

Today the late Sandra Day O'Connor, the first woman justice in the U.S. The Court is laid to rest. On Monday, December 18th, she laid in state at the highest court in the land.

She passed away at the age of 93 on December 1st, 2023.

Welcome to this special mini series of The Gaggle, a political podcast by The Arizona Republic and azcentral.com. I'm producer Kaely Monahan. Our host Ron Hansen is in D.C. this week at the late justice's memorial.

By now you probably already listened to our episode on O'Connor's life and legacy. And you also will have heard the special feature episode where The Arizona Republic traveled to her childhood ranch, the Lazy B.

In this short series, we want to bring you the interviews of those who knew her. You'll hear from her brother Alan Day, and from her biographer Evan Thomas. Linda Hersham, the author of "Sisters In Law" also sat down with us to discuss O'Connor's life, as well as Ruth McGregor, former chief justice of the Arizona Supreme Court, and a law clerk for O'Connor in that first year, and perhaps most meaningfully – O'Connor's friend.

Our host Ron Hansen, as well as former host and Republic reporter Yvonne Wingett Sanchez conducted these interviews in the year before O'Connor's passing...so there might be references to issues that, at the time, hadn't been decided, such as the overturning of Roe v. Wade.

We begin with O'Connor's biographer Evan Thomas. He is a historian and journalist who wrote "First: Sandra Day O'Connor."

Speaking from his home in Washington D.C., he shared his reflections on O'Connor with Ron Hansen and Yvonne Wingett Sanchez, both of whom you'll hear in this interview.

The conversation starts with Thomas recounting O'Connor's days at the Lazy B Ranch and the impact it had on her. You'll hear again the famous flat-tire story, but this time told from O'Connor's perspective – as related to Thomas for the biography.

[RON YVONNE AND EVAN THOMAS INT 26:36]

**Yvonne Wingett-Sanchez** [00:00:00] How did you come to know Justice O'Connor?

**Evan Thomas** [00:00:04] I wrote her biography in 2016, 17, 18, and I would visit her in Arizona and her son Scott, on a number of occasions. I went out to the Lazy B Ranch, which is sort of a holy place to her for a couple of days and spent some time in Arizona.

**Ron Hansen** [00:00:25] So let's talk about the Lazy B for a moment. Help our listeners understand what her upbringing was like and how that helped shape her outlook.

**Evan Thomas** [00:00:35] Sandra Day O'Connor, who was Sandra Day at the time, grew up on a ranch that was a couple of hundred thousand acres and took a man on a horseback a whole day just to ride across it. She said it was our own country and they lived out there and beautiful isolation. It was beautiful and bleak. And what she learned out there was to be self resilient, that nobody was going to help you in your house. In a ranch like that. You can't call the neighbors there miles and miles away. And Mr. Day, her father was a very tough, demanding guy. She liked to tell a story about the roundup. She was 15 years old and her job was to make lunch for the ground up. And she made lunch and drove out there. She had a flat tire and she was a young girl and she had to jump on the jack to change the tire. So she gets there. She's an hour late and her father looks up to her and says, You're late. She says, Well, dad, I had to change a tire. And he said, Next time, leave earlier. The message was no excuses. She would tell it to her law clerks. No excuses. Get the job done.

**Yvonne Wingett-Sanchez** [00:01:39] She went to Stanford University at a young age. Can you talk about those years in her life, who she met and why she ended up going to law school?

**Evan Thomas** [00:01:50] She loved Stanford. It was for one thing. It was green and lush and everything. The desert was not. But it was an intellectual awakening for her. She took a course called Western Civilization. They no longer teach it. It's considered to

be kind of patriarchal and hegemonic and all those things. But in those days, you took it. And she learned about Madison and Jefferson and the Constitution and the rule of law. And that had a huge impact on her. She also had a professor, you know, this is a male dominated world back in the forties, but she had a professor who said the woman can do it. And so she went to law school. Very unusual then. One of five women, I think, in her class, she made the law review extremely unusual and she couldn't get a job. I mean, here she was, top of her class and no law firm on the West Coast or anywhere. What I are the best she might have done was legal secretary. And, you know, she could have been bitter about that, but she was not. She said, well, the private sector won't take me. I'll go to the public sector. And she went to the local D.A. and said, I want to work for you. And he said, I don't have any money. And she said, I'll work for free. And he's on his space. And he said, Well, you know, I'll work off of your secretary's desk. And she did her best and she got on. And, of course, she was good at it. And the rest is history. She, you know, gradually worked her way up.

