

RUDOLPH J. GERBER

BIRTH: 10/25/38, St. Louis, Missouri
Currently live in Phoenix, Arizona

PROFESSIONAL LEGAL EXPERIENCE

(Most Recent First)

- 6/1/01 – Present Special Counsel, Shughart Thomson & Kilroy, P.C., Phoenix, Arizona.
- 9/88 – 5/31/01 Judge, Court of Appeals of Arizona. Published opinions on all legal subjects.
Pro Tem Justice, Supreme Court of Arizona.
- 7/88 Appointed to Court of Appeals by Governor Rose Mofford.
- 11/87 Admitted to California Bar.
- 9/85 - 9/88 Associate Chief Presiding Judge, Superior Court of Arizona, (then 50-judge
general jurisdiction court) and Presiding Judge, Special Assignment and
Appellate Department (administration, discipline, trial and appeals).
- 8/79 – 9/88 Appointed Judge of Superior Court of the State of Arizona by Governor
Bruce Babbitt.
- 1/76 – 8/79 Administrative Deputy and Trial Supervisor, Maricopa County Attorney.
Administration, training and supervisory responsibilities over (then) 110
attorneys, plus criminal and civil case load.
- 5/76 – 5/78 Member, Board of Governors, State Bar of Arizona. Treasurer in 1978.
Administration, policy and disciplinary matters over state's (then) 6,000
lawyers.
- 5/72 – 1/76 Private practice, including criminal and civil trials and appeals. [overlap]
- 10/72 – 1/76 Associate Director, Arizona Criminal Code Commission (redrafting state's
criminal code). [overlap]
- 8/73 – 10/77 Member, U.S. Civil Rights Advisory Commission. Investigating, conducting
hearings, and writing official reports on prison problems, court policies, and
employment discrimination. [Overlap]
- 5/72 – 10/72 Legal Counsel, Board of Supervisors, Phoenix, Maricopa County, Arizona.
Elections, zoning, mental health, collections, employment law.
- 5/72 Admitted to Arizona Bar.

ACADEMIC EXPERIENCE (Chronological)

Degrees:

B.A., M.A., Philosophy, St. Louis University, St. Louis, MO., 1962, 1963.

M.A., (Honors) Comparative Literature, Columbia University, New York, NY., 1964.

Ph.D., (Grande Distinction) Philosophy, Institut Supérieur de Philosophie, Université de Louvain, Louvain, (Leuven) Belgium, 1966.

J.D., Law, University of Notre Dame Law School, Notre Dame, IN., 1971.

L.L.M., University of Virginia Law School, Charlottesville, VA., Graduate Program for Appellate Judges, May, 1986.

Certificate in Anglo-American Law, Summer, 1992. Cambridge University, Cambridge, England (Corpus Christi College).

Certificate in Anglo-American Law, Summer, 1994. Oxford University, Oxford, England (Wadham College),

Certificate in International Judging, Summer, 2000. Oxford University, Oxford, England (Balliol College).

Honors:

Woodrow Wilson National Fellowship to Columbia University, 1963-64.

Fulbright Fellowships, 1964, 1965 and 1966 to Université de Louvain (Leuven) Belgium.

Lisle International Exchange Fellowship to study law in the USSR, Summer 1967 and Summer 1986.

"Best Lecturer in the University," citation in Notre Dame Teacher Evaluation Booklet, 1969.

One of two "Favorite Teachers" at Notre Dame, according to the Guide to the College of Your Choice (Signet, 1970).

State Bar of Arizona Publication Awards, 1979 and 1994.

Academic Positions

1986 – 2001

Part-time full professor, Business and Management, teaching business and law courses, Western International University, Phoenix, Arizona.

1972-Present

Lecturer in law and criminal justice, School of Justice Studies, Arizona State University.

1967 - 1971

Full-time assistant professor of philosophy, graduate and undergraduate schools, University of Notre Dame, teaching modern philosophy, ethics and legal philosophy. Left in 1971 to acquire legal experience.

