



Journal of the TEXAS SUPREME COURT HISTORICAL SOCIETY

Spring 2021 Vol. 10, No. 3 General Editor Lynne Liberato Editor-in-Chief Hon. John G. Browning

Columns

Message from the President

By Cynthia K. Timms

In this issue, we again focus on contributions of the Latinx community to the development of the courts and legal profession in Texas.

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Cynthia K. Timms

Executive Director's Page

By Sharon Sandle

Despite the fact that the name "Texas" originated from "Tejas," the Caddo word meaning "friend," the many diverse people who have inhabited Texas have not always lived together peacefully.

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Sharon Sandle

Fellows Column

By David J. Beck

The Taming Texas program is back in the classrooms this year and will be taught as part of the "Stories of Texas" summer camp at the Bryan Museum in Galveston.

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David J. Beck

Editor-in-Chief's Column

By Hon. John G. Browning

In April, we witnessed two more milestones, one a nod to our past and another a testament to how far Texas' Latinx legal community has come.

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John G. Browning

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Viva La Huelga! The Starr County Strike, Chicanos, Texas Rangers and the Landmark Supreme Court Decision in Medrano v. Allee

By Stephen P. Pate

More than fifty years later, few remember the rise of the Chicano movement in America.

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Striking worker

Mexicans in the Houston Courts, 1906-1926

By Ramiro Contreras

This article surveys the experiences of Mexicans in Houston's civil courtrooms, providing a deeper understanding of the population's early history.

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Features

Latino/a Pioneers in the Texas Judiciary Building Bridges for Future Generations

By Victor A. Flores

Despite all doubt and risk, pioneers have an intrinsic desire to take new ground, move forward, and expand.

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Judge Reynaldo G. Garza

• The First Federal Judge of Mexican

American Descent •

By David Garza and Reynaldo G. Garza, III (Trey)

This article is written on the sixtieth anniversary of Judge Garza's appointment as a Federal Judge.

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Judge Garza



[To Serve for Others:](#)

[A Profile of Justice Eva Guzman](#)

By Justice Gina M. Benavides

Pick any day of the week and Justice Eva Guzman – our state's first Latina supreme court justice – is serving our state and its legal system as she has done throughout her career. [Read more...](#)



Justice Guzman

[Profile of Judge Elsa Alcalá](#)

By Justice Gina M. Benavides

Judge Elsa Alcalá rose to prominence in the legal profession and became the first Latina to serve on our state's highest criminal court.

[Read more...](#)



Judge Alcalá

[Bridges to Judicial History](#)

By Alberto R. Gonzales

It is hard to put in words the meaningful and enduring impact that Judge Reynaldo Guerra Garza and Justice Raul A. Gonzalez, Jr. had on my life, career, and on the lives of so many other Americans.

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Judge Garza & Justice Gonzalez

Book Reviews

[Giving Thanks, 400 Years Later:](#)

[Pilgrim Legacies that Shaped Texas](#)

Book reviews by David A. Furlow

How far back can we trace Texas's traditions of democratic elections, self-government, constitutionalism, and the rule of law? [Read more...](#)

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The Texas Bar Foundation honors legal professionals who exemplify the highest standards of the profession and this year is no different. [Read more...](#)



[Call for Applications:](#)

[2022 Larry McNeil Research Fellowship in Texas Legal History](#)

By David A. Furlow

Established in 2019 in honor of attorney Larry McNeill, the \$2,500 annual fellowship is awarded to an applicant who submits the best research proposal on some aspect of Texas legal history. [Read more...](#)



Larry McNeil

[An Exceptional Supreme Court History and Current Practice Symposium](#)

By David A. Furlow

Lynne Liberato and Richard Orsinger presented an all-encompassing *Supreme Court History and Current Practice* symposium on April 14. [Read more...](#)



The original Texas Supreme Court

[Journal Article on Trailblazing Lawyer Garners Media Spotlight](#)

The Fall 2020 article by Society Trustee John G. Browning about John N. Johnson—Austin's first Black attorney and Texas' first civil rights lawyer—piqued the interest of longtime *Dallas Morning News* columnist Dave Lieber. [Read more...](#)



John N. Johnson

[The Society Went Virtual at TSHA's 125th Annual Meeting to Examine "Account-Ability in Court. From Slavery to Scandal"](#)

By David A. Furlow

This was TSHA's first online, virtual annual meeting, something that required more advance planning for the Society than in any of its previous programs for an annual meeting. [Read more...](#)



TSHA logo

[Iconic Women in Legal History Interactive Website](#)

On March 15, the Texas Young Lawyers Association launched the online educational platform *Iconic Women in Legal History*. [Read more...](#)

