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How the Justice System Severely Failed One of its Own

Part of the horror of what happened to Suzanne Wooten is the realization that if the justice system failed so miserably for her, it could happen to anyone.

By **Angela Morris** | December 01, 2017

Correction: This article was corrected to reflect that Suzanne Wooten was in San Francisco when she first learned of her indictment; that her son relocated to a school in a different city to escape from bullying over Wooten's wrongful conviction; that defendants argued they never made political contributions, but even if they did, the bribery law wouldn't apply to the situation; and to correct the name of Seventh District Judge Kerry Russell of Smith County.



Suzanne H. Wooten.

Photo: Mark Graham

Part of the horror of what happened to Suzanne Wooten is the realization that if the justice system failed so miserably for her, it could happen to anyone.

Wooten lived a nightmare: Winning an election by a landslide to unseat an incumbent judge, only to be allegedly targeted by political rivals, wrongfully convicted of nine felonies, cast down from her district court bench and stripped of her license to practice law.

Finally after six years living the bad dream, Wooten this year found complete redemption in May when a court acquitted her of all charges, declared her actually innocent, and she got back her law license in June.

Some things, Wooten will never get back. She used to believe if she paid her taxes, followed the speed limit, refused to drink and drive, or followed election campaign laws, she would be safe and wouldn't get in legal trouble.

"The biggest horror is taking away from me and my family the sense of security we have," Wooten said. "When something like this happens to you, my sense of being safe even just walking down the street—it's gone, it's destroyed."

Wrongful conviction stories always loom large in the public consciousness because of the deep-seated need to believe that the justice system will get it right—convict the guilty, exonerate the innocent. When things go terribly wrong, people struggle to find some reason, so that they won't have to believe that a wrongful conviction could happen to them, too.

How did the system fail Suzanne Wooten?

It's an easy question with a very complicated answer, involving alleged wrongdoing coupled with failures at multiple stages of the legal process. The story unfolds with allegations of a political witch hunt. Prosecutors found some evidence of shady transactions, but then over charged Wooten and misinterpreted the bribery law. There's a judge who Wooten said failed as a gatekeeper in interpreting the law, and a jury supposedly in awe of the state's authority that was ready to punish any whiff of public corruption.

"If I did not live this, I would not believe it myself, because of my faith in the judicial system and this country," Wooten said.

Peter Schulte, who represented Wooten throughout her entire ordeal, said Wooten always maintained her innocence.

"She is one of the strongest women I have ever met or had the pleasure of knowing or representing. She would not give up," said Schulte, partner in Schulte & Apgar in Dallas. Harry White, a former assistant attorney general who was the lead prosecutor pro tem in Wooten's case, said he never acted improperly or went on a political witch hunt. But he added that he's sorry because the end result was a "rotten situation" for Wooten.

"If you ask how I feel, I'm certainly not pleased. I'm not happy to be involved in it," explained White, who left the Texas Office of the Attorney General in 2015 and now practices criminal defense at Nickols & White in Fort Worth.

No one from the attorney general's office returned a call seeking comment.

Judicial Aspirations

Wooten earned her law degree from St. Mary's University School of Law in 1995 and moved to North Texas the following year. Eventually she started her own firm handling family law and defending Child Protective Services cases. The Collin County Criminal District Attorney's Office prosecuted CPS cases.

In hindsight, Wooten said she must have made an enemy out of then-District Attorney John Roach Sr. Wooten said that by 2004, she had decided to run for election against 380th District Judge Charles Sandoval because he was unpredictable, terrible and tyrannical.

"I was always raised to stand up to bullies," she said. "I guess I was naive about the political good-old-boy machine in this county."

Sandoval disagrees with Wooten's assessment of his time in office.

"If you talk to the good lawyers in Collin County, you'll get a different picture," explained Sandoval, who is now retired.

She wanted to run in 2004, she said, but was pregnant and a mentor advised that ultra-conservative Collin County Republicans wouldn't vote for a pregnant woman. Also, lawyers wouldn't donate to her campaign, fearing retaliation from the vindictive Sandoval. She would have to save her own money for a campaign. She bided her time, but finally took her chance in 2008. She was running a law practice, taking care of her three kids, and hustling to attend any events where she could talk to people about her campaign.

