

An Interview with Warren D. Wolfson
Illinois Supreme Court Historic Preservation Commission

Warren D. Wolfson practiced law in Chicago, Illinois, before being appointed as Judge of the Circuit Court of Cook County in 1975. He was elected in 1876 and retained in 1982, 1988, and 1994. Judge Wolfson was assigned to the Appellate Court, First District, in December 1994 where he served until 2009.

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Abstract

Warren D. Wolfson

Biographical:

Warren D. Wolfson was born on the West Side of Chicago, Illinois, on February 14, 1933, and grew up in the Lawndale area. He attended two years at the Navy Pier branch of the University of Illinois and then to the main campus in Champaign/Urbana, where he studied journalism and was active in the *Daily Illini* university newspaper. He received a B.S. degree in journalism from the University of Illinois in 1955 and his law degree from the University of Illinois at Urbana-Champaign in 1957. He passed the Illinois bar and the Kentucky bar in 1957. Working on a murder trial in Kentucky led him to leave journalism and exclusively practice law. Wolfson moved to Chicago and worked on the 1964 *Escobedo v. Illinois* case. Wolfson continued with criminal work and represented the Black Panthers in one case and the police in another, including a member of the Red Squad. He also represented a member of the SDS Weathermen. In 1971, Wolfson established the Chicago-Kent Trial Advocacy Program. In 1975, Wolfson was appointed as a Judge to the Circuit Court of Cook County. After his election in 1976, he was retained in 1982, 1988, and 1994. In 1988, he met Laretta Higgins, who would become his wife. In December 1994, Wolfson was assigned to the Appellate Court, First District, in Chicago, and retired in 2009. After leaving the Appellate Court, he was Dean of DePaul University for two years before being assigned to teach as a distinguished visiting professor, which he did until December of 2023, teaching Evidence and Appellate Advocacy. Wolfson has sat on multiple committees and written a number of books.

Topics Covered:

Parents and family background; growing up on the West Side of Chicago in the Lawndale area; graduating John Marshall High School in 1948; attending a two-year Navy Pier branch of the University of Illinois and later Champaign/Urbana; activities in journalism; professors at Navy Pier; being editor and chief of *Daily Illini*; working at the radio station WILL, in Champaign; interviews he conducted at the radio station; working in Kentucky; passing the Illinois bar; shift from being a reporter to becoming a criminal defense lawyer after a Kentucky murder trial, and move back to Chicago; the *Escobedo v. Illinois* case, 1964; the 1968 Democratic National Convention; the Black Panthers; the Red Squad; the SDS Weathermen; Ted Isaacs and Otto Kerner; Mayor Daley; cultural shifts in the 1960s and '70s; 1975 appointment to the Circuit Court of Cook County; multiple cases over the years; establishing the Chicago-Kent Trial Advocacy Program in 1971; teaching Trial Advocacy; meeting his wife; his time on the Appellate Court First District; being Dean of DePaul University, teaching and writing books. Various threats to the legal system were also discussed.

Note:

Readers of this oral history should note that this is a transcript of the spoken word, and that it has been edited for clarity and elaboration. The interviewer, interviewee, and editors attempted to preserve the informal, conversational style that is inherent in such historical sources while also editing for clarity and elaboration. The Illinois Supreme Court Historic Preservation Commission is not responsible for the factual accuracy of the oral history, nor for the views expressed therein.

Appellate Justice, Warren D. Wolfson: An Oral History Project

LUPTON: My name is John Lupton, I'm the director of The Illinois Supreme Court Historic Preservation Agency. Today is June 20th, 2024, and we are doing an oral history interview with Warren Wolfson, former Appellate Justice and former dean of DePaul Law School. So, we shall begin, if that sounds good to you Warren?

WOLFSON: Okay.

LUPTON: Alright, so I'll just start out with some basic biographical questions. Tell me when and where you were born?

WOLFSON: I was born in Chicago, lived on the West Side.

LUPTON: On the West Side? In a particular neighborhood?

WOLFSON: Well, yes, on Independence Boulevard and Roosevelt Road, the Lawndale area.

LUPTON: Okay. You have any memories about growing up in Chicago?

WOLFSON: I do. We stayed in this one place for several years, the five of us, with one bathroom, so I have a great memory of that. My mother, my father, my brother, my

grandmother, all lived in this single apartment. Somehow, it seemed to be good enough.

We wouldn't do it today, but it worked then.

LUPTON: What did your mother and father do for a living?

WOLFSON: My father was a pharmacist, and he had opened a drug store at 11th and State in Chicago. And then the residents around that area left, and so he turned it into a restaurant and bar, and my mother worked there too. It was joined with the police station at 11th and State. And four courts also appeared at 11th and State. I spent a lot of time there, and that's how I got started thinking about courts, and law, and that kind of thing.

LUPTON: So, you worked, some, with your parents?

WOLFSON: No, I was a little too young for that, but I hung around.

LUPTON: Did you have any siblings?

WOLFSON: I have a brother. I had a brother, he's gone.

LUPTON: Older, younger?

WOLFSON: A couple of years older than I.

LUPTON: So, what about your grandparents, you said they were in the neighborhood too, in the same unit?

WOLFSON: My grandmother. They were from the "Old Country", had Old Country ways and pretty much took care of us.

LUPTON: What was the Old Country?

WOLFSON: It was Lithuania. They came when the Cossacks rode. They didn't talk about it; they never talked about it. There they were and they were very happy to be there. My mother was born in Chicago, so was my father.

LUPTON: Did your grandparents speak English?

WOLFSON: Not good. We had to try to learn Yiddish language. We made do.

LUPTON: Well, it's always interesting hearing about these immigrant stories, and Chicago, obviously, was a hotbed for immigration for a long period of time. Do you know when your grandparents came over?

WOLFSON: I don't know exactly, but as I started to say the West Side was where the working people, the peasants, came. The North Side is where the wealthier people came. So, it was divided in that way. They didn't like to talk about it. I think the feeling was if they talked about it the Cossacks would come back, and they just didn't want to do it. We're in America now, talk American.

LUPTON: Yep, very good. So, you graduated from John Marshall High School?

WOLFSON: I did. John Marshall High School was in the area where I lived.

LUPTON: Tell me about some of the classes you took in high school. What interested you academically.

WOLFSON: What I was particularly interested in was the use of the English language. The teachers were just wonderful in teaching English. That's where I learned how to diagram

sentences, which I do to this day. They had a library in the school, that our library teacher showed us a lot about books and learning, and it was great. I had a good time in high school.

LUPTON: So, what year did you graduate high school?

WOLFSON: It was '48.

LUPTON: So, you just missed World War II?

WOLFSON: Yes. I was 8 years old in 1941.

LUPTON: Did your older brother go to World War II, then?

WOLFSON: No, he was too young too.

LUPTON: He was too young also. My dad was born in 1924, so he was in the Pacific. He was right at the very edge of it. So, after you graduated high school, you decided to go to the University of Illinois at Navy Pier in Chicago.

WOLFSON: Yes, one of the things that happened all the time at my home was, "You have to go to college". It was not a discussion, "You're going to college". And so, then the problem was how do we afford it? And we discovered the Navy Pier branch of the University of Illinois, which was a two-year school. There was no four-year Illinois University in Chicago in those days. It was a two-year school. And so, I enrolled at Navy Pier. It was a wonderful school, with great teachers. It was there that I started getting interested in journalism. The newspaper there was the *Pier Illini*. I walked into it one day because I

had nothing to do, and I walked out as a reporter for the *Pier Illini*, and eventually the editor of the newspaper.

LUPTON: So, how did that work then, you said you did two years in Navy Pier and then you did two years in Champaign, Urbana?