[Hemphill Dinner 2021 Announcement](#)

This year the Society will host its annual Hemphill Dinner in person at the Austin Four Seasons Hotel, with keynote speaker Lisa Blatt of Washington D.C. [Read more...](#)



Lisa S. Blatt

[Annual Board Meeting Continues Looking Forward](#)

The Board of Trustees lost no time this year getting down to business at the 2021 Spring Board of Trustees Meeting, as they navigated the now familiar online format. [Read more...](#)

[Unexpected, but Welcome Praise](#)

The Society was thrilled to receive a very special thank-you message from the Texas State Bar Hispanic Issues Section. [Read more...](#)

Membership & More

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@SCOTXHistSoc



FB: Texas Supreme Court Historical Society

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Cynthia K.
Timms

Message from the *President*

My grandfather was born before the invention of the automobile. As a teenager, he could not take a girlfriend to the movies; movies did not exist. When Orville Wright flew for those historic twelve seconds at Kitty Hawk, North Carolina, my grandfather was wrapping up the first semester of his sophomore year in college. My grandfather's vocabulary expanded enormously during his lifetime simply to accommodate the increasingly fast-paced world of inventions. Vacuum cleaners, air conditioning, radar, plastic, radios, the Ferris wheel, bottles caps, zippers—all of these things were unknown to the world into which my infant grandfather was delivered.

Our language does not change merely to accommodate new technology. All languages are moving, flowing instruments of communication. Over time, we push words together to make a single word out of two, creating terms such as “guesstimate” and “stagflation.” We convert nouns into verbs as we now “gift” an object or “task” our employees. Societal changes also affect our language. When I was growing up, women generally were either “Miss” or “Mrs.” Now, the honorific “Ms.” is preferred by many, if not most, women. That title started out as a part of the women's movement, slowly moved into the mainstream, and eventually, for many, relegated “Mrs.” to an anachronistic reminder of a long-ago era.

In this issue of the Journal, we are again focusing on the contributions of the Latinx community to the development of the courts and legal profession in Texas. And, here, we have another newly invented word: “Latinx.” That word is an effort to create a gender-neutral method of referencing people of Latin American origins. The word reminds me of the time my daughter came home from elementary school, indignant and frustrated. “Did you know that you can have 400 girls in a room and they are ‘muchachas,’ but the moment one boy enters the room, they are all suddenly ‘muchachos’?”

“Latinx” is like many newly created words, especially ones that flow out of social movements. Some love it; some hate it; many really do not care one way or the other. We who write for a living—even if those writings may be entirely in the form of pleadings and briefs—can sympathize with people who viscerally react to a perceived misuse of our language. I cannot contain myself

when people confuse “disinterested” with “uninterested,” and I typically—with little diplomacy—correct the speaker on the spot, even if the speaker is on the radio.

We who occupy this world are on a journey. And our language is on a journey with us. We will discover with time whether “Latinx” becomes a permanent citizen in our vocabulary, or whether it is a fleeting visitor in our lives and in our writing. In this Journal, you will see the terms, “Latina,” “Latino,” and “Latinx.” We allow our contributors to choose the terminology they wish to use. I hope you enjoy the content of their articles.

For this Journal, we must thank our authors Professor Ramiro Contreras, Stephen Pate, Justice Gina Benavides, Victor Flores, and the family of the late Fifth Circuit Judge Reynaldo Garza, who was the first Mexican American appointed to a federal court and first Latin American appointed to any circuit of the United States Courts of Appeals. As always, we are greatly indebted to John Browning (Editor-in-Chief) and Stephen Pate (Executive Articles Editor) as well as managing editor Karen Patton, editor Kevin Carlsen, and production manager and graphic designer, David Kroll.

Though we all had to contend this last winter with a pandemic surge and the Great Texas Snowpocalypse, the work of the Society has moved forward:

- The Society sponsored a presentation on March 6, 2021 from 12:00-12:45 p.m. at the Texas State Historical Association’s Annual Meeting. The Society’s joint session with TSHA was titled: “Account-Ability in Court: From Slavery to Scandal.” We presented two excellent lectures: (1) Daina Ramey Berry, University of Texas at Austin, *“Improper Intimacy:” Slavery & Infidelity in Montgomery County, Texas*; and (2) Stephen Pate, of the Texas Supreme Court Historical Society, *A Hot Time in the Old Town Tonight! Wurzbach vs. McCloskey—Scandal in a 1928 Texas Congressional Election*. David Keltner moderated a discussion of those two lectures.
- The John Hemphill Dinner is back—live and in person for 2021. Mark your calendars for September 3, 2021 at the Four Seasons Hotel in Austin. Our speaker is Lisa Blatt of Williams & Connolly in Washington D.C. Ms. Blatt is a top United States Supreme Court practitioner, having had 41 arguments before the Court and having won 37 of those cases, with one still pending. Following her graduation from the University of Texas Law School, Ms. Blatt clerked for Justice Ruth Bader Ginsburg when Justice Ginsburg was a judge on the Court of Appeals for the District of Columbia. Ms. Blatt will discuss the life and career of Justice Ginsburg. Due to a continued need for some level of social distancing, seating will be more limited than in the past. We anticipate being able to accommodate 204 guests. You will want to reserve your table early. To do so, contact the Society by calling the Society at its office: (512) 481-1840, or you can email: tschs@sbcglobal.net.
- The Society elected board members on April 22, 2021. We are pleased to welcome as new board members Anthony F. Arguijo, Marianne Auld, Kendyl Hanks, Allyson Ho, Rachel Stinson, Hon. Michael Truncala, and Brandy Wingate Voss. We also re-elected to a second term David A. Furlow, Jennifer Bruch Hogan, Stephen P. Pate, Robert M. (Randy) Roach,

and Hon. Ken Wise. Cycling off the board were Hon. Jeff Brown, Hon. Mark Davidson, Dylan Drummond, Hon. David Keltner, Hon. Liz Lang-Miers, and Hon. Dale Wainwright. The class that just cycled off the board were individually and collectively a stellar group, including two of the Society's past-presidents and a Jack Pope Professionalism Award winner. We will miss all of them.

- At the same board meeting, we also elected our new officers for this upcoming year. They are: President: Thomas S. Leatherbury; Immediate Past President: Cynthia K. Timms; President-Elect: Hon. Ken Wise; Vice-President: Richard B. Phillips, Jr.; Treasurer: Lisa Bowlin Hobbs; and Secretary: Jasmine S. Wynton.
- Speaking of the spring board meeting, I want to thank Justice Ken Wise for presenting a wonderful speaker, New York Times best-selling author Stephen Harrigan. Mr. Harrigan's latest work is *Big Wonderful Thing: A History of Texas*. One reviewer called *Big Wonderful Thing*, "as good a state history as has ever been written and a must-read for Texas aficionados." NPR refers to Mr. Harrigan as the Willie Nelson of Texas literature. Mr. Harrigan provided many fascinating insights into the history of this state and into the manner in which he decided to write the book.
- It is time to renew your membership. Your membership funds the Society's many ongoing projects, including sponsoring books and publications on the history of Texas courts, attorneys, and judges; educating elementary school children on the history of courts in Texas; publication of the Society's award-winning Journal every quarter; maintaining judicial portraits; and contributing to other historical organizations such as the Texas State Historical Society. To become a member or renew your membership, you can click [here](#).
- To keep up with our ongoing activities, check us out on social media. We are on [Facebook](#) and on [Twitter](#) @SCOTXHistSoc.

As we consider the use and evolution of language, I cannot help but remember Jack Herbert's ironic observation: "English is a funny language. A fat chance and a slim chance are the same thing." Enjoy our Journal.

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Sharon Sandle

A Story of Resilience:

Surmounting the Challenges of a Difficult Year

The history of Texas is often one of conflict. Those who made Texas their home before recorded history wrangled with a land that was hot, short on water, and abundant with mosquitos and snakes. And despite the fact that the name “Texas” originated from “Tejas,” the Caddo word meaning “friend,” the many diverse people who have inhabited Texas have not always lived together peacefully. In his book *Cult of Glory*, historian Doug J. Swanson tells the story of the Texas Rangers and in the process recounts how conflict has been a part of the development of Texas from its early settlement through to the present day.

The story of Texas is also one of perseverance. Every Texas schoolchild learns the battle cry “Remember the Alamo! Remember Goliad!” More than just an important moment in Texas history, that battle cry symbolizes for Texans the idea of persevering, even after devastating defeat. The loss of the Alamo and the massacre at Goliad were followed by the decisive victory at San Jacinto. But it’s the Alamo that we remember. Not victory: perseverance.

We live in a time that again requires perseverance. Along with the rest of the world, Texas has faced a global pandemic that shut down schools and businesses, sickened millions, and killed tens of thousands of our citizens. And just a few months ago Texas faced another crisis: a severe winter storm that left thousands without heat or power, damaged homes and property, and caused the deaths of over a hundred people. It would be comforting to reflect that Texans came together during these crises and worked towards solutions in harmony. But that isn’t the full picture. There have been disagreements; there has been conflict.