1966 - 1967

Full-time assistant professor of philosophy, graduate and undergraduate schools, St. Louis University.

PROFESSIONAL ASSOCIATIONS / ACTIVITIES

- President, Indiana Philosophy Assoc., 1970-71.
- Executive Editor, The Notre Dame Lawyer (Law Review) 1970-71.
- Member, Editorial Board, The American Journal of Jurisprudence, 1972-present. -Legal Editor, Kennikat Press, New York, (general editorship of a series of legal books, of which six were published), 1976-81.
- Member, Board of Governors of the State Bar of Arizona, 1977-79.
- Treasurer, State Bar of Arizona, 1978-79.
- Minority Counsel, Arizona State Senate, 1977-78.
- Co-author and participant, 1975 and 1988 Arizona Academy Town Hall conferences on crime and courts.
- Member, World Affairs Council of Phoenix, 1975-1981 (hospitality to foreign dignitaries)
- Member, Arizona Academy, 1978-1991.
- Listed in Who's Who in American Law (1979, 1998, 1999); Who's Who in American Education (1989); Contemporary Authors (1981); Who's Who in America (1993, 2000); Dictionary of American Biography (1994); Men of Achievement (1994); Who's Who in the World (1996, 1998, 1999, 2000, 2001).
- Member, State Bar of Arizona Committee on Professionalism (discipline, ethics, peer review, image of lawyers, professionalism course), 1988-present.
- Task Force member, Supreme Court Commission on the Courts (reform of court procedures), 1988-89. -Member, Judicial Selection Committee, City of Phoenix, 1988-92 (evaluating/recommending city judges).
- Chairman, Supreme Court Committees on Jury Instructions and Process Service.
- Board Member, Arizona Judicial College, 1993-1996.
- Board Member, Law and Organizational Economics Program, University of Kansas Law School, 1999 - present.
- Active in Prop. 200, successful Arizona drug initiative, 1997-1999.
- Lecturer, American Academy of Judicial Education Programs in Judicial Philosophy, Harvard Law School, July, 2000 and Yale Law School, July, 2001.

LANGUAGES

Some French, German and Spanish.

COMPUTER

Trained on Westlaw, WordPerfect, Microsoft Word, and Internet.

SUMMARY OF LEGAL EXPERIENCE

As a lawyer, 1972-1979, I handled approximately 40 jury trials and about 90 appeals on both civil and criminal matters, plus about 10 special actions. I was co-author of 1978 Arizona Criminal Code, responsible for about 80% of final product.

As a lawyer, I presented one case, unsuccessfully, before the U.S. Supreme Court: Memorial Hospital v. Maricopa County, 415 U.S. 250 (1974) dealing with indigent health care, and a second, Schriro v. Summerlin, _____ U.S. _____ (2004), dealing with the death penalty.

As a trial judge for nine years, 1979-1988, I presided over approximately four to eight jury or non-jury trials per month.

As an appellate judge on the Court of Appeals and Supreme Court of Arizona, 1988 to 2001, I wrote many criminal, civil, juvenile and workers' compensation opinions, about one-fourth of which have been published in the Pacific Reporters.

I am a member of the ABA's "Central and East European Law Initiative" (CEELI) to assist in legal reform in the former Soviet block countries of East Europe and have advised regarding proposed laws in Russia, Tajikistan, Yugoslavia, the Ukraine, Bosnia and the Czech Republic and twice visited Armenia for judicial education and reform programs.

I am listed as a business arbitrator with the American Arbitration Association, the National Arbitration Forum and JudgeNet, dealing with contract, tort and employment matters.

PUBLICATIONS

(Most Recent First)

Books

The Railroad and the Canyon (Pelican Press, 1994).

The Criminal Law of Arizona (2 Vols., State Bar of Arizona, 1993) (2nd Edition).