WOLFSON: Yes, then I went down to Champaign and there you declare your major, and I declared as a journalism student because I really loved journalism. I had a great time in it. So, I went to journalism school at Champaign located at Gregory Hall. It was a two-year schedule. I was very active in the *Daily Illini*, which was the university newspaper in Champaign, Urbana. I was a reporter there and eventually I became editor of the *Daily Illini*.

LUPTON: So, I'm still trying to figure out, this Navy Pier campus, this is what eventually became University of Illinois at Chicago, is that correct?

WOLFSON: Yes.

LUPTON: Not when you were there, but later on.

WOLFSON: It became the four-year school that exists now.

LUPTON: Correct.

WOLFSON: The nice thing about the Navy Pier was that the teachers were scholastic veterans. See, they didn't have degrees to worry about, and writings to do, all they did was teach and they were great teachers.

LUPTON: Any particular teachers at the Navy Pier school that you really remembered, that made an impact on you?

WOLFSON: I do. The History teacher was just a wonderful human being and great teacher. I think about him all the time.

LUPTON: U.S. History? What particular field of history?

WOLFSON: He was mostly U.S. History.

LUPTON: Well, as a historian, I can appreciate that myself.

WOLFSON: His name was Riddle, I'll never forget Professor Riddle.

LUPTON: So, what then drew you to journalism?

WOLFSON: I just thought it was exciting to record what was going on in the world, and I was hooked by Edward R. Murrow, the newscaster. I don't know if you remember the name, you may be too young for it. Edward R. Murrow was CBS Chief. And listening to him and watching him, I just thought I wanted to be Edward R. Murrow. It didn't happen, but it's what I wanted.

LUPTON: So, tell us a little bit more about working at the *Daily Illini*. What were your specific duties there as a reporter, and later as editor?

WOLFSON: Well, as editor and chief I controlled all of the writings of the reporters, and the editorials. I took part in press printing of the newspaper, and it came out with regularity. Every once in a while, the school administration was unhappy with our newspaper

because we said things they didn't want us to say, but we did it anyway. It was just great excitement.

LUPTON: What sort of stories did you cover that irritated the admin?

WOLFSON: Well, I'm trying to remember exactly because there are stories about communists, one of the big people at the university was a very, very right-wing guy who did not like to hear about the ACLU and liberal expressions, so naturally we poured them on and we had some war there, but it worked out and helped me learn to write.

LUPTON: Did you also work for the radio station there too?

WOLFSON: I did, in Champaign. After I had finished being the editor of the *Illini* I then went to work for radio station WILL. I had morning news broadcast every weekday at 7:30, occasionally TV, but mostly radio. A lot of interviews took place. I interviewed Eleanor Roosevelt, Thurgood Marshall, Adlai Stevenson, and Nelson Algren, among others.

LUPTON: Very good. So, you received your B.S. degree in journalism then, in 1955. So, you found a job after that?

WOLFSON: No, I didn't find a job. I had done very well in journalism school, I was named the Outstanding Journalism Graduate, and so I went to the employment office because I really wanted to be Edward R. Murrow and I thought the *New York Times* or the *Herald Tribune* were where I should go. The only thing available was the *Mattoon Daily*

Gazette, and I decided “well, maybe I’ll go to law school.” So, I turned around and went to law school, at the university.

LUPTON: So, you never did work for the *Mattoon Daily Gazette*?

WOLFSON: No, I didn’t.

LUPTON: So then, what inspired you to go to law school? If you couldn’t find your Edward R. Murrow style job, or the *New York Times* didn’t call, so then what prompted you to move to law school then?

WOLFSON: It just seemed like a good idea at the time. I knew a lot of people who were lawyers, and I’d hung around my father’s store for so many years and watched courts and watched lawyers, and I thought this would be the thing to do because, really, I didn’t know what else to do.

LUPTON: So, then how did journalism effect law school?

WOLFSON: Well, it helped me write and ask questions, write clearly, write complicated ideas in a simple way. I learned the value of short, clear, writing. These are all techniques that I learned not only in journalism school but in law school, and as a trial lawyer and as a judge, to write clearly, make sure you get answers, listen carefully, make sure the answers are responsive, make sure to get responsive answers. So, simple, clear, uncluttered questions were the byword for me in newspapers and at law.

LUPTON: Okay, so that’s a good link between the two then. So, why’d you choose U of I Law School then?

WOLFSON: Well, I was there, I had a place to live, and I didn't know what else to do. And in those days the fee for tuition was fair, and I got part of it because of my work at WILL. We just couldn't afford much more. But I stayed at WILL, even though I was in law school.

LUPTON: Okay, right. So, tell us about the makeup of the class. Were there many women in the class?

WOLFSON: There were two women in the entire law school, in those days. Gradually that changed of course. But in those days, it was very unusual to see women. They were wonderful people, and they were great students, but that's all we had at that time.

LUPTON: Do you know if they went on to become lawyers then?

WOLFSON: One did, the other one I don't think so.

LUPTON: Okay. So, what were some of your favorite law school classes that you particularly liked?

WOLFSON: Well, I thought the evidence class was something important. I think just getting through the law school was what I wanted to do, I wasn't particularly excited about it. I just didn't know what else to do.

LUPTON: Were you able to specialize in anything, or were you directed to any particular area of law?

WOLFSON: No.

LUPTON: So, just general?

WOLFSON: Just general. When I got my degree in law school and I passed the Illinois bar, I still didn't want to go into law, I stayed with journalism, it was still was my first hope. That's when I took a job in Louisville, Kentucky at the WHAS Clear Channel radio and TV station.

LUPTON: Tell us a little bit more about your job there. What were you covering, what did you do there?

[15:00]

WOLFSON: Well, I covered, a radio broadcast and I covered just about anything that was going on in Louisville. It was a very lively town, a lot going on there.

LUPTON: So, this was in 1957ish?

WOLFSON: Yes.

LUPTON: Okay. Alright, so then how did you move from working at the reporter job to becoming a criminal defense lawyer?

WOLFSON: Here's how that happened. I had the night shift at the radio station, and I had nothing to do during the day, so I filed a motion at the Kentucky Supreme Court to pass the Kentucky bar. And they granted it. So, I had a license, and I then went to the judge downtown and said, "Here I am. Do you have anything I can do? No charge, just anything I can do for you." And he put me into a trial, second chair in a notorious murder case in Louisville, and everything changed. I just fell in love with the law. Journalism went off to the side and I said, "This is what I want to do." And that's it.

LUPTON: What happened in the case?

WOLFSON: It didn't do well, but it was very exciting, and I learned an awful lot. The lawyer who was the number one counsel, was very, very, apt at teaching and I learned an awful lot, and I said, "This is what I want." And that's when I made the decision to come back to Chicago and practice law.

LUPTON: So, you resigned then from the radio station?

WOLFSON: I did.

LUPTON: And then moved back to Chicago?

WOLFSON: Yes.

LUPTON: Alright, so then how did you get established into law in Chicago which is a very large city with a lot of prominent attorneys?

WOLFSON: I moved into a law firm with attorneys who were some of the people I'd known back in the old neighborhood. And the deal was I would do their criminal work, and they would do my civil work, which was a good deal for them because they didn't have much criminal work. But, I did their criminal work and I did my criminal work and I just used the contacts that I had because I had met a lot of people during the years, and I just learned to be a criminal defense lawyer. Entirely criminal, no civil work.

LUPTON: So, what types of cases did you have then? Who were you representing? What types of cases?

WOLFSON: It started out with minor things, disorderly conducts and the small crimes, and then, as they grew, I learned my trade and got better and better at it I picked up more serious crimes. And for about ten years I straight-on just representing people at 11th and State, and people at the criminal court at 26th and California, just learning my practice.

LUPTON: So, why don't you tell us a little more detail about the story of when you tried to get through a door at a Chicago police station, and how this was the start of a constitutional explosion?