**Ron Hansen** [00:03:13] She wasn't the only prominent member of the Stanford Law School at that time. Talk about her classmate, William Rehnquist.

**Evan Thomas** [00:03:22] The smartest guy in the class other than her was a guy named Bill Rehnquist who later sat on the U.S. Supreme Court with her. And for years, they kept this a secret. But he fell in love with her. And then she let on later that they went to a movie or two. But it was much more like when I was going through her papers, I found these love letters and one of them said, Sandy, will you marry me? He proposed marriage to her and she she struggled along for a while and then turned him down. She had already fall in love with her husband, John O'Connor. The guy she married, moved to Phenix with. But this was 1952. I'd like to say in 1952, before sex. So they hadn't slept together, so they were able to be good friends and remain good friends all their lives.

**Yvonne Wingett-Sanchez** [00:04:08] I think you sort of covered this, that let's see if we can dive a little deeper into it. What did she do with her law degree right after Stanford?

**Evan Thomas** [00:04:16] They moved to Phenix. Really? John, her husband, wanted to move to Phenix because it was the future. It was opportunity. She got to want to go to San Francisco, but he wanted to go to Phenix to start over, get away from the stuffy San Francisco world. And he had no problem getting a job at a very good law firm. She, however, woman, couldn't get a job in a law firm, so she had to hang a shingle in a basically a shopping center, take whatever came in through the door. She did that for a while. She had some babies and then she got a job. So they got politically involved in the Republican Party and she got a job as an assistant attorney general, which sounds pretty good. But she was in a, you know, windowless room someplace. It was a it was a lousy job. But she made it better. And she got involved in reforming state government in Arizona and apparently had needed it in the 1960s. And she eventually got appointed to the state legislature to fill a vacancy. She was not. The first woman in Arizona, actually has a history of women in politics. So there are a few others. But it was a male place. I mean, it was it was a fraternity house when she arrived there and she got hit on and had a lot of drinking and horsing around. And she just to handle it, you know, she was tough. Her trick was and she learned this from her mother was don't take the bait, don't get into stupid fights. Don't get into this ego jousting contest. Learn how to walk away, be tough. One time there was this drunken legislator named Tom Goodwin, who was in the House Appropriations Committee, and he was really a drunk. And she called him on it and he said, If you were a man, I'd punch you in the nose. And she said, if you were a man, you could you know, she was she could be tough. But that story is a one off. She avoided fights. She was tough, as I said, but she didn't get into stupid fights.

**Yvonne Wingett-Sanchez** [00:06:10] Can you talk a little bit more about how she got involved in Arizona politics and what issues were she dedicated to? How was she received and how did she receive a world that was unlike the ranch and law school and the AG's office?

**Evan Thomas** [00:06:28] Arizona Politics in the Sixties. The State. Had been a democratic state, but the state government, because it was a one party state for a long time, was corrupt.

The reformers were the Republicans. You know, we like to think of the Goldwater Republicans as being far right. They were conservative, but it really was it wasn't that it wasn't conservatism so much as it was cleaning up state government, which was corrupt and modernizing it. Now, Phoenix was run by basically what today would be considered a bunch of white guys, but it was less corrupt than the old crap. And she was part of that movement. She was the woman amongst the white guys, but she was part of this basically a businessman community that ran Phoenix to make it business friendly, to bring in, you know, northerners and people to make it grow. She was part of that whole movement. So she was a moderate to conservative Republican, I would say. She did not like the party, moved further to the right in her political time, and she did not like that. She would get into fights with the far right types that were just just arriving, particularly on the social issues. She this is a this is a story that illustrates a lot about her. She introduced the Equal Rights Amendment into the Arizona legislature, which was at that time seemed non-controversial and, believe it or not, was on the Republican platform as well as a Democratic platform. However, there was a woman named Phyllis Schlafly. She was a powerful force, and she came in hard against abortion and and basically against women. I guess are saying that it would it would wreck things. It would wreck the household and families and all that. And here's the thing about her. She introduced the era, but then she let it die in committee. And the activists were really mad at her. You betrayed us. You're a woman. How could you do that? She let it go because she knew it couldn't win. She was practical. She didn't have the votes. Instead, she changed every single law in the state of Arizona that discriminated against one another. She couldn't get it done on the big constitutional federal level, didn't have the votes. So she went local and they chipped away at it. And by the time she was gone, every season, there were hundreds of them. It's hard to get a credit card. It was hard to own property. It was hard to have a bank account, all sorts of laws. She changed them all, working with others. But she she got it done.