She ran in the 2008 Republican Primary, and enjoyed a victory with 57.2 percent of the 34,000 votes, compared with 42.8 percent for Sandoval, according to Collin County election results. With no Democratic candidate in the general election, Wooten took the bench in January 2009. But trouble was brewing behind the scenes.

"The Collin County judiciary at the time had never had any challenge of an incumbent sitting district judge. They said, 'We're not going to allow this to happen,'" Schulte said.

Sandoval submitted a criminal complaint about Wooten to his "political ally," Roach, said a motion to quash the indictment in Wooten's case.

Roach didn't return a call seeking comment.

Sandoval disputes that he was Roach's political ally. He said he was never Roach's "favorite person."

He did file a criminal complaint against Wooten with Roach's office. Sandoval thought Wooten spent at least \$100,000 on a radio ad, but her campaign finance reports didn't list the spending or source of funds to pay for it.

"I never accused her of anything else," he said, adding that he never testified before a grand jury or during any hearing or trial. "It's a crime to file a false campaign finance report." Sandoval said he doesn't have any qualms about the limited role he played in

filing the complaint.

“I just told what she did, and it was absolutely true—there were funds that came from some mysterious source,” said Sandoval, adding that the prosecutor “took it and ran with it.” He would have expected to see a campaign finance case—not bribery—against Wooten.

Sandoval thinks she was overcharged.

White, the prosecutor, said that local politics didn’t come into play for him and that he was only doing his job.

“I’m disappointed it’s turned out that ultimately the case is dismissed and that Suzanne Wooten went through all that,” he said.

Allegations and Charges

Wooten said she was at a judicial conference in San Francisco in 2010 when her lawyers called to say a grand jury had indicted her for bribery.

“I was catatonic. I sat in my hotel room in shock,” Wooten said. “I was told by my attorneys I was indicted for bribery, and I thought, ‘That’s amazing. Who bribed me, and where’s the money?’” The case involved Wooten and three co-defendants: Steven Spencer, a media consultant, and married couple David and Stacy Cary, who had cases before the 380th District Court. Spencer worked for both Wooten and the Carys.

The central allegation was that the Carys funneled money through Spencer to Wooten’s campaign, in exchange for Wooten to file to run as a judge, campaign against Sandoval and issue favorable rulings in the Cary cases. Wooten’s indictment was for nine felonies including bribery, money laundering, tampering with a government record and engaging in organized criminal activity.

David had gotten a divorce in 2004 from his previous wife, and a child custody dispute was going badly for him in the 380th District Court. He thought Sandoval was a bad and unfair judge, and he wanted him defeated in the 2008 election. Later, David married Stacy, and together they wanted to convince the Texas Legislature to change the law to remedy David's family law woes and help other parents. To that end, the Carys had hired Spencer for media consulting work. Stacy Cary paid multiple payments to Spencer totaling \$150,000 in the first three months of 2008.

However, the state had evidence of a 2007 "purported engagement letter" between the Carys and Spencer, which Spencer might have created as late as 2009 to cover up and explain why Stacy was sending him so much money. The jury could have thought Spencer didn't do work for the Carys that was worth \$150,000.

Also, the state had evidence that Stacy's payments to Spencer would correlate with phone calls involving Spencer, the Carys, Wooten and Wooten's campaign manager. The jury could have believed that Stacy was making payments at Spencer's request, and Spencer needed the money for Wooten's campaign—not work Spencer did for the Carys.

Spencer was paying Wooten's campaign expenses out of pocket—with money he got from Stacy—and then he would invoice her campaign. He knew the campaign didn't have the money to repay him at the time, but he thought Wooten would raise money after her election and repay him. She did.

"Judge Wooten never received any money from these two people who allegedly bribed her to run for judge," said Schulte, Wooten's lawyer.

He said that Spencer chose the payment arrangement so he could collect a commission. The media companies would discount Spencer's bill, he would pay it, and later he would bill Wooten's campaign for the full amount, Schulte said.

After Wooten's election, David's case came before her one time. She recused herself without making any rulings.