WOLFSON: It was, and this was about ten years into the practice, and I had a client who I had represented on a couple of things, and at about midnight one day his mother called me and said, "My son has been arrested for murder, please go to the police station." And I did, I went to the police station, then found out my client was being questioned and I talked to the detective, and I gave him my name and I said, "I'd like to speak to my client", and he said, "Well you can't do that because we haven't finished questioning him." And I had my little book that I carried with me at all times, and I showed him the Illinois statute which said I had a right to see my client, and he said, "You can see your client when we are finished questioning him." So, I sat down and waited and finally he came to me and he said, "Okay, you can see him." By then, he had confessed to the crime. His name was Danny Escobedo and he became a very, very famous character in constitutional law. The case went all the way to the United States Supreme Court. I was a witness in the trial, but I did not take the case to the Supreme Court, somebody else did. And that's when it happened that the Supreme Court said for the first time a prisoner has

a right to speak to his lawyer *before* being questioned, which was expanded later in the *Miranda* case. So, that's what happened. That was my contribution to the law, at that point.

LUPTON: So, if I remember right, too, there was a young prosecutor who prosecuted the case by the name of Jim Thompson. Is that correct?

WOLFSON: Yes, Jim Thompson was one of the lawyers.

LUPTON: Yeah, so kind of an interesting meeting of the minds here.

WOLFSON: I met again, against him, in federal court, when I tried defendants in federal court. When I represented the case involving the former Governor Otto Kerner.

LUPTON: Yeah, we'll actually get to that in a little bit. I want to talk a little bit more about Escobedo also. So, you were Escobedo's attorney at the trial level. Did it go up immediately to the Supreme Court? Did you argue the case in front of the Supreme Court?

WOLFSON: First it went through the Illinois courts, and the Illinois courts affirmed the convictions. And then it was filed in the United States Supreme Court because it was a federal constitutional issue. And in the opinion they used my name, the Supreme Court did, so people thought I had brought it to the Supreme Court, but I didn't.

LUPTON: But you did not.

WOLFSON: I was sorry I didn't, but I didn't.

LUPTON: Did you take it before the Illinois Supreme Court, though?

WOLFSON: Yes, I did. I did file the briefs in the Illinois Supreme Court, but that went nowhere.

LUPTON: Okay. Well, this is obviously a major case. What sort of influence did it have on you, and your career?

WOLFSON: Well, it gave me the feeling that there are some important things to do, and that I don't have to just worry about burglars and stick-up men and that kind of thing, that I should be doing something else. And at about that same time, we entered 1968 and that was the time of the Democratic Convention, and all the horrors of the Democratic Convention. People in the parks and streets, police riot conduct, and that's when accused people needed lawyers, and I stepped in.

LUPTON: Yeah, you mentioned about your experience with the '68 convention and how this kind of changed your life. So, how did it change your life?

WOLFSON: It did. The traditional lawyers didn't want to take those cases, but I thought it was important to take them. And one of the cases had to do with a man who was on the General Logan statue with the Vietcong flag being pulled down by a policeman, and the policemen arrested him for assaulting a policeman, which he didn't do. And there were all of these different riot cases. I was involved in, 18th and Michigan case, where a group of people trying to get to the Colosseum where the Democratic Convention was taking

place, and all sorts of people being arrested, and I represented several of them. It was a very exciting time.

LUPTON: Why didn't the established lawyers want to deal with those cases?

WOLFSON: Well, I think, because they were concerned about their reputations. I think they were concerned about not earning a whole lot of money, they weren't going to make any money from these cases. So, they would represent stick-up men and murderers, but not people who threw rocks through windows. That's just the way it was.

LUPTON: That actually does bring up a good question, then, so how were you paid for these? I assume you were paid for these riot cases?

WOLFSON: No, I wasn't.

LUPTON: You did it pro bono?

WOLFSON: I did it pro bono, just because I thought it was important to do.

LUPTON: Okay. Excellent, very good. And you also represented the Black Panthers. Tell us about that?

WOLFSON: Yes, I did, more free. The Black Panthers were an interesting group. They did a lot for their community, they did a lot for their people, but they had fights with cops, and they had bad reputations, so they got arrested a lot. But the big case, the important case, was the case of the state's attorney bringing police officers to the home on Monroe Street where the Panthers were living, and the shooting was deadly. Fred Hampton was killed, Mark Clark was killed, many of the people in the building were injured, and I represented

one of the persons who was wounded, a young woman who was shot. And that changed a lot. What happened was we proved that it was the police who were doing all the shooting and not the people in the house because the bullets in the door were all from outside going inside and we were smart enough to save the door and get it studied by an expert. And when that happened and things turned around, and the defendants were dismissed, the case was dismissed, and the police officers were indicted. They weren't convicted, they were acquitted, but they were indicted. And then there was a federal grand jury that looked into it, and they didn't do anything either, but they were interested in what happened and we told them what happened. So, those were interesting times. And one of these side stories was I was first holding meetings in my law office, and then we were told by somebody, I can't remember who it was, that the law office was bugged by federal agents. And so, in order to get around that, we started holding the meetings at my home, which was really a waste of time because we found out later that one of the Panthers who was at my home and at my office was a federal informant. His name was Bill O'Neal. In fact, you may have seen it, there was a movie made about it later on involving Fred Hampton and Bill O'Neal. O'Neal ended up committing suicide. Everything that was said in the home, everything that was said in the office, was reported to the FBI. So, that's what was going on in those days.

LUPTON: That's not legal, is it?

WOLFSON: No. If they had admitted it, it would have been illegal, but they never admitted it.

Those were hard times.

LUPTON: I'm assuming that what you say with your client is privileged information. So, bugging it, doesn't that just kind of throwing that out the window?

WOLFSON: Absolutely. But that's how it happened.

LUPTON: But, you didn't have any recourse or anything?

WOLFSON: No, because we weren't aware of it until later. And interestingly enough, when the time came that I was appointed with another lawyer to represent the Red Squad, which was the Chicago police squad that was set aside to stop terrorists and stop communists and that kind of thing, and because I represented them I had a chance to look at the records and there was my name all over the records; somebody attending meetings with Panthers and meetings with Weathermen and all of that. So, that's the way it was.

LUPTON: So, I get this straight now, so in one set of the cases you were representing the Black Panthers and then in another set of cases you were representing the police?

WOLFSON: Yes. In fact, one of the police officers I represented turned out to be somebody who was spying on me. We were trying to develop a bail bond issue project, and he was passing himself off as someone interested in bonds. He was really a Red Squad police officer.

LUPTON: You mentioned this term Red Squad. I don't understand that. Can you tell me a little bit more about what this Red Squad was?

WOLFSON: The Red Squad was formed to investigate terrorists and the communists, and stuff like that that was going on. But they really couldn't find anything.

LUPTON: So, their job was to try to root out the communists?

WOLFSON: Exactly.

LUPTON: Interesting times. So, you also mentioned that you represented the SDS

Weathermen?

WOLFSON: Yes.

LUPTON: Tell me about that.

WOLFSON: That was the next exciting case, and this time I did get paid. The SDS Weathermen were kind of the left-wing of the SDS, Students for a Democratic Society. And they came to Chicago in hopes of starting a revolution. And they sent invitations all over the country for people to come. Not many came, some people, not many. And there was no revolution, but there were things like marches, so they marched in the city, downtown at one point. And that's where I entered the picture because there was an injury to one of the corporation counsels, a man who became the sheriff of Cook County, and then a Circuit Court Judge. His name was Elrod.

[30:00]

WOLFSON: And he was injured very badly, crippled, in this march of the Weathermen. Brian Flanagan was indicted and charged with the aggravated battery of the corporation counsel. I represented Flanagan. And I was told, "This is probably the end of you as a lawyer in this community," because it was not a good thing politically. But my view was

nobody's guilty until a judge or jury says so, and everybody's entitled to counsel, and I wanted to prove that we could do that, and I did it. And the strange thing is, and this was a tribute to the jury, this was an example of the jury working well. The foreman of the jury was a Republican businessman, I don't know what exactly he was doing but he was a businessman, and he was a pure Republican. He led the way to the non-guilty verdict to show that it can work and it did work. Brian Flanagan was acquitted. There are times when after a not guilty verdict one of the jurors says: "We knew he did it, but the prosecutor didn't prove it beyond a reasonable doubt." That is what this is all about.