**Ron Hansen** [00:08:54] Evan, why did her colleagues at the state House make her the majority leader, given that she wasn't

totally, it sounds like in sync with conservatism at that moment? Why did they point to her?

**Evan Thomas** [00:09:07] Well, one of them said to me she was just smarter than the rest of us. I mean, she was she was smart. She wants amended a bill by changing a comma. I mean, she had an attention to detail that the others did not have. And she was a good politician. She was not a good back slapping glad hander. She was not great at trading sewer culverts. I mean, there were other people who do that. But she was smart and she was disciplined and she was conservative enough. But, you know, she tired of it. She did it for a couple of years and then quit to become a judge. She did not love it. She did not love the horse trading.

**Yvonne Wingett-Sanchez** [00:09:43] By the late 1970s, there were people who wanted her to run for governor. She, as you mentioned, went to the state court of appeals instead. Why is that?

**Evan Thomas** [00:09:52] They had a meeting at her house and all the heavies were there, you know, Goldwater and all all the Republican heavies were there. And she wanted to know where the money was. It wasn't clear that there are going to be donors, that there was going to be enough money for her to run. And she had a friend who ran for governor and had a tough time of it, and she was soured by that experience. She was a very practical person. You know, she she wanted to do something that was going to end badly. She'd like to win. And she wasn't absolutely sure that she would win, and she wasn't actually sure that he'd have the money. So she didn't run. She did have the backing of the establishment. But that's not the same as winning.

**Ron Hansen** [00:10:31] How did President Reagan settle on picking her for the Supreme Court, especially given her relatively low profile on the the intermediate Court of Appeals in 1980?

**Evan Thomas** [00:10:43] There really were very few Republican women judges and Reagan, when he was running for president in 1980, he vowed to make one of his first appointments a woman for political reasons. He was behind with woman. There was there was a gender gap. And in the state of Illinois, where he was 11 points behind with women, it was a swing state. And so it was a

political thing he did in October, right before the election. And a lot of people thought he didn't mean it, that once he got into office, he wouldn't do it. But I think, Nancy, his wife, put some pressure on him. And anyways, for whatever reason, he said, no, I'm serious. I want a woman. The problem then was, Whoa, whoa. There just weren't any. There were only a few women federal judges, period. They were mostly Democrats. And so there wasn't a whole lot of choice. Bill Rehnquist or her old boyfriend from Stanford was secretly lobbying for her from the Supreme Court. Chief Justice Berger had met her down in Arizona, liked her, and he was lobbying for her. John O'Connor, her husband, was a political figure in Arizona behind the scenes, was trying to rally support. So she had a lot of support and it was a no brainer. There was very little debate at the White House. She was pretty much the unanimous choice.

**Ron Hansen** [00:11:59] And Senator DeConcini also was supportive of her, was he not?

**Evan Thomas** [00:12:04] Yes. Yes, significantly he was, I think later in the game. But yes, he was.

**Yvonne Wingett-Sanchez** [00:12:09] How did she feel about the opportunity of being the first woman to sit on the high court?

