benefits, which he blamed on the federal system. When the Judge asked him if he had any money at all, the man men-

acingly drew a knife from his back pocket and said it was his only thing of value.

As Catherine recalls it, "Judge Arraj calmly told the man to replace the knife in the pocket, reached under his robes, removed his wallet, and handed the man ten dollars. The man was delighted and thanked the Judge profusely. Judge Arraj said he was welcome, wished the man well, and urged him to seek employment. The Judge returned to chambers chuckling that famous chuckle, and shaking his head."¹²

Industry and "Patience"

Shortly after Judge Zita Weinshienk was appointed to the federal bench, she asked Judge Arraj how much vacation time the judges took. He replied, "Well, I took seven days in the last fourteen years."¹³

Each year, the Judge would tell his law clerks that when he was working hard, he expected them to be doing the same, but when he was "goofing off," they were free to do so, as well. The "goofing off" periods were, of course, few and far between.

His national reputation as a judicial workhorse was recognized in *The Benchwarmers*, a book about the federal courts.¹⁴ Arraj often arrived at his chambers by 7 A.M., and stayed until evening. Eager to use every available moment of courtroom time, he once scheduled three criminal jury trials in one day, to the horror of the U.S. Attorney's Office. All three trials resulted in acquittals.

When he acquired senior status in 1976, he continued to maintain a full workload, refusing to slow down or just "smell the roses." He was always meticulously prepared for legal arguments, "with briefs and cases piled beside him on the bench and marked to places where he had a point to make or a question."¹⁵ He expected the same level of preparation from the lawyers who appeared before him. All too often, they failed to cooperate. To help control his dander on such occasions, Judge Arraj kept before him on the bench a well-worn little sign bearing the legend, "Patience. Patience. Keep your damn mouth shut." Sometimes even the sign failed to do the trick.

Many an ill-prepared or argumentative lawyer learned a life lesson in Courtroom A. As Chris Bearman has noted, the Judge's occasional temper tantrums could be avoided. "You could see them coming because his face would get red, and if you kept going along the same line the red would creep to the top of his head, at which time there would be trouble."¹⁶ Most lawyers who incurred his wrath later realized it was justified.

Trial lawyer Dan Sears, Colorado's first federal public defender, became a close friend of Judge Arraj, as well as his sometime attorney. Dan's judicial client steadfastly refused to believe his little Corvair was "unsafe at any speed." Thus, his driving antics would sometimes land him a traffic ticket. Dan recalls the sentencing remarks of a Denver County Court judge: "You know how many times I have been berated by Judge Arraj? Do you realize this provides me a perfect opportunity for retribution?" He then concluded: "... and do you realize the great respect and admiration I have for that man? \$15.00—suspended!"¹⁷

Common Sense and A Keen Mind

Judge Arraj sent for his law clerk during a pretrial conference with several prominent Chicago and New York attorneys in a complex patent dispute between the manufacturer of Gaines Burgers and the maker of Ken-L Ration Burgers. He then proposed his creative alternative dispute resolution plan to counsel. "My law clerk here has a little dog at home. Suppose we just put down two bowls filled with your respective dog foods. Whichever one the dog chooses is the winner." That practical suggestion prompted laughter, but was not accepted.

Another former law clerk, Randall Weeks, has stressed one of the Judge's key skills: "his hunter's eye for targeting the heart of an issue, whether legal or factual."¹⁸ By keeping his eye on the target and the attorneys on track, Judge Arraj always managed to stay on top of his docket and even find time to help his colleagues when necessary.

At the end of a lengthy trial to court, he would typically make detailed oral findings of fact and conclusions of law. His findings would include significant details that had escaped nearly everyone else in the courtroom. He seldom took matters under advisement. By ruling promptly, he kept his docket clean and his decisions fresh.

Logic and wit were two more of the Judge's gifts. In 1967, Don MacDonald, a former federal prosecutor, was representing the first defendant charged in Colorado with illegal possession of LSD. MacDonald filed a general motion to dismiss, which Judge Arraj set for immediate hearing without waiting for the filing of the supporting brief. The Assistant U.S. Attorney assigned to the case, Don Cordova, now Chief Judge of the Bankruptcy Court, was

thus totally in the dark when he came into court to argue against the motion.

Don MacDonald asserted there had been no scientific evidence establishing that LSD was a dangerous substance within the letter and purpose of the federal statute. In response, the flustered Cordova argued, "Well, your Honor, I read in a magazine recently that an elephant was injected with LSD. The elephant died. Therefore, it's clear that the purpose of the statute . . ." Judge Arraj finished the sentence for him, "is to protect elephants?"

Mentor and Friend

To his law clerks and colleagues, Judge Arraj was always willing to act as a mentor. Mostly, he taught by quiet example and with a few well-chosen words. A master of the art of "plainspeak," he would circle words in a law clerk's draft, noting he did not want to use words he had to look up in the dictionary.

To the surprise of Jim Scarboro, Judge Arraj once accepted Jim's invitation to share some thoughts with the lawyers in his firm. With characteristic precision, the Judge offered these tips for achieving suc-

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cess in the courtroom: "Be prepared; be courteous; and be honest with the court." As Jim later noted, "I doubt there is anyone who can improve on this prescription."¹⁹

Steve Briggs, another Arraj law clerk and a former Colorado Court of Appeals Judge, summed up his clerkship experience: "I learned the nature of a human being who brought justice to the law with compassion for those to whom it was applied, without ever feeling the need to take himself, or the things about him, too seriously. Of all the lessons learned, this is surely the most important."²⁰

Law clerks were not the only ones who cherished their employment and friendship with Judge Arraj. Significantly, his secretary and dear friend Ginger Wentz stayed on board for many years, as did his court reporter, Donna Spencer. That young fellow he hired for the Clerk's office in 1962, Jim Manspeaker, remains on the job today.

