



The Sixth Judicial District Court judges are unique. This is the only district in Nevada where both the judges are native Nevadans. Judge Richard Wagner was born in Hawthorne, Mineral County, while Judge Mike Montero was born in Winnemucca, Humboldt County. In addition to their native Nevada births, the judges both married their college sweethearts.

Even their elections were similar. They began their "elected" careers in high school, where they were

elected student body presidents. They continued their electoral successes when they were elected to the District Court bench. Wagner and Montero won their first judicial elections in contested races, when incumbent District Court judges retired. Although judicial offices are non-partisan, both judges are members of the Republican Party.

Despite their native births and election similarities, they traveled to the bench on very different roads.

NATIVE SONS AND STUDENT LEADERS ARE THE CIRCUIT-RIDING JUDGES IN THE SIXTH JUDICIAL DISTRICT COURT

BY PATTY CAFFERATA, ESQ.



Photo of Judge Wagner by Dixie McKay

Judge Richard A. Wagner

Richard Wagner's home and chambers are located in Lovelock in Pershing County. Wagner proudly gives tours of the historic courthouse, mentioning its recent restorations. He points out that most of the furniture is original and that the county commissioners' chambers display interesting memorabilia regarding the county's development. Wagner spent most of his legal career in the Pershing County courthouse, first as a deputy district attorney and as an attorney in private practice, then as district attorney and finally as the District Court judge.

While Wagner worked his way through law school as a plumber and by managing apartment buildings, he aspired

to become a prosecutor. Wagner's favorite courses and professors in law school were the basis for his successful legal career. Rollin Perkins, who wrote the hornbook on criminal law, taught Wagner this subject. William Prosser, author of the hornbook on torts, taught Wagner's torts class. He describes Prosser as an elegant teacher of the old school, who wore dark, three-piece suits to class.

After law school the position of deputy district attorney opened in Lovelock and Wagner went to work for Ronald Belanger, the district attorney of Pershing County. When Belanger retired in 1974, Wagner filed for district attorney. He was unopposed in that bid and in the next three elections.

Recognized as a prosecutor's prosecutor, Wagner received the William J. Raggio award from the Nevada Advisory Council for Prosecuting Attorneys in 2008. This award is presented annually to a current or former prosecutor who contributed significantly to the improvement of the administration of justice in Nevada.

After 16 years as district attorney, Wagner ran for District Court judge when Judge Llewellyn Young retired. Four lawyers filed for the open seat in 1990. Wagner topped the primary ballot by 28 votes over Jack Bullock, Humboldt County's district attorney, beating out C. Lee Armstrong and Rupert Schneider. In the general election, Wagner won by 1,191 votes. He was unopposed in his next two elections.

Since his election to the bench, Wagner commutes to Humboldt and Lander counties for court. He drives about 1,500 to 2,000 miles a month in a state vehicle. About five years ago, he was involved in a roll-over accident. A driver behind him, blinded by the rain, ran off the road into the median, over-corrected and came back on to the road, hitting Wagner's car on the driver's side and causing his vehicle to roll over. Fortunately, Wagner escaped serious injury.

Wagner has been appointed to sit in other judicial district courts, when the local judges have had conflicts in divorce cases or in family disputes involving prominent members of the community. He has also participated in six death-penalty cases, mostly in Reno and Las Vegas, on three-judge panels. (These panels are no longer conducted.)

Wagner's most unusual case as district attorney was the prosecution of a rancher accused of shooting a buffalo. The buffalo wandered onto the rancher's land, so the rancher shot it. The rancher paid a fine for killing an animal belonging to someone else.

His most interesting and legally challenging case as a district attorney was the prosecution of mass-murderer Gerald Gallego. Gallego killed nine young girls and one young man in Oregon, California and Nevada. The sex-slave case garnered national media attention in 1984. In addition to the media scrutiny, the case was also attended by safety concerns; Gallego's brother had previously broken Gallego out of a California prison. The brother's whereabouts were unknown. As a precaution, snipers were stationed on the roofs of the Pershing County courthouse and a nearby post office. Trained to shoot a hand-gun, Wagner packed a .38 caliber pistol during the six-week trial and his family was provided with additional safety.