In the end, a jury convicted Wooten of nine felonies in November 2011, and the state offered her 10 years of probation if she would resign and waive her right to appeal. She accepted the offer but didn't change her plea of not guilty and didn't waive her right to habeas corpus relief. She was sentenced to 10 years of probation and a \$10,000 fine.

"I remember the judge reading the verdict and everyone lost it. My husband just about passed out. I stood there, I couldn't believe what I was hearing," Wooten said. "My children were seven, nine and 15 at the time. One of my dear friends who was there said, 'Would you rather be free, or would you rather be right?'"

Downward Spiral

That was only the beginning of a terrible downward spiral. Being on probation was degrading. She had to submit to a psychological evaluation and a drug and alcohol addiction assessment. Her probation included a travel restriction that required her to seek a permit to leave Collin County. When Wooten's mother had emergency heart surgery in Austin, she couldn't go. When her mother-in-law was in hospice, Wooten visited just once and could not return when she died.

Wooten also lost her livelihood. The State Bar of Texas sought to convince the Texas Board of Disciplinary Appeals to disbar her based on the convictions. But after a long, contested hearing, rather than disbarment, BODA in October 2012 suspended Wooten's law license from 2012 to 2021.

"They chose to suspend her because we were able to show what crap this was. That was our first little victory: she was not disbarred," Schulte said.

Claire Mock, spokeswoman for the bar's Office of Chief Disciplinary Counsel, didn't return a call seeking comment.

With the hit to Wooten's income, her family suffered financially. To help pay the bills, her husband took a job in Houston and moved away from the family for three years. Losing the family home could have meant homelessness, since Wooten's criminal

record would bar them from renting an apartment.

Meanwhile, Wooten took a job as a paralegal for \$40,000 annually, and she built a new business using legal skills that did not require a law license. She helped other attorneys draft legal documents, conduct discovery work, prepare witnesses for trial and form trial strategies. But some lawyers who were interested in Wooten's mediation services had to back out after their clients Googled and learned about Wooten's legal troubles.

"It was like a needle in my heart, whenever I heard that," she said. "I just persevered. I put my head down and worked. That's me: I wasn't going to give up. There was strength in the truth."

The truth might have come out sooner if Wooten appealed her case. But she never asked "what if" or regretted her choice to take probation and waive appeal.

"You don't have a choice when you have kids and little children. You don't have the option, you don't have the luxury, of saying, 'Fine, I'll take my chances,'" she said.

Even though their mother was there for them, Wooten's children suffered. It impacted her oldest son the most. She and her husband moved him to a high school in a different city because of bullying from kids and even a teacher. Up until his senior year in high school, he rejected the idea that he should work and strive hard in school and then go to college.

"He was devastated," Wooten said. "He didn't see a point in working hard and striving at education because look what happened to his mother."

He did change his mind eventually, and now he's almost done with college.

Wooten and her husband tried to insulate their younger children, since they couldn't think of a way to explain that even when you do everything right in life, you might still face prosecution.

“We didn’t really tell them what happened. We told them bad people were trying to hurt me in the courthouse, so I would stop working there for now, and I was going to take a break from being a lawyer,” she explained.

Wooten said she hopes she’s taught her children that life is not fair, but they have to be survivors. She decided early on the situation wouldn’t destroy her. But it’s been challenging to stop herself from becoming pessimistic, hardened and angry.

“For me, emotionally, one benefit of my personality is I can compartmentalize,” she said. “You kind of have to look into yourself: I’m the same person—I didn’t change. Don’t let it change you.”

Light at the End of the Tunnel

Wooten finally caught her lucky break shortly before Christmas last year. A key, contentious legal argument in the case was whether the alleged bribery money was actually a political contribution. That was really important because the bribery law does not apply to political contributions, unless prosecutors can show “direct evidence of an express agreement” that the bribe was meant for a public official to take some type of official action.

Defendants argued that they didn’t make political contributions, but that even if the money was a political contribution, that the state didn’t have any evidence of an express agreement.

The state countered that the payment involved exceeded contribution limits for a judge’s campaign, so it was illegal. Prosecutors argued that the bribery law’s political-contribution exception didn’t apply to an illegal campaign contribution.