LUPTON: So, these are some big high-profile cases. Were they seeking you out, or were you seeking out these cases? How were you involved?

WOLFSON: No, they were seeking me out because they knew that I was willing to do this. And for the Flanagan case, I was paid. He came from a wealthy family in New York, and it was paid for.

LUPTON: But still, it's a testament to you because if you weren't successful at these types of cases they wouldn't have been coming to you, correct?

WOLFSON: That's right. And even representing them the way I did there were a lot of people who were very unhappy. People who I thought were friends turned out to be not so friendly, but that went away, and I stayed.

LUPTON: Well, again, it's a testament to what you were doing, and how you were defending these people, that made you a sought-after person as an attorney. So, yeah, impressive. There's a few other cases that you have mentioned before, Ted Isaacs?

WOLFSON: Ted Isaacs was the co-defendant to Otto Kerner, and Kerner of course was the former Governor and at that time he was a judge of the U.S. Court of Appeals. Ted Isaacs was his friend, and had been a member of the State Employment Economic Office. They were charged with fraud involving horse racing dates, and the ending of it was not pleasant, but it was an interesting case. I also represented a couple alderman and other public officials in the federal courts. Federal courts were tough to try cases in, so every once in a while, I would go back to the Illinois court, the Cook County Court, to keep up with my reputation, because I did much better in those courts where the jurors were much easier.

LUPTON: Yeah, I was going to ask why are the federal courts more difficult?

WOLFSON: Well, they're not for just Chicago or Cook County but for the entire area of the Northern District. A lot of them are very conservative people. And a great big sign on the courtroom wall as you walk in saying, "United States of America" and the prosecutors say, "We are the United States of America". And in those days the FBI had a great reputation, they didn't have the lesser reputation, that would happen later.

LUPTON: So, the moral of the story is, don't get indicted in the federal courts.

WOLFSON: Well, but that's where the action is. I had one state court case that I think I mentioned to you. If I didn't, I should have.

LUPTON: What was that?

WOLFSON: It was a case where a young man killed his mother. She was dying with cancer, and he wanted to put her out of her misery. He bought a gun, walked into the Northwestern Hospital and shot her, then walked over to the nurse's station, plunked the gun down and said, "Please call the police. I just killed my mother". And we were hired to represent him. A lawyer named Harry Bush was with me a lot, and we represented the young man. We couldn't claim mercy killing because mercy killing is not a legal defense, so the defense was temporary insanity. In this one we succeeded; he was found not guilty.

LUPTON: How did you convince the jury of that?

WOLFSON: Well, we brought in a couple of psychiatrists. We established that he was unable to control his intent at the time. The state had experts too, but the jury didn't believe it. I think they just felt sorry for this kid, and for the family. Juries are wonderful people, they're very human. I think anybody who criticizes juries is just out of line, because they do a great job and they're right almost all the time.

LUPTON: That's good to hear.

WOLFSON: I sat as a judge long enough to watch juries, see what they did, and I think they were right all the time.

LUPTON: Yeah. So, you also represented Mayor Daley?

WOLFSON: I did, along with Harry Bush, we represented Mayor Daley and his sons. Mayor Daley had some kind of investigation going on, and his sons were involved in some insurance matters. And they didn't do anything wrong, it was really nothing there. But, we did represent them, and we represented them successfully.

LUPTON: And just, for the record, this is the older Mayor Daley, not the younger Mayor Daley.

WOLFSON: Yes. And he did not care one bit that I represented Weathermen or rioters or Black Panthers. It didn't matter to him one bit.

LUPTON: Yeah, that's an interesting dynamic too, because you're representing basically his former opponents, and now you're representing him. So, yeah, that's, again, a testament to you of obviously you had a strong reputation, and he wanted the best.

WOLFSON: He was really a very kind man, and of course he was head of the Democratic Party, which was important, if you want to be a judge, it was important.

LUPTON: Mm-hmm. So, obviously, in addition to these big cases, you're dealing with murder cases, and this was at a time when capital punishment was legal. So, what was it like to represent someone whose liberties, or even their potential life is at stake?

WOLFSON: I never judged my clients, no matter the charge. Well, it's very difficult. I was representing a doctor who was charged with murder, and he was accused of dealing with two drugstore people and all sorts of terrible things about products. And he supposedly killed them because they weren't paying, and he was charged in the state court for capital punishment. And just shortly before the trial was to begin, capital punishment was abolished in Illinois. And my client ended up shooting himself, and that was the end of that. So, I never really had a case that went as far as capital punishment.

LUPTON: Okay. But you did have a lot of murder cases though?

WOLFSON: Yes.

LUPTON: Any others that kind of stand out to you, or kind of made an impression on you?

WOLFSON: No, not really in the trial court. They're just cases like any other cases.

LUPTON: Okay. Were there any big cultural shifts that altered the world of criminal defense, in the '60s and '70s?

WOLFSON: Well, the *Miranda* case was the big one, where police had to warn a defendant of his right to counsel before being questioned. That was the big one. Once I got on the bench there were some more cases that we handled. But that, I think, was the one that stood out the most.

LUPTON: Were there certain types of crimes that increased or decreased during that time you were a criminal defense lawyer? Did you seem to have more of something in the '60s, and less of something in the '70s? Any shifts like that that you can think of?

WOLFSON: I think it was probably about the same. The burglars kept burglarizing, and stick-up men kept sticking-up people. There was nothing new about that.

LUPTON: So, why is criminal defense so important to you?

WOLFSON: Well, because I think it tells us, first as a lawyer it tells me that I can contribute to the law, that I can show how law works, that it does work, and that juries work. And, then again, as a judge, show how courts handle these things. I sat as a judge in criminal cases too.

LUPTON: This is a question I wanted to ask you later, but it seems maybe pertinent now. So, how did being a criminal defense lawyer effect your judicial career?

WOLFSON: Well, I always had the hope of being a judge, since I was a young man hanging on 11th and State, I thought being a judge would be the greatest thing in the world. But I never had any hope for it because I never had any political clout, I never had any sources that would help me. In those days, politics was very important. But then we got to representing Mayor Daley, and one of these days we asked if any judgeship was available, and I didn't get answer, but I did get an answer from the Supreme Court of Illinois. Justice Schaefer, who was one of the leading Justices on the Supreme Court, called me one day at my office and said, "Mr. Wolfson, we are thinking about appointing you to the circuit court. How long will it take you to wrap up your affairs, and contact your clients?" And I said, "Well, will this afternoon at two o'clock be too late?" He said, "No, we're thinking about a little bit longer than that." So, December 1st, of that year it happened, 1975.

LUPTON: So, this was in '75 when you were appointed.

WOLFSON: December 1st, 1975, was my appointment date.

LUPTON: And then you were elected the following year?

WOLFSON: I was elected the following November, and then retained five other times, every six years.

LUPTON: So, what types of cases did you have as a circuit court judge then?