Wagner says, "The best part about being a judge is the people and staff I work with in the three courthouses." He is impressed with lawyers who research their cases, are prepared and do not resort to theatrics. He is not impressed with boisterous attorneys, or "chest-beaters," who think shouting more loudly than opposing counsel is a winning strategy.

If there were one thing Wagner could change about Nevada's legal system, it would be for the Nevada Supreme Court to recognize the separation of powers doctrine between the District and Supreme Courts. He feels that the current

Nevada Supreme Court seems to be attempting to interfere by creating additional rules for the district courts.

According to Wagner, the Sixth Judicial District Court is unique because of the interesting mix of farmers and mine workers in the district. He says it is an area settled by fine families, where people can feel safe, secure and free.

JUDGE RICHARD A. WAGNER

Born: Hawthorne, Nevada, 1944.

Graduated: University of California Hastings School of Law, California; B.S. in political science, Utah State University, Utah; Mineral County High School, student body president.

Nevada Background: His paternal grandfather, Hugo, was of Germanic descent. A copper miner, he moved from Montana to Nevada around 1900. Hugo married Wagner's Irish grandmother, Mary, in Tonopah; they settled in Luning. After he died, she moved to Hawthorne, so her two sons could attend high school. His late father Marvin, a Roman Catholic, owned and operated the Wagner Hardware Store in Hawthorne.

Wagner's mother Doris Tobler's family moved from Utah to Mesquite, Nevada, around 1890. The Swiss/English family experimented in growing grapes, cotton and other products. Ninety-one-year-old Doris Wagner resides in a care facility in St. George, Utah near Wagner's older sister Katherine, a retired school teacher. His younger sister Arlene lives in Hawthorne and his youngest sister Carol (also a retired teacher) lives in Lund, Nevada.

Family: Wagner met his wife Carlene at Utah State in Logan, Utah. They were married in the Church of Latter-Day Saints (LDS) Temple in Logan in 1968. Carlene owns and operates a flower shop.

They are the parents of seven children and grandparents of 18. Their children in the order of birth are: Wendy Nelson, who works for Wells Fargo Bank; Kristiana Dominguez and Jennifer Tippens, both teachers; Richard C. Wagner and Michael Wagner, who work for different mines; Carl Wagner, who works for an industrial clean-up company; and Rachael Leavitt, also a teacher.

Hobbies: Scouting, woodworking and building and remodeling houses.

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CIRCUIT-RIDING JUDGES IN THE SIXTH JUDICIAL DISTRICT COURT

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Photo courtesy of Michael Montero.

Judge Michael R. Montero

In January 2009, Mike Montero was sworn into office. The year before Montero had learned that District Court Judge John Iroz, a friend of his, had decided not to run for re-

election. Montero saw this opening an opportunity to “go home” to rural Nevada and Humboldt County.

Montero practiced law and lived in Reno at the time. After he filed for the seat, a Humboldt County resident contacted the secretary of state to complain about his lack of residency. The attorney general filed a complaint to remove Montero from the ballot, alleging he was not a resident of the district. Second Judicial District Court Judge Patrick Flanagan ruled in Montero’s favor. The Nevada Supreme Court upheld the District Court.

Montero won a five-way primary against Jim Shirley, Pershing County District Attorney, and attorneys Bob Dolan, Kent Maher and Bill Schaeffer. In the general election, Montero beat Maher by 2,677 votes.

Montero’s life leading up to the bench involved widely varied occupations and activities. In college he worked odd jobs in places like health clubs and sale barns, and at one time, he was even employed as an assistant rodeo coach. Montero took time off between college and law school to work on the family ranch. His father encouraged him to attend law school.

His favorite courses in law school were related to real property, and included natural resources, water and environmental issues. His favorite professor was Linda Elrod, property and family law professor. During law school, Montero worked for the Kansas Department of Revenue, Alcohol Beverage Control. As a student he held a conditional law license and appeared in administrative proceedings to prosecute violators in the “dry” counties. He also worked for a lobbyist at the Kansas Legislature and on the law review.

Additionally, Montero served as a regional chair of the American Bar Association (ABA) in the Law Student Division. He became the editor-in-chief of the ABA’s *Family Law Quarterly*. Mike was also the BAR BRI representative.

