

MICHAEL D. RYAN

(1945-2012)

ASSOCIATE JUSTICE, SUPREME COURT OF ARIZONA



A Hero's Life

BY ANN A. SCOTT TIMMER

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A war hero. A respected jurist. A humble servant. A mentor. A friend. A beloved husband, father, and grandfather. All these tags fit Michael D. Ryan, a former associate justice on the Arizona Supreme Court, who passed away suddenly and too soon in 2012 at the age of 66. In an age when selflessness is under-celebrated, this man's life begs remembrance. The challenge is capturing the essence of a vibrant, well-loved, and respected man in a paltry 2,000 or so words.

Mike was born in Balboa Naval Hospital in San Diego just before the end of World War II. Both his parents were Marines so, as Mike once said, "[T]here was no hope for me. I essentially grew up with two [drill instructors] as parents, on my bed was the Corp's dark green woolen blanket . . . and we never missed an episode of *Victory at Sea*." The family moved to St. Paul, Minn., where Mike grew up and, when old enough, bussed tables at his family's restaurant. He graduated with an English literature degree from St. John's University in 1967 during the Vietnam War. Although his parents did not pressure him to do so, Mike joined the Marines. As he said, "It seemed to be the only logical choice."

After training, Mike went to Vietnam in 1968 as a second lieutenant and served as a platoon commander with Company L, Third Battalion, Fifth Marines, First Marine Division. On Sept. 12, Company L was participating in Operation Mameluke Thrust north of An Hoa in Quang Nam Province when Mike's platoon came under heavy fire from a North Vietnamese Army battalion. A subsequently issued citation describes what happened next:

During the initial moments of the fire fight, several Marines, including Lieutenant Ryan, were wounded and the platoon was pinned down. Ignoring his painful injury, he skillfully maneuvered his men into advantageous positions and commenced directing their fire upon the hostile emplacements. Establishing radio contact with his company commander, Lieutenant Ryan ably furnished an accurate analysis of the tactical situation, which enabled the Marines to direct air strikes and artillery fires against the hostile force. Steadfastly refusing medical evacuation, he resolutely continued his determined efforts until his platoon's position was secured and all other casualties had been extracted from the hazardous area. His heroic actions and resolute determination were an inspiration to all who observed him and contributed significantly to the accomplishment of his unit's mission. Lieutenant Ryan's courage, aggressive leadership and unwavering devotion to duty in the face of great personal danger were in keeping with the highest traditions of the Marine Corps and of the United States Naval Service.

The Marine Corps awarded Mike two Purple Hearts and a Bronze Star with a Combat "V" for heroism in combat. He was medically discharged in 1969. While recuperating in the Veteran's Hospital in Minnesota, Mike hung out in the therapy department hoping to meet Karen, a young occupational therapist who looked great in a miniskirt. They married two years later.

Mike's combat injuries were severe, leaving him partially paralyzed and wheelchair-bound. But he didn't let this interfere with his life or his

In a mock interview conducted when Mike was a trial court judge applying for a position on the Court of Appeals, the panel asked whether he regretted any decisions. . . . [A]fter thinking it over, he replied seriously, "Yes, there is one." And with a wry smile he said, "I didn't duck."

renowned dry (and often sneaky) sense of humor. In a mock interview conducted when Mike was a trial court judge applying for a position on the Court of Appeals, the panel asked whether he regretted any decisions, thinking he would answer about a legal ruling. Instead, after thinking it over, he replied seriously, "Yes, there is one." And with a wry smile he said, "I didn't duck. And that is the only decision I've ever regretted."

AFTER GRADUATING IN 1977 FROM ARIZONA STATE UNIVERSITY COLLEGE OF LAW, Mike went to work as a county prosecutor in the major felony and sex crimes unit. His wife, Karen, says one case always stuck with him: *State v. Jensen*. Jensen, a former Marine, was accused of killing two teenagers in 1973 at Saguaro Lake outside Phoenix. Jensen admitted shooting the teens but mounted an insanity defense. He claimed that post-traumatic stress disorder (PTSD) caused him to believe he was killing two North Vietnamese prisoners of war. This case hit home. Although Mike didn't know Jensen, they had served in the same regiment, the same battalion, and the same company, although at different times.