WOLFSON: Well, the first four years I sat in the Daley Center, and I heard criminal cases of all kinds. And one of the murder cases that you asked me about was a bench trial, and I found the defendant guilty of murder and sent him off with the sheriff to the side room to be booked, and while I was sitting there, shots rang out and it turned out the defendant brought a gun with him to court and there was a shootout. Luckily, the sheriff was good at shooting, and he was better than the defendant. There was blood all over the place. So, that was one experience I had. The one that really was important was another murder case. And the lawyer in that case was a lawyer with one of the large firms. He asked for a bench trial and it was a bench trial. And the state put on a witness who was clear, concise, an off-duty Marine, who was intelligent, and testified to seeing the defendant stab the victim. I was very much impressed, I was on the bench no longer than a month or two at the time, and I was very much impressed with this witness' testimony, and I thought to myself, "I can't make a decision until this is over," but I thought to myself, "This guy is in lots of trouble. And I'm really leaning toward finding him guilty." The lawyer made a motion to continue the case for a couple of weeks because he said he

found new evidence, and it will be important. And since it was a bench trial, I allowed it. He came back in two weeks with evidence showing that this witness, whom I was about to rely on, was in North Carolina in the Marine Corps at the time, and couldn't have seen anything. And, in fact, that witness was indicted for perjury and went to jail, but it was a shock to me. And it really made me think that this idea of "guilty-beyond-a-reasonable-doubt" is not mere words, it is very meaningful, it has to do with fairness, and justice.

[45:00]

We should take it seriously. And I did, for a very long time.

LUPTON: That's a good story. What did you enjoy most about being on the circuit court?

WOLFSON: Well, I enjoyed the criminal trials, but I did not enjoy putting people in jail. It just wasn't something I liked doing. You had to do it, particularly when those certain charges were mandatory, like armed robbery was a mandatory class sentence. So, I didn't really like doing that. And then, after four years, there was a change and my court turned into a civil court. And the Chief Judge said, "Do you want it?" And I said, "Sure, I'll take it," and I did. One problem with that was I had never seen a civil trial, I didn't know anything about it. So, I had to learn, and I was happy to do it. And that's where I learned to be honest with the lawyers, to tell them I don't know about this kind of civil case, so I'll welcome any guidance you can give me, and they did. In the meantime, I studied the Civil Practice Act, and I studied the law that applies to these civil actions, and I became pretty good at it, and did that for fifteen years.

LUPTON: So, what is the big difference then between criminal and civil trials?

WOLFSON: Well, in criminal trials people go to jail, civil trials they give up or get money. But, of course, the standard of proof is different. It's not no proof-beyond-a-reasonable-doubt in civil cases. So, a lot of difference. Most of the civil cases were jury trials, and that was fun to do. I enjoyed handling the juries. I managed to do a couple of things that were new for civil cases. One thing was notes taken by the jury. In those days juries didn't take notes, and I said, "They should," and I supplied them with paper. Later on, the statute was passed that allowed it. And I allowed jurors to ask questions of important witnesses, and that was new, and that was something different. And later on, the Supreme Court passed a rule saying that would be appropriate. So, I think I added something to civil trials. And then for each juror I arranged a copy of the instructions, because they each should have them in front of them when they go back and deliberate. So, each juror had a copy of instructions. Nobody else had done that. So, I was happy to make these things up.

LUPTON: So before, just with the instructions, so before there was only one copy of the instructions that all twelve jurors shared?

WOLFSON: Yes. And that made a mess. This way each juror had his own copy of it, and didn't have to worry about sharing it.

LUPTON: It's almost astounding to hear that jurors couldn't take notes.

WOLFSON: It is, but that was the routine. And that's still true in many, many states. In fact, there's a very famous case in New York that took place very recently. Juries did not get

the instructions at all, they were read to them, and they were not allowed to take notes.

So, we did make some important changes.

LUPTON: So, with jury instructions too, how do you come up with the jury instruction?

Obviously, you're basing it on the law. Is it facts and the law, is it both?

WOLFSON: It's based on the facts and the law. But before the final arguments take place, the judge meets with the lawyers, and the lawyers submit their versions of the instructions and the judge rules and may submit his own, but it's all kept as part of the record. And then once the set of instructions is established, that's what the judge will read to the jury and then give to everybody.

LUPTON: So, if the prosecution makes some instructions that you don't necessarily agree with, or the defense side, doesn't matter, then you could deny those?

WOLFSON: Yes.

LUPTON: And then they wouldn't be part of the jury instructions?

WOLFSON: Yes. Sometimes I just wrote my own instructions.

LUPTON: And sometimes those would become basis for appeals?

WOLFSON: Yeah, there were times. But for the most part that was not an issue.

LUPTON: Okay. Any memories of your judicial colleagues? Any fond memories, or any sour memories of anyone that you served on the bench with?

WOLFSON: Well, one of my colleagues was an expert in settling cases. I was not. And I had a civil case involving the Central Illinois Power Company, which really came from downstate but was sent up to Cook County, and the lawyers came from all over the country, and there was a massive, massive case. And I tried a hearing, and I tried a trial with it, and just couldn't get anywhere with it, couldn't make progress. And we'd meet every week, and I'd have to calm the lawyers down. And I decided to give it to another judge who was a friend of mine who was very good at settling cases, but I did something that nobody else had done, I made it a condition that the parties to the case go to the judge, but not the lawyers. The lawyers were not allowed to go to the settlement meeting. But the owners, the Power people, were sophisticated people, they knew what they wanted and didn't want to do with a lot of destruction of properties. No lawyers, within two days the case settled, which sent a message, I think. Sometimes we don't need lawyers.

LUPTON: I was just going to say, "What does that say?"

WOLFSON: And it did in that case.

LUPTON: Well, I guess that's the thing about the law, every case is different. Obviously, in some cases lawyers are extremely critical to the process, in other cases, sure, maybe you don't need a lawyer in a particular case. So, yeah, it just shows that everything is different.

WOLFSON: Right.

LUPTON: Any other specific cases from your time as a circuit judge, of interest to you?

WOLFSON: I think that about does it, in the circuit court.

LUPTON: Okay. Actually, I want to back up just a little bit here, because before you became a judge you established the Chicago-Kent Trial Advocacy Program, correct?

WOLFSON: Yes. I established that in 1971.

LUPTON: What was your purpose, or what was your goal, in establishing this program? Had there ever been a program like this before?

WOLFSON: I don't think so. I had gone to a law school example of it because a friend had asked me to. And it turns out that what they were doing was taking the teacher who knew the least about trials, and the least experience about trials, and made him the teacher for the trials, and I was outraged. And I told that to the associate dean, I said, "I'm a trial lawyer, and you've got to teach these people how to try cases," and he said, "Well, do you want to do it?" and I said, "Okay". And I took the job and that's where I began in 1971, and I brought on some other people to other sections of it, and taught students how to do cases. Nobody was doing it then. And then other schools started doing it. This was a pioneering thing.

LUPTON: So, I see you were teaching, maybe, three different classes, or you developed a program for Trial Advocacy 1, Trial Advocacy 2, and Litigation Technology. So, what was involved with those types of classes?

WOLFSON: The important one was the start of Trial Ad 1. That's what got trial lawyers started. Trial Ad 2 was when they really liked it and wanted to do better, and they had to have

taken Trial Ad 1 to take Trial Ad 2. In some places I taught Appellate Technique, some places I taught Evidence. But as far as Trial Advocacy was concerned, these were the two that were important. It grew and grew and grew. It started out as a two-hour course with eighteen students, which you can't do but I did anyway. But we developed it and developed it, and the class sizes became smaller, and I talked the dean into making it into a smaller class, no more than twelve, and we expanded to other teachers. We used the Daley Center for the setting for the class. We didn't do it in the classroom, we did it in the Daley Center. We got the people in the Daley Center to allow us, because these were all night, and Saturday, classes. So, it was learn by doing, it was recreating actual trial work.

LUPTON: That's what I was going to ask. These weren't like mock trials, these were real trials?

WOLFSON: No, but they were taken from real trials.

LUPTON: Got it, okay, that makes sense.

WOLFSON: In fact, it was one of the books that I was co-author of, *Materials In Trial Advocacy*. We used that, and the students liked it.

LUPTON: So, you wanted this trial advocacy because it hadn't been done before. But, obviously, you had been in the courtroom many, many times as an advocate yourself.