A Supportive Family Man

Sally Arraj Holford, the daughter of Al and Madge Arraj, recalls her father as a good-humored and loving dad, who was a bit strict. He taught her the value of a good education and was a great study partner. He would sometimes help her with homework while watching one football game on television and listening to another on the radio. Sally graduated from Colorado College and became an educator. Kate Holford, daughter of Sally and her husband Tom, recently graduated from Cherry Creek High School and will be attending the University of Southern California in the fall.

Kudos and Memorials

In recognition of his contribution to the legal profession and to his state and nation, Judge Arraj received several significant awards. These include the Norlin Recognition Award for Distinguished Achievement, the highest award presented to alumni of the University of Colorado, and the William Lee Knous Award "for outstanding achievement in the field of law," the highest award presented by the CU School of Law. In 1977, the University conferred upon him an honorary LL.D. degree.

Judge Arraj died on October 23, 1992. Before his death, he requested that there be no eulogies or tributes to mark his pass-

ing. Posterity and the Colorado legal community have conspired to ignore that request.

The Congressional Record of July 26, 2000, memorializes the following action by the House of Representatives: "The United States Courthouse . . . located at 901 19th Street in Denver, Colorado is hereby designated as the 'Alfred A. Arraj United States Courthouse.'"

Scheduled to open for business in November 2002, the new ten-story courthouse is made of limestone and buff brick, accented by a glass entry pavilion—rock solid, but open to the world, like Judge Arraj himself.

Other fitting memorials to the good judge have sprung up as well. On March 5, 1993, Dan Sears announced on behalf of the Colorado Chapter of the American College of Trial Lawyers the creation of the Alfred A. Arraj Advocacy Award. The College presents the award periodically to "an outstanding trial lawyer who has been in practice for less than fifteen years, and who exhibits those qualities of trial advocacy most admired by Judge Arraj, including skillful courtroom presentation, legal competence, preparedness, personal integrity, and professional ethics and decorum."²¹

In 1993, the Alfred A. Arraj Inn of Court was formed in Denver as part of the American Inns of Court program, dedicated to professionalism and legal skills mentoring. Each month, the sixty or so Inn members, who are judges, lawyers, and law students, meet to explore legal topics and to enjoy some camaraderie—in the words of the Inn's namesake, "to swap a few lies."

The CU School of Law dedicated a permanent display honoring Judge Arraj in May 1993. Each year, the law school awards Alfred A. Arraj scholarships to deserving first-year students. The former law clerks of Judge Arraj provided the original funding for the scholarships.

A Momentary Loss Of Composure

Another Arraj law clerk, Rod Patula, was on hand at that rare moment when Judge Arraj became nonplussed in the courtroom. When the Judge came on the bench for a motions argument, a woman stood up and announced she was the wife of one of the lawyers who would be arguing. Informing the Court that her husband was

blind, she asked permission to come with-in the bar and help him to the podium. Permission was readily granted. At the conclusion of the hearing, at which her husband prevailed, the woman walked briskly to the bench and extended her hand. "I just want to shake the hand of the Court. The Court is a real peach."²²

According to Rod Patula, "The Court thereupon turned the very shade of a ripe peach. As he quickly left the bench, his Honor was asked by Donna Spencer, his court reporter, if he would like anything deleted from the record. He simply smiled and shook his head slowly from side to side."

Somewhere in the federal archives there lies a transcript that puts it all in a nutshell: The Honorable Alfred A. Arraj was a "real peach."

NOTES

1. *Proceedings in Memoriam, Alfred A. Arraj*, 855 F.Supp. LXVII, LXXXI (D.Colo., May 11, 1993).

2. *Id.* at LXXXVII.

3. Lindsay, "30 Years on Bench Honored," *Rocky Mountain News* (Aug. 3, 1987) at 10.

4. *Supra*, note 1.

5. Lindsay, "Fellow Jurists Roast, Applaud Judge Arraj," *Rocky Mountain News* (Aug. 7, 1987) at 50.

6. *Supra*, note 1 at LXXXII.

7. *Supra*, note 3.

8. *Proceedings for Presentation of a Portrait of Alfred A. Arraj*, 431 F.Supp. 1, 9 (D.Colo., Sept. 24, 1976).

9. *Id.* at 11.

10. Letter from Thomas W. Whittington to author, March 11, 1977.

11. *Supra*, note 1 at LXXXVI.

12. Letter from Katherine M. Clark to author, May 6, 1993.

13. *Supra*, note 5.

14. Goulden, *The Benchwarmers: The Private Word of the Powerful Federal Judges* (New York, NY: Weybright & Talley, 1974).

15. Remarks of James Scarboro at dedication of display honoring Judge Arraj at University of Colorado School of Law, May 11, 1993.

16. *Supra*, note 1 at LXXXVI.

17. *Id.* at LXXXIX.

18. Recollections of Randall Weeks, May 11, 1993.

19. *Supra*, note 15.

20. Letter from Steve C. Briggs to author, Feb. 21, 1977.

21. *Supra*, note 1 at LXXX-LXXXI.

22. Letter from Rodney R. Patula to author, March 11, 1977. n

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