**Evan Thomas** [00:12:15] She was overwhelmed by it. It was so new. It was so big. And there's a touching scene where, you know, she says to her husband, John, I can't do this is going to change everything, because I had a great life in Phenix. He was a big man in this law firm and head of the Rotary and head of a couple of hospitals and then A Wonderful Life in Phenix. And she said, Well, we can't do this. And he said, You have to do it. They had a great marriage. I mean, he was a very conventional guy. He was hardly a women's libber. But he loved her and he supported her and he knew how smart she was. And he made a big sacrifice when they got to Washington. His career was not as successful. Different kind of law up there. And she understood that about him. One reason why they went out so much when they were in Washington was for him. He was a very funny guy, a great storyteller, charming. And that gave him a chance to shine. Going out for dinner and going to cocktail parties and all that. So

they went out more than any justice in history before or since. Now, I know that's a low bar to be the most sociable Supreme Court justice. That's a low bar. But she was. And she would go out. I had John's diary. She would they go out two or three times a night. She was reading a thousand, 2000 pages a day. Somehow she managed to do it. There was no spare time for her. You know, She never sat on a couch watching TV. I mean, I guess she did. But, you know, she just was working all the time and she never let up. And so she managed to do it all to be a good mom, a good wife, Supreme Court justice and a good friend.

**Ron Hansen** [00:13:49] What kind of public reception did she receive, both with the nomination and then joining the court? What was that experience like?

**Evan Thomas** [00:13:58] There was a little kerfuffle when she was nominated because she had voted in the Arizona legislature to decriminalize abortion, and that got the anti-abortion crowd riled up. And so there was there were demonstrations outside there, about six senators who seemed to oppose to her, but she charmed them. She went up there, talked to Jesse Helms and Strom Thurmond, and she really just charmed them. The vote was 99 to nothing to confirm her. However, when she got to the court, that was not so great. The other justices, not all of them, were glad to see her. It had been male for 200 years and she went to our first lunch and only four justices show up. The other four didn't even bother to show up. She said it was cold, physically cold. You know, she would stand out in the courtyard there and turn her face up to the sun. She must. Arizona, She missed the sunshine. But, you know, she she just she was intellectually tough enough and smart enough to catch up, even though she'd been a mid-level state court know Arizona Court of Appeals. That's not Supreme Court. That's the second court. No federal constitutional law in that court. So she had to really catch up, but she did. She had clerks and she had Justice Powell. Was Powell helping her out? And so she overcame it. Justice Burger, Chief Justice Burger gave her a psychological study. What do you do when a woman comes into a group of powerful males? What should the woman do? She should be quiet. That was his advice. Be quiet. Don't make the males feel bad. I think she filed that one in the circular file. But, you know, she she put up with it. She just dealt with it.



**Yvonne Wingett-Sanchez** [00:15:42] Abortion rights seem to be an area of ideological concern. When she was nominated, it obviously trailed her for years on the bench. What impact did she have on that area of the law?

**Evan Thomas** [00:15:53] She wrote the law of the land on abortion is Sandra Day O'Connor's. For the last couple of decades, it's been the law that she wrote. It's a little complicated. Justice Blackmun wrote the Roe v Wade, and during her time on the court, she changed that. She softened it somewhat. Remember, she's a compromiser, she's a moderate, and she wasn't sure what she thought about abortion when she first got on the court. It was not clear. And there were a couple of cases where it wasn't quite clear where she was going. But in the Casey case in 1992, she came up with it. She basically wrote the decision with a couple of other justices. But it set the standard, which is that the state cannot put an undue burden on a woman's right to abortion. It's unclear what undue burden really means. And there's been a lot of litigation over that. Justice O'Connor's opinion on abortion was the law of the land until the 2022 term of the U.S. Supreme Court.

**Ron Hansen** [00:16:46] She's often remembered as the swing vote on the Supreme Court. Why she And what did that mean in her opinions?

**Evan Thomas** [00:16:54] Justice O'Connor was not a broad judicial philosopher. She did not have great sweeping philosophy. She was a pragmatist. She was very practical. She worried about unintended consequences. And she liked to write narrow decisions. She was a centrist. That made her put her right in the middle and gave her a lot of power, actually. She was the swing vote. And I think a couple of hundred decisions. I mean, it was it was she had a lot of power because she was there in the middle and on big things like affirmative action and abortion. Five, four type things. She was the swing vote. She didn't like the word swing vote because it swing implies fickle that she could swing from one side. She but she was so lesser called swing vote. She was the decisive vote. That was a word that she would prefer. And and hundreds of cases. And people started speaking not about the

Rehnquist court, but the O'Connor court and the 1990s because she she controlled it.