WOLFSON: Yes.

LUPTON: Obviously, your legal career influenced this whole teaching of Trial Advocacy, correct?

WOLFSON: Yes.

LUPTON: Okay. You didn't do this only at IIT.

WOLFSON: No, I did it at other schools too. I did it at the University of Chicago, for several years, and I also did it for Kent, and the National Institute for Trial Advocacy, where I taught there for several years. And even after I became a judge, I did the teaching. I just liked to do it.

LUPTON: And again, this is a testament to you that you started this program, and you not only did it at one school, but you did it at many other places, so, again, this is impressive. So, what were things that the students seemed most surprised about, or seemed to struggle with, in your classroom?

WOLFSON: I think they had problems with the rules of evidence, and rules of evidence were a very, very important part of Trial Advocacy; trial lawyers have to know evidence. And how to cross examine a witness was a real skill, a lot of them couldn't handle it, just couldn't do it. Some did, and some were wonderful trial lawyers, and have been all over the place.

LUPTON: Did you have any teaching styles?

WOLFSON: I did, I tried to be kind, I didn't try to put anybody on the spot, but I always showed that I was teaching, by show-and-tell. And once the student did it, I would then show him or her how I would do it, so they got it both ways. But, I think, that's an important part of the teaching.

LUPTON: So, the cases that you used were those your cases or just cases that had come up?

WOLFSON: Just cases that I had. Some were cases I used, some were not.

LUPTON: Did you use any of your big cases that you had, or just your typical?

WOLFSON: Most were routine cases, not all. There was the insanity case that I told you about, about the boy who shot his mother, I did use that in trial materials. But all of the class cases were typical in practice.

LUPTON: Yeah, just wondering if there were any go-to cases that you would use, and why used those. But, yeah, that makes sense. Okay, I want to switch gears here a little bit and talk about your family a little bit. So, tell us about how you met your wife, Laurretta?

WOLFSON: Well, that brings us back to Trial Advocacy.

LUPTON: Good.

WOLFSON: One of the things that I did at Kent, that I didn't do at other schools, was to coach teams to compete in national trial competitions. And in 1988 we struck gold, and we had three students, one was Joel Daly the newscaster, I don't know if you recall him, he was a student at Kent and he was on the team.

[1:00:00]

Another was Peter Roskam. He became a congressman in Washington, now a lawyer with a big firm. And the third one was Laurretta Higgins, and they were wonderful. They won the regional competition in Minneapolis, and they went to Dallas, Texas, for the national rounds, like the NCAA in basketball, it's that kind of thing. And they were

terrific, and they went through it, and they won. They won the national championship in 1988. Kent has since won three other national championships which I didn't coach, but this one I did, and it was a great, great moment.

LUPTON: So, that's how you met your wife then?

WOLFSON: Yeah, that's how I met my wife. Laretta Higgins became my wife, thirty-five years now.

LUPTON: Great. So, what are some things you like to do on the side? Things you like to do at home, not related to the law?

WOLFSON: I used to do a lot of walking. I don't anymore because of some difficulties. But, the one thing that I did decide to do was to say that, "There's more to the world, there's more to life than law. There's something else to do." And that other thing was to take up poetry. I didn't do that until I was about seventy years old. I started writing poetry. And the first poem that I wrote and sent out was called *Eleventh Floor Lies*, and I did it because we had a meeting of judges and they were talking about lawyers who lie to them about why they were late, and another guy said, "Well, those are just minor lies," and the courtroom was on the eleventh floor. So, I went up and wrote a poem called *Eleventh Floor Lies*, and I sent it out to a journal called *Rattle*, which was one of the upper journals. It bought it, and accepted it, and published it. And since then, I kept writing poetry and I've had several of my poems published. I think I sent you a book.

LUPTON: You did. I thumbed through it, and I think my favorite one was about Chester Arthur.

WOLFSON: Chester Allen Arthur.

LUPTON: I liked it because you said you'd "never heard of the guy, and maybe that's not a bad thing". So, I thought that one was very clever.

WOLFSON: So, I've done a lot of that, and I still do, I still write poetry. Most of my poems in the book that you have are poems that were published in other publications.

LUPTON: So, what drew you to this form of literature, is it your previous journalistic?

WOLFSON: Yes. I've just always been interested in words, and language, rhythm of language, the use of words, the communication of words. And if we could do it by writing things, I think we could do it by poetry. And that's what I did, and that's what I do.

LUPTON: You said you didn't start doing poetry until you were seventy, though. So, you didn't really have any sort of outlet prior to that other than walking, you said?

WOLFSON: That's about it, and law.

LUPTON: Yeah, well it sounds like, if you had all these cases and all these activities going on. You said Laretta, your wife, also works in the field of law.

WOLFSON: Yes, she's a lawyer. We're both still lawyers, we both still have a license. And more than that, she was a judge for several years, and she was general counsel for the Department of Human Services, and she was a hearing officer for divorce courts. So, she's done a lot in law.

LUPTON: Excellent.

WOLFSON: She's not practicing now.

LUPTON: Okay. Well, let's move to the appellate court then. So, how did you get to the Illinois Appellate Court?

WOLFSON: Well, again, the Supreme Court came to my benefit, just like the Supreme Court got me into the circuit court. I was assigned by the Supreme Court to have a position on the appellate court, in 1994. I didn't get elected to it. But I was there for a very long time serving at the pleasure of the Supreme Court day-to-day. It was a new world, it was a world just opened up for me. I think it was the best job in America, it was just great. It was important, everything we did mattered. It gave you a chance to write, to do things, just to do what I knew how to do.

LUPTON: So, then really, those are some of the differences between being a circuit judge and an appellate judge?

WOLFSON: It was a big difference. The appellate court, really, is the court of last resort. The Supreme Court rarely takes cases from the appellate court, maybe two or three percent. For the rest of it, it's the final word. And half the cases were criminal, half the cases were civil, and there was nowhere else for people to go. This is where we show them what the law is like, what fairness is like, what law should be. I enjoyed the appellate court.

LUPTON: Were there any types of cases that were more in the appellate court, than not?

WOLFSON: There were a couple that stand out in my mind. One is a case called *People v. Cannon*. Cannon was a defendant who was charged with murder, and his confession was

obtained by Lieutenant Burge's group of police officers who had been accused of using violence. And this fellow Cannon said he was beaten into making a false confession, and his lawyer made a motion to bring in these same police officers to show they did this kind of violence in other cases with other defendants, that it was their pattern. But, at that time, Illinois law did not allow that to happen. And the case came to me after the conviction, and I decided it should happen. And so, I wrote an opinion saying that, and I reversed the conviction, I wrote an opinion saying that he had a right to bring in these other police officers as evidence that they did to him what they did to these other people. And that opened the door to all the Burge cases that you've been reading about, because this happened in several other cases. Cannon was released and went home. That was a case that I was very, very proud of. I took the position that "You can not reward a careful torturer," just because they didn't leave any bruises, doesn't mean you can't find they violated the law. That's what I said. So, that was a case that I had great pride in, to this day. Another case that I thought was important was a case where the defendant was charged with a crime, murder, and he said, "That wasn't me, it was somebody else," and he brought in an expert to testify that the eye witness was giving mistaken testimony and that there is scientific evidence that shows that identification can be improper and wrongly performed, for a lot of different reasons, people look the wrong way, think the wrong way, look at a weapon rather than the face, all sorts of things that experts are trained to testify in about wrongful identification. Except, the judge wouldn't let witnesses in because in Illinois they couldn't get in. So, the case went up on appeal and I reversed it. And I said "It's bad law to say no. The judge should allow it, there's a good

record here for the expert to testify,” and I sent it back for a new trial. And a little after that the Supreme Court of Illinois issued another case that backed me up and said yes, “Judges should do that. If it’s there, if there’s evidence of it, the experts should be allowed to testify to prove the identification was false.” So, I think that was important too.