But the story of Texas has ultimately been one of resilience. While Swanson’s history of the Texas Rangers focuses on some of the ways conflict turned violent, recent issues of the Society’s Journal have focused on ways that some of those conflicts found their way into the courts instead. This issue of the Journal, the second issue devoted to the story of civil rights and Latinx lawyers and judges in Texas, illustrates Texas’s history of perseverance and resilience. Stephen Pate’s fascinating article recounts the events surrounding the landmark decisions in *Medrano v. Allee* and *Allee v. Medrano*, where the Courts held that the Texas Ranger’s pattern of brutality had deprived

Mexican American farmworkers of their First Amendment rights to free speech and peaceful protest during the Starr County Strike. The cases took seven long years to work their way through the courts, but the impact of the decisions is still felt today.

The Society is proud to be able to publish a journal that recounts in depth the important history of the Texas courts. That history is an important reflection of the struggles and also the resilience of the people of Texas. The past year has been one that required resilience on the part of the Society, too. For many historical associations, this has been a difficult year, and many have had to cancel or postpone projects. I'm proud to be able to say that in spite of the challenges of the past year, the Society persevered with its work. We held a successful 2020 Hemphill Dinner, albeit a virtual one. As in past years we sponsored a panel at the Texas State Historical Association Annual Meeting, which was also held virtually. And we continued to publish this Journal as planned. At the 2020 Spring Board of Trustees meeting, the Board had to acknowledge the challenges presented by the ongoing pandemic, and at that time the Board passed a budget that realistically predicted a difficult year and the need to draw on the Society's reserves to continue its work. But due to the hard work and leadership of President Cynthia Timms, the Society's officers and trustees, and our staff and the generous support of our members, I can report that the Society not only continued its work as planned during this difficult year, but we finished the year in sound financial condition without the need to draw on reserves. And the Society did more than simply survive a challenging year. We embarked on new projects, such as the very successful collaboration with the Appellate Section of the State Bar of Texas to present the virtual event "An Evening with the Texas Supreme Court." And more recently at the Spring Board of Trustees Meeting, the Board of Trustees passed revisions to the Society's Bylaws and enacted a new Financial Controls Policy that will strengthen the Society for its future endeavors.

We plan to gather in person for the 26th annual John Hemphill Dinner in September in Austin, and it will be a celebration of the work of the Society, our resilience during the past year, and our optimism for the future.

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Fellows Column

By David J. Beck, Chair of the Fellows

Photo by Alexander's Fine Portrait Design-Houston



Since 2016, our acclaimed judicial civics and history books, *Taming Texas: How Law and Order Came to the Lone Star State*; *Law and the Texas Frontier*; and *The Chief Justices of Texas* has been taught in schools throughout Houston. With the able assistance of the Houston Bar Association (HBA), we have reached over 21,000 seventh grade students. We could not have achieved this success without the hard work of the HBA program chairs, and we especially want to thank this year's co-chairs, Judge Jennifer Walker Elrod and Richard Whiteley, for all their efforts. Judge Elrod has been an avid supporter and a regular volunteer in teaching the program since the very

beginning, and she also has been very helpful in revising the classroom curriculum. We greatly appreciate all of her work on the program over the past five years. We also wish to thank the HBA for recruiting the judges and lawyers to serve as volunteers to teach this remarkable curriculum. Because of the vast resources required to teach this number of students, we would not have been able to implement such a large-scale program without the HBA's support.

We are pleased to report that the Taming Texas program is back in the classrooms this year. We had to cancel last year's program because of the school closings, but Judge Elrod and Richard Whiteley made it a priority to get judges and lawyers teaching the program in person again this year.

We are also excited that Taming Texas will be taught as part of the "Stories of Texas" summer camp at the Bryan Museum in Galveston. Susannah Brown arranged for the opportunity for us to teach at this extraordinary museum in Galveston. This fits nicely with our goal of expanding Taming Texas to other parts of the state. In 2019, the program was expanded to Dallas and we were in the process of expanding it to Austin last year before the school closures. This expansion will be a priority for us next year.

To be clear, the Fellows are a critical part of the annual fundraising by the Society and allow the Society to undertake new projects to educate the bar and the public on the third branch of government, and the history of our Supreme Court. We are in the process of nominating the Fellows Class of 2021. If you are not currently a Fellow, please consider joining the Fellows and helping us with this important work.

Our exclusive event, the annual Fellows Dinner, is one of the benefits of being a Fellow. At the dinner each year, the Fellows gather with the Justices of the Texas Supreme Court for a wonderful evening of history, dinner, and conversation. Because of the pandemic, we were not able to have the dinner this year. Nevertheless, we are already working on plans now for next year's event at a unique Austin venue. Further details will be sent to all Fellows.