**Yvonne Wingett-Sanchez** [00:17:55] She said Bush v Gore was the case everyone wanted to ask her about and that she didn't want to talk about it. What should people understand about her view of that case?

**Evan Thomas** [00:18:05] This is a very tough case for her because it seems so political. I mean, the five Republicans all vote for Bush and the four Democrats all vote for Gore. It looks like raw, pure politics. And she hated that about it. Her own motives on this. She was trying to avoid a car wreck. As I mentioned, she's practical and she was looking ahead. What happened if there was a recount in Florida and Gore won? Then you would have two sets of electors. You'd have already the Republican already certified and you'd have a Democrat. What happens under the law? It goes to Congress. What happens in Congress? The House has one vote. The Senate has one vote. That's under the law. Well, the House was going to be Republican. The Senate was going to be Democrat. Tie vote. What happens then? The tie is broken by the governor of the state. The governor of the state in this case was Jeb Bush. It was it was it was George Bush's brother. So she was able to look down the road and see it was going to look like a banana republic. The guy was going to be elected by his brother sometime in January. And for that very practical reason, she said, we got to end this now and decide. But she knew that it was an ugly decision. The reasoning was not good. Justice Scalia used a crude epithet to describe the quality of the reasoning. He was probably right about that. So it was her most practical. But it took a lot of grief. And, you know, but ten years later, she said maybe we shouldn't have taken that case. Unusual for her because she didn't second guess herself. She was somebody who lived without regret. But on that one case, I think she did have some I know she had some regrets.

**Ron Hansen** [00:19:46] And to be clear, her regrets were evolved around legal issues. The legal fallout of this, or did it have anything to do with. Boy, I didn't really like who became president.

**Evan Thomas** [00:20:00] No. She did cool a little bit on George W Bush. She thought the Republican Party was becoming too conservative. But she personally always liked George Bush. She liked the Bush family. It was an awkward thing because she was actually thinking of quitting the Supreme Court in 2000 because her husband, John, had Alzheimer's and she wanted to take care of him. But once the Bush v Gore happened, she couldn't quit because it would look bad. It would look like she just did this to elect Bush and then be replaced by another Republican. So she had to stay. Perversely, she had to stay on the court. And she did until John's Alzheimer's got so bad that she just felt she had to take care of him. You know, she said he sacrificed for me. Now I'm going to sacrifice for him. And she quit the court to care for him. So it was just a hard road that she was on. But she personally, like George Bush, she didn't like necessarily his politics, but she liked him.

**Ron Hansen** [00:21:03] Who followed her on the court. And what is notable about the succession on the court as it relates to Justice Alito?

**Evan Thomas** [00:21:12] Well, she was you know, Justice O'Connor never spoke ill of anybody, was a very positive person. But she she was down on Alito. And that's surprised me, frankly, because it's so unlike her. Justice Alito, shy. And I think something personal happened between them that was less than great. I don't really know what something went wrong there. But substantively, Alito is a true conservative and she knew that he was going to be was not going to be a moderate. You know, he was going to want to get rid of affirmative action and abortion and all those things that she had preserved. And so she she saw change coming, but she was not happy about that.

**Yvonne Wingett-Sanchez** [00:21:54] What is her judicial legacy?

**Evan Thomas** [00:21:59] You know, the law reviews are kind of down on her because you can't really figure out what the hell she stood for. I mean, she didn't have strong opinions that the law should be this or the law should be that. I can interpret her legacy, that she was a pragmatist and a minimalist, an incrementalist. I can use those words, but she didn't. That's not

how she described herself. She didn't describe herself at all. She was a you know, just tried to be a good judge and to be fair and to look at the consequences of what they were doing and to be consistent. You know, she might if you pushed her, say that she was a moderate, but I'm not even sure she'd say that. She just wanted to be a wise judge. And she was.

**Ron Hansen** [00:22:43] She's also a historical figure. So apart from her judicial legacy, there's just her place in American history. How should people think about her standing in U.S. history?