Yes, it does, ruled the Court of Criminal Appeals in December 2016 in the Cary cases. The central definition of “political contribution” in the law remains the same, regardless of contribution limits, ruled the court. The bribery law’s political-contribution exception applies even to illegally high contributions.

“No rational jury could have reasonably believed that Stacy sought to get Wooten elected so the Carys could get favorable treatment, but that Stacy had no intention that her money would be used to elect Wooten,” the court ruled. “The only benefits conferred to Wooten were transfers of funds from Stacy to Spencer to fund Wooten’s campaign.”

With the bribery convictions overturned, none of the other convictions could survive, the court ruled.

After the Carys’ acquittals, Schulte filed a writ of habeas corpus declaring actual innocence in Wooten’s case. The AG’s Office agreed that Wooten’s conviction should be vacated and the court should acquit her.

On May 24, 416th District Judge Andrea Thompson set aside the convictions and acquitted Wooten of all the charges. Even if the allegations were all true, they wouldn’t amount to a crime, Thompson ruled.

Schulte recalled the moment: He was sitting at the counsel table with Wooten in the 416th District Court, with the gallery packed with people and cameras rolling.

“Judge Thompson came in and read the order exonerating her and setting everything aside. The whole courtroom erupted in a standing ovation for her. She looked at me. I teared up and she teared up. She said, ‘Finally,’” Schulte said. “The moment was so surreal. It was such a long time coming. It was just exhilarating. Finally, justice had been served.”

The order also voided out any “legal disabilities” resulting from her convictions, including her law license suspension. The Board of Disciplinary Appeals on June 7 terminated Wooten’s suspension from practicing law.

Hindsight is 20/20

There’s been a lot of time to reflect on what went wrong, and Wooten and Schulte both see problems at multiple stages of the judicial process.

Schulte said he thinks the prosecutors are liable for what happened to Wooten.

“This was the worst case of prosecutorial abuse I have ever seen,” Schulte said.

But White, the former prosecutor, said he didn’t do anything improper. He did the best that he could with the evidence at the time.

“When you’ve got two sides to a story, the advocates put forth what they believe the evidence is at the time. I think this is different than something where you’ve got DNA that shows someone is actually innocent,” White said. “The courts disagree with me—quite clearly they did.”

White pointed out that at multiple stages of the process, he didn’t hold the final decision about Wooten’s case. A grand jury approved Wooten’s indictment and the case went through a trial. The jury convicted her.

The jury made a mistake, Wooten said. Talking to jurors after they issued the guilty verdict, Wooten’s lawyers got the sense that jurors believed the attorney general’s office wouldn’t go after a district judge unless the allegations were real. It tarnished the ideal of “innocent until proven guilty.” Jurors also seemed to be fed up with public officials and alleged corruption, and they wanted to hold Wooten up as an example and send a message.

“I don’t blame them that they got it wrong. I’m disappointed,” Wooten said.

However, Wooten does think that Seventh District Judge Kerry Russell of Smith County, who presided over Wooten’s trial as a visiting judge, failed at his job multiple times.

“I think he completely missed the mark, and he had a lot of opportunities,” she said. For one, he excluded evidence that would have given the jury a bigger picture. Jurors never knew that Sandoval made the complaint that started the investigation. They didn’t hear testimony or see evidence from one of Wooten’s experts showing that it’s a common practice in political campaigns for a media vendor to pay a bill himself, and bill a candidate later.

Russell didn't return a call seeking comment.

That's not the only mistake that Russell made, according to Wooten and Schulte. Schulte said that the exact same argument about political contributions not amounting to bribery—he argued it in a motion to quash the indictment very early in Wooten's case. But back then, Russell rejected the argument, claiming the state could charge Wooten under whatever statute they wanted.

"If he was paying attention and doing his job he would have done what he should have done in 2010," Schulte said. "I hope this is a lesson to all the judges that they need to pay attention." Wooten is determined to see that the people who are culpable for her wrongful conviction are held accountable. She's planning to file a lawsuit but is still determining who to sue and all of the causes of action to file.

"You cannot get away with this. It's not okay. Our system is set up so people who do bad things are supposed to be held accountable. It should also work for people in the system who abuse their power and authority," Wooten said. "I don't want this to happen again to anyone else."

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