Lawyers, Courts, and Professionalism: The Agenda for Reform, (Preface by U.S. Supreme Court Justice Sandra O'Connor) (Greenwood Press, 1989).

The Insanity Defense (Associated Faculty Press, 1984).

Contemporary Issues in Criminal Justice, (Kennikat Press, 1976).

Contemporary Punishment: Views, Explanations, Justifications, with P.D. McAnany of University of Illinois (Notre Dame Press, 1972).

Books Edited

Recommended Arizona Jury Instructions - Criminal (State Bar of Arizona, 1989).

James Weissman and Robert DuPont, Criminal Justice and Drugs (1982).

Richard Cortner, The Bureaucracy in Court (1982).

Robert M. Goodrick, Public Policy Toward Corporate Growth (Kennekat Press, N.Y) (1978).

Hershkowitz and Klein, Courts and Law in Early New York (1978).

Victor L. Streib, Juvenile Justice in America (1978).

Francis D. Wormuth, Essays in Law and Politics (1978).

Articles Published

"On Dispensing Injustice," 43 Arizona Law Review, 135-172 (2001).

"Insanity - Diminished Responsibility," The Philosophy of Law: An Encyclopedia (Garland Press, Levittown, PA, 1999).

"The Felony Murder Rule: Conundrum Without Principle," 32 Ariz. State L.J., 763-785 (1999).

"The Death Penalty: A Personal View," 24 Litigation 3 (1998).

"Criminal Code Revision: Twenty years Later," 40 Arizona Law Review, 143-172 (1998).

"A Judicial View of Plea Bargaining," Criminal Law Bulletin, 1631, (Jan./Feb., 1998).

"Death is Not Worth It," 28 Arizona State L.J., 333-356, (1996).

"Collegiality on the Court of Appeals," Arizona Attorney, Dec. 1995, pp. 15-19.

"Oxford Reflections on our Law," Arizona Attorney, 11, 56 Dec. 1994.

"Grofe's Grand Canyon, Title 13, and Peter Berry," 12 Maricopa Lawyer pp. 1, 21, 24. (Feb. 1994).

"System in Collapse: Appearance vs. Reality in Criminal Justice," 12 St.L.U. Pub. L.R. 225-241 (1993).

"Who Cares?" American Bar Ass'n Journal, (Jan., 1993, endpiece).

"Of Lawyers and Lawsuits," The National Forum, 33-35 (Fall, 1991).

"Victory or Truth," 16 Litigation, 3-55 (Spring, 1990).

"Recommendation on Domestic Relations Reform," 32 Arizona Law Review, 10-20, (1990).

"Legal Education and Combat Preparedness," 34 American Journal of Jurisprudence, 61-86, (1989).

"Professionalism and Innovation in the Courts," Arizona Attorney, February, 1989, pp. 10-13.

"Legal Language," Virginia Law Weekly, September 30, 1988, p. 23 and October 5, 1988, pp. 2-5.

"A Judicial Perspective on Plea Bargaining," Arizona Attorney, September, 1988, pp. 35-36.

"Character and Fitness Tests: An Inquiry Without Character," Bar Examiner, May 1988, pp. 13-24.

"Victory v. Truth: The Adversary System and Its Ethics," 19 Arizona State Law Journal, 3-25, (1987). Reprinted, in part, in 16 Litigation, 3-55, Spring, 1990 and in the Maricopa Lawyer, October, 1990, pp. 1-20.

"Comrades in Court," Universitas, 14-16, (Fall, 1986).

"A Look at the Soviet Union's Legal System," Oklahoma Bar Association Journal, 12-17, January, 1987.

"Law in the Soviet Union," 24 Arizona Bar Briefs, 2 (1986).

"Sentences Measurable Only by Carpenters," Arizona Bar Journal, 20-35 (June-July, 1986).