Mike didn't dismiss PTSD as a viable defense, but after looking through Jensen's service records, he was convinced Jensen hadn't seen sufficient

action to suffer from it. As he once said, "I just believed that this man was using PTSD to avoid responsibility for killing two innocent kids." Mike acknowledged that "[a]nyone who has been in combat knows that it deeply affects your life in many ways. But I have and still have a problem accepting that anyone's battlefield experience is an excuse to commit murder." Ron Reinstein, a former Superior Court judge and a close friend of Mike's from their prosecuting days, explained that "Mike took Jensen's defense as a slap in the face to all those who actually suffered from PTSD after fighting in Vietnam. He took that personally in light of his own experience." The jury convicted Jensen and he was given two life sentences.

Mike became close with the murdered teens' parents and stayed in touch for years. One teen's parents organized a local chapter of Parents of Murdered Children, and Mike spoke to members on several occasions. His empathy for crime victims was not limited to the *Jensen* case. Reinstein said that Mike had "a unique ability to form lasting relationships" with victims' families. Some families kept in touch with Mike for years out of gratitude for his compassion.

While Mike toiled as a prosecutor and Karen continued her work as an occupational therapist, the couple ▶

That defendant heeded Mike's words and, after serving his time, eventually became the director of a nonprofit organization. He credited Mike with changing his life.

decided to become foster parents to high-risk infants. Mike loved it. "He'd just come in the door after work and sling a baby over his shoulder right away," said Karen. Together, Mike and Karen fostered about 80 babies before they were returned to their birth parents or adopted.

The governor appointed Mike to the trial court bench in 1986, and he quickly carved out a reputation as a fair, calm, and resolute judge. Perhaps as a result, Mike presided over high-profile and complex cases: the criminal trial of impeached governor Evan Mecham, AzScam (bribery of legislators), and the Phoenix Suns drug case, to name a few. Throughout it all, Mike maintained a soft-spoken but firm countenance that dissuaded unseemly courtroom antics. For example, after the jury found Mecham not guilty, defense counsel rose, with the TV cameras rolling, and stated, "Your Honor, my client would like to make a statement." Mike responded, "This is a court of law, counsel. Sit down." Former Judge Frank Galati remarked, "Mike's cold-stared response was simple, he was not about to let politics intrude into his courtroom. I was really proud of him for doing that."

But Mike also made a difference in the less noteworthy cases he presided over. Reinstein recalled the sentencing of a genuinely remorseful defendant who had swindled money from people. Mike sentenced him to prison but asked the defendant to come see him after

he had served his term, encouraging him to turn a new leaf. That defendant heeded Mike's words and, after serving his time, eventually became the director of a nonprofit organization. He credited Mike with changing his life. Michael Daly Hawkins, a senior status Ninth Circuit judge, poetically summed up Mike's judicial legacy: "He was a weathervane that always pointed to justice."

Although sober-faced on the bench, Mike had a dry sense of humor and enjoyed zinging his colleagues. One infamous prank took place when fellow Judge Frank Galati, a notorious workaholic, used vacation time to take his staff to a spring training baseball game. Galati arranged to have Mike cover his cases and gave him the stadium phone number (no cell phones then) if something came up. Unfortunately, he also told Mike that he hoped he didn't see anyone he knew at the game because it might give people the impression he wasn't hardworking. That's all Mike needed to hear.

In Galati's words: "It was a beautiful warm and sunny spring day, and the stadium was full. About halfway through the game, the public-address announcer blared an announcement: 'Judge Frank Galati, come to the stadium office!! Judge Frank Galati, come to the stadium office!!' So I made my way through the crowd, found out where the stadium office was and breathlessly got to a phone.

"Me: 'Hello?'"

"Laid-back voice, sounding like a

casual call to a friend: 'Hi, Frank. It's me, Mike.'

"Me: 'Holy *%\$@, Mike, what's the problem?'"

"Mike: 'Problem? There's no problem.'

"Me: 'Then why are you calling me here?'"

"Mike: 'I just wanted the crowd, 10,000 of your fellow citizens, to know how a Superior Court judge is spending a weekday afternoon.'"

After ten years on the trial court bench, Mike was appointed to the Arizona Court of Appeals. Unsurprisingly, Mike further solidified his reputation as a fine judge and, yes, he pranked his new colleagues. Space prevents me from relaying another classic ballpark scheme; suffice it to say that any judge attending a weekday spring training game invited Mike along to keep an eye on him. According to retired Court of Appeals Judge Jim Sult, "We worked hard but also had a lot of fun. Mike was a great prankster, imaginative, devious, and clever but not mean."