LUPTON: Was this the Allen case?

WOLFSON: Yes.

LUPTON: *People v. Allen*.

WOLFSON: Thank you for remembering. I’m ninety-one years old, names sometimes escape me.

LUPTON: I’m fifty-seven years old, my mind is half gone. Your mind is way better than mine. So, what’s the work schedule difference between being a circuit judge and being an appellate judge?

WOLFSON: Every appellate judge has two law clerks, and you have to decide what to do with your law clerk’s. I did my own writing, because I love writing and I’ve talked to you about that. But, I’d pass it through the law clerks first to see if they had any criticisms or changes to recommend, and they were very good about it. So, writing those opinions is time consuming, but I did it. And then of course you have to read your colleagues’ cases, these are panels of three, and you have read whatever they’ve written and not just pass it by but dissent if you think they’re wrong, and agree with it if you think they’re right. So,

it's not only working on my own case, it's working on the two other cases too. So, there's a lot to do in the appellate court. When people come to the appellate court they have the right to believe that they'll be dealt with fairly and justly. So, I don't like judges using their own politics, or using their own opinions, or using how they lean, you should use the law and the facts. And that means reading briefs, and sometimes that can be arduous, and it means reading the record and that is very arduous at times, particularly records that are very, very thick. But you got to do it if you're going to do your job as a judge on the appellate court. So, that's what I was doing. Then, of course, I belong to a lot of committees that had to do with the law, that were important to me.

LUPTON: So are the opinions assigned, or does it go on a rotational basis? How does an opinion get to you then?

WOLFSON: Yes, they are assigned by a computer down in Springfield. And it's set out so that every judge has the same number of cases. There's no control over getting it, it's gotten by the machine, by the computer. You can visit it down the street from you, you can visit it and see it. And it works very nicely. Every judge in the appellate court has the same number of appeals.

LUPTON: But it's just random right?

WOLFSON: Random. Absolutely random, there's no control over it.

LUPTON: A random case that you would get to write an opinion on.

WOLFSON: Yes.

LUPTON: So, if you're assigned a case that you're outvoted, then I guess that goes to one of your colleagues to write the opinion?

WOLFSON: Exactly, it goes to one of my colleagues and if I don't agree with it I write a dissent.

LUPTON: Alright. So, how long were you on the appellate court?

WOLFSON: Close to fifteen years.

LUPTON: And so, why did you leave the appellate court? You said it's the best job.

WOLFSON: That's a great question. I was in my chambers one day and the president of DePaul University came to visit me with some other people. And he was a very, very strong guy, and a good guy. And he asked me to be the dean of the law school, and I thought, "Well, maybe it's time to move on." Because I wasn't elected to the appellate court, and you never know what they're going to do. And I thought, "Well, maybe something different, something new." Pension was vested, so I didn't have to worry about that. And so, at first, I said "No". And then he came back, and then he came back again, and he finally talked me into it, and I became the dean of the law school. That was in 2009. And I was dean of the law school for two years, and I have to say it was an arduous job. It dealt with hiring, and it dealt with tenured professors; it was not a happy time. So, after the two years, I was assigned by the new dean to teach as a distinguished visiting professor, which I am to this day. And I started teaching Evidence and Appellate Advocacy. And I

did that ever since, until about last year. I always promised myself I would be a ninety-year-old Evidence teacher and that's what I did, I taught Evidence after I turned ninety.

LUPTON: So, you're still working?

[1:15:00]

WOLFSON: Well, I worked my last time was December of last year, '23. I taught new Illinois judges Law of Evidence, which I've been doing for years. So, that's something I do.

And I like doing it, and if they ask me I'll do it again. But, evidence is a big thing for me, and is the heart of a decent trial.

LUPTON: I also see that you've also authored some books about evidence and trial advocacy.

WOLFSON: Yes, a book called *Trial Evidence*, I'm a writer of it and Tom Mauet is my partner.

And it's used all over the country, it's a very famous book, and I loved writing it. And Tom was a very strict kind of writer. In fact, the very first book, it's the 8th Edition now and it's Aspen, so it's well written, but in the 1st Edition we were writing it and it was just about ready to go and I called my partner up and I said, "Tom, I'm concerned because I don't think we have enough authority to support what we say in the book," and he said, "Warren, we are the authority. We are the book. We don't need anybody else, except the Supreme Court." And that sold it for me. And so, we did that, and we've been doing that for eight times, and that's about twenty-five years. So, it's a well-recognized book. And, we have a book out for teaching *Materials in Trial Advocacy*, which is in law schools all over the country too. And, I've written some articles for law reviews, which I've enjoyed doing. So, I've kept busy.

LUPTON: So, this is basically, a culmination, these books that are now being used in law schools around the country, a culmination of your advocating for trial advocacy back in the 1970s. So, now, it was worth it, what you started at Kent is now all over the country. So, again, that's a testament to what you've done. I'm in awe, actually.

WOLFSON: Thank you.

LUPTON: So, you mentioned some other activities that you're involved with. You were the chair of the Illinois Supreme Court Committee on Rules of Evidence.

WOLFSON: I could give you a list of my committees. I have a bunch of them. But the one about evidence was really important. I was named to the Supreme Court Committee on Rules of Evidence because we did not have written Illinois evidence rules until then. They named a wonderful committee, it was Tom Fitzgerald who was really behind all of this, the Chief Justice on the Supreme Court. He was a former trial lawyer, he understood the need for proper evidence. And he named very good people from all over the state. And we met, and we started going to work, and it took us a couple of years to put the rules together. We didn't want to copy the federal rules, we looked at them and some of them inspired us and some didn't. So, we put together the state rules of evidence in criminal cases, and finally it got passed. There's a couple things in there that still need changing. I'm still on the committee, not the chairman anymore. I became the chairman, I became vice chairman, now I'm just a member. But it's still there and it's still important, and I'm afraid that a lot of lawyers and judges still don't use it.

LUPTON: Why is that?

WOLFSON: The Court talked to them about it, but some like the old ways.

LUPTON: Right.

WOLFSON: I think more and more it's getting better. But still a lot of lawyers are not using it, that's too bad, because it really works.

LUPTON: Another thing you mentioned, you're a founding member of the Illinois Lawyers' Assistance Program? What is that?

WOLFSON: Yes, I was a founding member of it. This happened in the early 1980s. A lot of us felt that there was just too much alcoholic drinking in the legal profession, and there was too much drunken behavior in the legal profession and that we should do something about it. So, we went to a hospital in the suburbs and we learned how to handle it. It was mostly alcohol, later it expanded but it was mostly alcohol, how to handle it, how to do meetings to deal with it, to show people this is an illness and you've got to get yourself fixed, and so we did that. And everybody on our committee was either a recovering alcoholic, or somebody related to a recovering alcoholic, or just somebody who really cared about lawyers. So, we had lawyers and judges on the committee. And no professional staff, just the lawyers. We started out with help from the Illinois Bar Association, they gave us an office and phone and some stamps. And it kept expanding and expanding, and the Illinois Supreme Court really helped us a lot, it was very helpful. And they gave us a rule that allowed privilege for people who talk about alcoholism, people who we try to help, so that's privileged. And then finally, to this day, the Supreme Court has made it a part of the lawyer fee to support the Lawyers' Assistance Program.

It's now expanded into a lot of illnesses, not only alcohol but other drugs, and other psychological problems, we have experts for that, anything, including gambling. Anyone who needs help, LAP is there. I was chairman of the board for many years, and I was on the board for many years, and just this past year stepped off the board because I was getting worn out.

LUPTON: So, I've read that lawyers and doctors are the two highest professions with substance abuse issues.

WOLFSON: That's right.

LUPTON: Why is that?