**Evan Thomas** [00:22:57] She saw herself as a bridge. She carried a corny poem on her wallet about a pilgrim who builds a bridge and then doesn't cross himself. It's a bridge that others can go over. And I think she saw herself that way. She was a pivotal person, and she knew that she couldn't blow it. She used to say to her clerks, It's good to be first, but you don't want to be the last. She knew the pressure was on. Don't blow it. She was able to get along with difficult men. That was a very valuable quality for her at her time. The woman, just as we remember, is Ruth Bader Ginsburg, is the feminist. But Justice O'Connor understood that you needed a transitional figure before Ruth. You needed Sandra. Somebody who could be a moderate, who could pave the way, who could build a bridge so that others like Ruth could cross it. 12 years later, there's a great story that says a lot about Justice O'Connor. When the VMI case came to the Supreme Court and the issue was, Does a state school have to take a woman? Justice O'Connor was assigned the opinion in the case and she said, no, no, Ruth should have this opinion. And Ruth Ginsburg told me, Justice Ginsburg told me, she said, I loved her for that. It was just so unusual. Men don't do that when they're assigned. You know, the majority opinion. In a landmark case, they don't say, oh, well, Joe should have it because she understood that Ruth Bader Ginsburg was a great leader for women and and a great feminist and more than Justice O'Connor. And although O'Connor was a leader for women and that Ruth should have it, so she gave it to Ruth. And although they were not close buddies, they weren't cozy buddies. They respected each other.

**Yvonne Wingett-Sanchez** [00:24:36] All right, Evan, is there anything else you want to add? Any other anecdotes or observations that you think are worth sharing?

**Evan Thomas** [00:24:45] I think that. Justice O'Connor I know that. Justice O'Connor. Would be sad about the lack of civility in public life. That was a big thing for her. You know, a lot of our rules in a democracy are not written their unwritten. You know, you got to get along with each other and you got to trust each other. And that's not necessarily written down. But she really believed in that. She wants someone, the majority leader of the U.S. Senate, Tom Daschle, and the leader of the Republicans, Trent Lott, to her chambers and lectured them on being more civil. They didn't actually really appreciate that. But it shows you where her heart was, which was, you know, you got to get along. You know, she was disappointed in the Arizona legislature when I got scratch here and more hostile. She used to be able to get along with guys across the aisle. I went with her and Alfredo Gutierrez, you know, long after they'd retired. And they sat down there in the state Senate and they held hands across the aisle to make a point. The legislatures don't do that these days. And so she'd be sad that there's not more of that, not in his handling, but getting along with the other party. How important that is. Justice O'Connor, when she got off the court, you know, was looking for a role. And one thing that she wanted to make sure that the kids knew about civics. She thought the kids didn't know anything about civics. You know, they don't know who was on the Supreme Court. You said they know more about the Three Stooges than the Supreme Court. So she started this thing called I civics, which is, you know, video. It's actually video games for middle schoolers, but teach them how government works. It's been a huge success. It reaches millions of kids. She once said her greatest legacy was not being on the Supreme Court. It was i-Civics. And I said, oh, come on. But, you know, she really believed it because she was reaching so many kids.

[MX BEAT]

That was Evan Thomas, the author of O'Connor's biography titled "First: Sandra Day O'Connor."

This interview was originally recorded in January of 2022.

Tomorrow:

**Linda Hirshman:** [00:01:30] *I think that her legacy is her symbolic role as the first woman on the Supreme Court of the United States, and that symbolic role matters.*

We'll hear from the author of "Sisters In Law: How Sandra Day O'Connor and Ruth Bader Ginsburg went to the Supreme Court and changed the world."

It will be released in the afternoon after our normally scheduled episode of The Gaggle – which is one you don't want to miss!

National politics reporter and Gaggle host Ron Hansen and former Gaggle host Yvonne Wingett Sanchez lead the interview.

The interview and episode was produced by me, Kaely Monahan. Additional audio oversight is by Amanda Luberto. News direction is provided by Kathy Tulumello.

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Thank you again for listening, we'll see you tomorrow!