I had the honor of serving with Mike for two years on the Court of Appeals before he was appointed to the Arizona Supreme Court in 2002. He set a fine example for me as a new judge. He adhered to the law, even when he disagreed with it, fairly assessed the record, and clearly explained a decision. He never found it appropriate to blather about his own views on appropriate policy; he respected the separation of powers and he ruled from a position of humility. And he never made personal jabs at colleagues who held opposing positions on issues.

Mike accepted his appointment to the Supreme Court with his usual aplomb. "We were walking into a Diamondbacks game when the gover-

nor called,” said longtime friend and court commissioner Jeff Woodburn. “She told him she had appointed him. He hung up, grinned, said, ‘Well, I got the appointment,’ and that was it.”

Downplaying his accomplishments was typical of Mike. I recall he once stopped by my chambers to sheepishly invite me to attend an award ceremony on the building’s veranda that day. He said it was “no big deal,” but he didn’t want to insult the presenters by not having an audience. Imagine my surprise to find a Marine color guard, bedecked officers, and government officials in attendance as Mike was presented with the prestigious *Semper Fi* award by the Phoenix Chapter of the First Marine Division Association. An exasperated Karen stood proudly in attendance; Mike had neglected to inform her of the award but, luckily, his judicial assistant called her that morning with the news.

IT GOES WITHOUT SAYING that Mike made a significant impact on the Arizona Supreme Court with his opinions and steady leadership on many state and national commissions. But his impact on the people around him will be his more enduring legacy. Mike was “a mentor and advocate for other attorneys with disabilities” said Randy Howe, a Court of Appeals judge who has a disability, and “while he wanted to make sure that no physical barrier stood in anyone’s way, his life did not center on his disability, but on whatever he needed to accomplish. I have tried to emulate that.”

Law clerk after law clerk offered tributes to Mike after his death. One related a time when a little boy called the chambers asking to speak to the justice for a school project. The clerk, mindful of Mike’s workload, put

the child on hold and asked Mike what she should do with the call. He replied, “Why didn’t you just put him through?” and then conversed with the boy for several minutes. Another clerk followed Mike’s career advice and credited him as being “such an important mentor in my life.”

After retiring from the Supreme Court in 2010, Mike continued to serve the judiciary by taking on several projects and continuing to fill in when another justice had a conflict of interest. The morning of the day he died, he was at work at the court before going home ill. It made it more shocking to learn later that day that he had passed away at home.

In addition to Karen, Mike was survived by three sons, two grandchildren, siblings, and a grieving community of friends, colleagues, and admirers. John Phelps, the State Bar of Arizona’s CEO, put it well: “The work and accomplishments of our true heroes are often lost in the noise and commotion of a world that too often honors celebrity, rather than service. Mike Ryan, pure and simple, was a true hero in every sense of the word.” State Bar President Joe Kanefield agreed, saying, “Justice Ryan was a legal giant whose kind demeanor made all who appeared before him feel at ease. . . . He has earned his place in Arizona history and as one of our finest jurists. He will be dearly missed by the legal community.”

Mike was laid to rest in Arlington National Cemetery with full honors.

After Mike’s death, Karen received a letter out of the blue from a Marine under Mike’s command in Vietnam, which summed up Mike’s character and the impact he had on people’s lives even as a very young man serving his country far from home:

To be honest, I have always assumed that Mike did not survive his wound. I was the first Marine to get to him that day . . . and never learned if he lived through the medivac and subsequent surgery. . . . He and I talked often, when we were not engaged with the enemy. He was adamant that I return to school, when my enlistment was over. He inspired me regarding the importance of education in the same way that he inspired Marines to perform their duty with energy, integrity, spirit, and devotion. . . . Mike was one of the bravest men I have ever met. But he was also sensitive and caring. He was always very fair with his men and never asked a Marine to do something that he would not do himself. I have met many men from many walks of life since I left the Marine Corps, but never a man I have respected as much as Lt. Ryan.

Mike Ryan left a legacy of service, honor, and inspiration. He lives on in the way he impacted innumerable lives. Could anyone hope for a more fitting epitaph?



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