"The Insanity Defense Revisited," 1984 Arizona State L.J., 83127, (1984). Reprinted in G. Weissenberger, et al, Patients, Psychiatrists and Lawyers: Law and the Mental Health System, (1989) .

"Arizona's New Criminal Code: An Overview and a Critique," 1977 Arizona State L.J., 483-533 (1978).

"Culpability, Sentencing and Controversy in the New Criminal Code," Arizona Bar Journal, 11-27, August 1978.

"Sentencing in the New Criminal Code," Arizona Bar Journal, 2837, December 1977.

"The New Arizona Criminal Code," with Richard Degraw and Steven J. Twist, The Arizona Bar Journal, 14-18, August 1977.

"The Proposed Criminal Code Revision," The Arizona Bar Journal, 34-40, December 1976.

"Arizona's Criminal Law: The Critical Need for Comprehensive Revision," with John Foreman, 18 Arizona Law Review, 63-108 (1976) .

"Obscenity: Lust's Labors Lost and Won," in Contemporary Issues in Criminal Justice, 40-56 (1976).

"Is the Insanity Test Insane?" 20 American Journal of Jurisprudence, 111-152 (1975), reprinted in L. May, N. Snow, A. Bolte , Legal Philosophy: Many Voices, Mayfield Pub. Co., 2000.

"A Death Penalty We Can Live With," 50 Notre Dame Lawyer, 251 (1974). Reprinted in The Law Review Digest, (1975).

"Abortion: Two Opposing Legal Philosophies," 15 American Journal of Jurisprudence, 1-24, Fall (1970).

"Abortion: Parameters for Decision," 11 International Philosophical Quarterly, 548-561, Winter, 1971. Reprinted in 82 Ethics, 137-154 (1972) and in L. Habermehl, Morality in the Modern World, 220-234 (1976).

"Commingled Investment Accounts: Banks v. The Securities Industry," 45 Notre Dame Lawyer, 746 (1970).

"The Difficulty with the Creative God in Existential Phenomenology," The Personalist, 530-564 Fall (1970).

"Kierkegaard, Reason, and Faith," 49 Thought, 29-52 (1969).

"Merleau-Ponty and the Dialectic of Consciousness and World," Man and World, 82-107 (1969).

"Varieties of Philosophers," 90 Commonweal, 105-108 (1969).

"Karl Jaspers and Kantian Reason," 43 The New Scholasticism, 400-424 (1969) .

"Gabriel Marcel and the Existence of God," 25 Laval Theologique et Philosophique, 9-22 (1969).

"Structuralism in France," 45 The Modern Schoolman, 301-314 (1969) .

"Nietzsche: Reason as Power for Humanism," 12 Philosophy Today, 75-92 (1968).

"Recent Heidegger Scholarship," 42 The New Scholasticism, 561-577 (1968).

"Marcel and the Experiential Route to Metaphysics," 12 Philosophy Today, 262-281 (1968).

"Punishment: Current Survey of Philosophy and Law," 2 St. Louis University Law Journal, 491-535 (1967). Reprinted in The Sociology of Crime and Punishment, ed. by Johnston, Savitz, and Wolfgang, 337-361 (1969).

"Heidegger: Thinking and Thanking Being," 44 The Modern Schoolman, 205-222 (1967).

"Totalité et Infini: The Philosophy of Emmanuel Levinas," 7 Review of Existential Psychology and Psychiatry, 177-188 (1968).

"The Clash at Louvain," America, September 18, 1964.

"Prague in Metamorphosis," America, October 22, 1966, pp. 480-482.

"Marcel and the Other Person," 6 Review of Existential Psychology and Psychiatry, 179-195 (1966).

"The Subjective and Objective Views of Man," 6 Insight (Quarterly Review of Mental Health) 26-33 (1967).

"Gabriel Marcel and the Problem of Authenticity," 98 The Personalist, 548-560 (1967).

"Marcel and the Phenomenology of the Body," 4 International Philosophical Quarterly, 443-463 (1964).