Montero’s heroes and mentors included his father and three attorneys. From his father he learned to love the

ranching business and politics. Pete Durney, Dave Grundy and John Echeverria, the lawyers he practiced with, inspired him to become a trial lawyer. A longtime family friend, Montero knew Durney before law school. Montero sees him as the epitome of a good trial lawyer. Close friend Grundy was a true mentor and “father figure” in the law to Montero. A superb trial lawyer, Echeverria showed Montero how to be a tactical lawyer: to look at the law and apply it to life in an ethical fashion.

Montero practiced for 10 years with Lemons, Grundy & Eisenberg, primarily in the area of defense litigation. He became a partner after five years. Then, he worked with Echeverria as a plaintiff’s attorney until being elected as a District Court judge.

Since becoming a judge, he has presided over three jury trials – a high-speed chase, a burglary and a drug case.

Montero believes that the criminal cases are among the more interesting matters he handles. Every party has an attorney, the Parole and Probation Department prepares a report on the major felony cases, and the law is mostly statutory. These cases are challenging, but the checks and balances in the system assist in deciding these matters.

Montero says, “The decisions in family matters can be heart-wrenching, with emotional difficulties for the families and the children involved.” Being concerned about NRS 432B cases, Montero appoints an attorney and a juvenile probation officer to act as a guardian ad litem, and holds three-month reviews in these matters.

Montero says, “the best part of being a judge is being in control of what happens in the courtroom.” He is impressed with attorneys who are prepared and focus on the issue at hand and do not talk about unrelated issues. His first pet peeve is lawyers, parties and witnesses who chew gum in court. His second is lawyers who do not treat the office of District Court judge with respect. When this happens, he explains, the whole legal system deteriorates. He feels that proper attire and demeanor are necessary in the courtroom, even in the rural districts: while in the courtroom, male attorneys should wear jackets and have their ties knotted. Legal traditions are important and impress the parties with the system.

If Montero could do one thing to make the legal system better in the rurals, he would arrange for the use of advanced technology, such as case management systems, video conferencing, e-filing and an online system, so he could look up filed documents. The difficulties in the rural areas include

lack of access to justice because there are no pro bono lawyers and no legal aid groups to assist parties. The rural areas could use more lawyers.

Montero described the Sixth Judicial District Court as rural and vast, stretching from Austin in the south to McDermitt in the north, from Lovelock to Battle Mountain.

Conclusion

Sixth Judicial District Court judges Richard Wagner and Mike Montero are extraordinary. This is the only District Court in Nevada where both judges are native sons. Wagner and Montero live and work in north-central Nevada because they love the rural lifestyle and communities. They ride their circuit almost every week, spending one to three hours a day on the road to and from court, without complaint.

JUDGE MICHAEL R. MONTERO

Born: Winnemucca, Nevada, 1966.

Graduated: Washburn School of Law, Kansas; Oregon State University, Oregon, degree in agricultural economics and student body president; Albert Lowry High School, student body president.

Nevada Background: Montero's Basque ancestors moved from the Pyrenees to Nevada around 1918. His grandfather Ramon eventually purchased one of the Miller and Loux ranches. Concerned about his legal status, he incorporated his ranch in 1923 as the Pine Forest Land & Stock Company. His father's family was Spanish Basque on his grandfather's side and his grandmother's family was French Basque. His late father Laurence's nickname was "Frenchy." His mother Suzanne Smith Montero's family owned riding

stables in Griffith Park below the famous Hollywood sign in southern California. Suzanne moved to Nevada when she married Montero's father, and continues to live on the family ranch in northern Humboldt County.

Family: Montero grew up with four brothers and a sister. In order of birth they are: Glynn, Mike (Judge Montero), Julian (deceased), Leonard, Daniel and Suzanne. Mike met Jeanette Doubek at Oregon State College. They were married by the Catholic chaplain in an outdoor ceremony at the family ranch in 1993. They are the parents of three daughters, Meg (age 12), Madison (age 10) and Julianne (age 7).

Hobbies: Ranching, branding, Reno Rodeo Association, piloting and Civil Air Patrol. **NL**