WOLFSON: Well, I guess because these are tough professions. And a lot of what we did for the Lawyers' Assistance Program was taken from the Doctors' Program. I think we improved on it by using interventions, that was very important. I can't tell you about the times that the person who we intervened with would call us years later and say, "Thank you, for saving my life," because that's what we did. We saved lives, we saved practices, we saved families, and we learned to do that the right way. I think other professions probably do it too.

LUPTON: Well, it's a high-pressure job, and I can understand that. Sometimes you need an escape that ends up taking control of your life. So, yeah, it's a great program, and glad that you were a part of it.

WOLFSON: We were one of the very few of these programs that began, and after we began the word got out. We had people visit us from all over the country to see how we do it.

Now everybody (inaudible), but then it was very new and very different.

LUPTON: So, when did that start again did you say?

WOLFSON: In the '80s. Lower-mid '80s.

LUPTON: Okay. And then another one you mentioned, you were on the committee of the Illinois Supreme Court's Jury Instructions in Criminal Cases?

WOLFSON: Yes.

LUPTON: Tell me a little more about that?

WOLFSON: Well, we mentioned before that the judge is in charge of getting instructions to the jury. Criminal cases or civil cases are different. And the Supreme Court had a committee that wanted to make sure that the instructions in criminal cases were correct, and maybe improved on. And so, this committee which was made from people all over the state, lawyers and judges, was charged with preparing new instructions in death sentences and other crimes, and so we did that and then we sent it back to the Supreme Court and it approved it. Those are the instructions that are used today.

LUPTON: Another one was you were the chairman of the State Housing Appeals Board?

WOLFSON: Yes. I don't talk about that a whole lot.

LUPTON: Okay. What is that?

WOLFSON: Well, it's fair housing procedures. And where a community doesn't allow it, and the person who wants to build it wants to sue, it comes to this committee. Except, they always got taken care of before they ever got to us. So, I was on it for a couple years and we never got a case, and I said, "I'm going to resign," and so I did.

LUPTON: Good.

WOLFSON: It could have been important, but it wasn't. There's also the Character and Fitness Committee that I have been on. That's a Supreme Court committee to look into complaints against those students who are becoming lawyers.

LUPTON: Does this occur before it goes to ARDC?

WOLFSON: Yes. This is before they get sworn in as lawyers.

LUPTON: Oh, okay.

WOLFSON: To see if they're fit.

LUPTON: Yeah. Well, there had been some kind of big cases about that recently, going back to George Anastaplo who wouldn't answer the question about being a communist or something.

WOLFSON: And he wasn't, but he just didn't feel he should have to answer that question.

LUPTON: Correct. And I remember back in the '80s, or early '90s, there was like a Nazi sympathizer from Peoria? Shaw, was that his name? I'm trying to remember now, that doesn't ring a bell.

WOLFSON: No.

LUPTON: I remember that too, because I don't know if he actually got his law license. Well, I guess just to wrap up here, what are some things about the judicial system, some tips or advice that you'd like to share with aspiring lawyers or a young person who's interested in the law?

WOLFSON: When I talk to young lawyers, who just get out, I say, "There are things you have to consider. First of all, tell the truth, always tell the truth. Second of all, keep your promises, always keep your promises. Be civil, avoid anger. Prepare in advance, just like trial lawyers have to prepare in advance. Earn the trust of judges and juries and respect the law. Treat every case as if there are no unimportant cases, there are no unimportant people, there are no unimportant clients. If you represent a client in a criminal case, you cannot say he is guilty until some judge or jury says so. You are not there to judge your client. And so, if you can follow these rules, I think you'll have a good time as a lawyer. Just do it right." So, that's something I like to tell them. I want them to be proud to be lawyers.

LUPTON: Do you think politics plays a big role in the judicial system?

WOLFSON: In some way they do. When I became a judge, they played a big role. But I became a judge anyway, and nobody ever tried to do anything political about it. Nobody

ever asked for anything, nobody ever wanted anything, it just worked out very well.

Now, there are some politics involved. But the important thing now is how do you know you're getting a good judge? How do you judge that? And, I think unfortunately, a lot of people get to be judges who really aren't qualified for it. All you need is a law license. You can be a lawyer for one day and you then become a judge. And the public can't know whether this judge is qualified, we still haven't figured out a way to do it. So, the political people mostly don't make the judges anymore, the judges run, but we still don't know if we're getting good judges or not. And that, to me, is the problem.

LUPTON: So, should there be minimum qualifications?

WOLFSON: Yes, there should be, I think there should be. If not in time, certainly in testing of some kind, or in certain rules. When people come to court, they should know they're getting a good shake from qualified people.

LUPTON: And bar associations, I know that they have like recommendations for elections, but they don't really have any evaluations on judges, do they?

WOLFSON: Yes, they do if the judge is up for retention or election. But nobody knows about it, the public doesn't know that.

LUPTON: Right.

WOLFSON: But, they do make the evaluations.

LUPTON: But, if I'm going before a judge, and I want to know a little bit more about that judge there's nowhere for me to go as a citizen, correct?

WOLFSON: The newspapers usually publish evaluations, but most people don't read them.

LUPTON: And that's a problem.

WOLFSON: You won't know until they do it to you.

LUPTON: Right. Correct.

[1:30:00]

Well, this does kind of lead to the next question. So, what are some of the biggest threats to the judicial system, do you think?

WOLFSON: Well, I think unqualified judges are the big problem. Because, I think it's a wonderful system, I think juries are great, I think the rules are good. There's nothing wrong with that, I don't knock judges at all. Just make sure they do the right thing, and then handle the case the way it should be done.

LUPTON: What's been your most favorite part about being a lawyer and then being a judge?

WOLFSON: Well, the appellate court was my most favorite part, because I'm doing something important, and I can't remember a bad day in the appellate court. I had walking distance to home. I had two wonderful law clerks. My colleagues were all, with very few exceptions, very wonderful people, it was a happy, happy time.

LUPTON: That's good to hear. Do you have anything else to add, because I think I've kind of covered most of the questions I had for you. Was there anything else that you would like to add?

WOLFSON: I think I've given you most of it. What I started with as a clear, concise, writing, I did to the very last day, and I think everybody ought to do it and everybody ought to read it. You ought to get responsive answers to your questions and if you don't get responsive answers do something about it. You have to listen to what is being said. Competency, competency as a lawyer is important. I've seen so many lawyers get up in the courtroom and read to the jury when they shouldn't be reading, and saying things that aren't good things to say. I've tried to teach writing without legalese cluttering or when you write in the appellate court, don't write legal jargon, write clear language. My test is, would any reasonably intelligent person, lawyer or not, be able to read my writing and know what I said. That's my test, and I wish more lawyers would use it, some do and some don't.

LUPTON: Do you think writing is becoming a lost art?

WOLFSON: Yes, I do. I can tell you that as a teacher. I teach a writing course in Appellate Advocacy in law schools, and I write and grade final exams, and it's depressing to see the writing. It's not up to par, and it's too late to get them once they come to law school. They should have learned it earlier, and they don't. And, I don't think computers have

been much help, it just helps the lawyer say the same thing over again. So, that's needed desperately, learning how to write.

LUPTON: Yeah, and like you said, I think that's an issue that starts way before, really, it starts way before you even get into undergraduate.

WOLFSON: Absolutely.

LUPTON: People either like to write or they don't like to write. From a historical, from my perspective as a historian I see a lot of that too. I think writing is becoming a lost art. Everything is abbreviated, it's more direct, it's text based, it's just all simplistic, too simplistic.

WOLFSON: Yes, exactly. I can't think of anything else right now.

LUPTON: Yeah, I don't either.

WOLFSON: Well, thank you John. I appreciate it, you did a good job.

LUPTON: Thank you, I appreciate your responses. This has been a fun time.

WOLFSON: Okay. I enjoyed it. Thank you so much.

LUPTON: Bye.

[1:36:00]

End of Interview