If you would like more information or want to join the Fellows, please contact the Society office or me.

FELLOWS OF THE SOCIETY

Hemphill Fellows

(\$5,000 or more annually)

David J. Beck*

Joseph D. Jamail, Jr.* (deceased)

Richard Warren Mithoff*

Greenhill Fellows

(\$2,500 or more annually)

Stacy and Douglas W. Alexander

Marianne M. Auld

Robert A. Black

Hon. Jane Bland and Doug Bland

E. Leon Carter

Michael Easton

Harry L. Gillam, Jr.

Marcy and Sam Greer

William Fred Hagans

Lauren and Warren W. Harris*

Thomas F.A. Hetherington

Jennifer and Richard Hogan, Jr.

Dee J. Kelly, Jr.*

Hon. David E. Keltner*

Kristin LaFreniere

Thomas S. Leatherbury

Lynne Liberato*

Mike McKool, Jr.*

Ben L. Mesches

Hon. Harriet O'Neill and Kerry N. Cammack

Hon. Thomas R. Phillips

Hon. Jack Pope* (deceased)

Shannon H. Ratliff*

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Allison M. Stewart

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Peter S. Wahby

Hon. Dale Wainwright

Charles R. "Skip" Watson, Jr.

R. Paul Yetter*

*Charter Fellow

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Hon. John G.
Browning

Texas' Latinx *Legal Trailblazers*

• Part II •

This issue marks “Part II” of our two-part look at the contributions made and the adversities faced by Texas’ Latino and Latina legal trailblazers and the civil rights milestones that chronicle the progress of our Latinx community. As I write this in April, this month has witnessed two more milestones, one a nod to our past and another a testament to how far Texas’ Latinx legal community has come. The first is the celebration of the 60th anniversary of the historic appointment of Judge Reynaldo Garza of Brownsville as the first Latino federal judge in not just Texas history, but U.S. history as well. Judge Garza, the son of Mexican immigrants, was nominated by President John F. Kennedy on April 14, 1961. He would go on to become the first Mexican American to serve on a U.S. Court of Appeals when President Jimmy Carter appointed him to the 5th Circuit in 1979.

The second milestone this month is the historic announcement by Sidley Austin of Dallas lawyer Yvette Ostolaza as the chair-elect of its management committee. With this selection by the global law firm with more than 2,000 lawyers to its highest post, Ms. Ostolaza—the daughter of Cuban immigrants—becomes the first Texan to lead a top 100 law firm that is not Texas-based and the first Latina to lead a top 100 U.S. law firm.

In chronicling Latinx legal history and recognizing “firsts,” occasionally society overlooks some of history’s less explored chapters. For example, many sources identify Justice Sonia Sotomayor as the first Latinx justice to serve on the U.S. Supreme Court. She is unquestionably the first Latina and the first Puerto Rican to serve on our nation’s highest court, but some historians have pointed out the validity of Justice Benjamin Cardozo’s claim to being the first Hispanic on the Supreme Court. Cardozo, who served on the Court from 1932 to 1938, was the descendant of Sephardic Jews who traced their lineage to Portugal and Spain. Although Cardozo’s biographer insists that he did not self-identify as Hispanic, he and his family attended the Spanish and Portuguese synagogue in New York City, and his family tree is riddled with names like Mendez, Gomez, Navarro, and Sechez. And in an argument that Justice Cardozo himself might have appreciated, there is federal legal precedent for considering someone of Sephardic heritage “Hispanic” (defined for purposes of federal law as being “of Spanish origin or culture”). See, for example, *Rothschild-Lynn Legal & Financial Services*, No. 499 MSBE-94-10-13-46, 1995 WL 542398 (Sephardic heritage satisfied

definition of “Hispanic,” regardless of whether the individual in question speaks Spanish, has a Spanish surname, or otherwise has any other indicia of “Hispanicness”).

But regardless of who was first, or who one considers to be more representative of Latinx culture, we should celebrate the accomplishments of both Justice Cardozo and Justice Sotomayor for rising from underrepresented communities accustomed to discrimination to the highest court in the land (where sadly, for Justice Cardozo, the discrimination didn’t end; fellow Justice James McReynolds was an anti-Semite who shunned his Jewish colleagues on the Court, Cardozo and Louis Brandeis). In this issue, we not only look back at the experiences of Mexican Americans in Harris County courtrooms of the early 20th century thanks to Professor Ramiro Contreras and at the landmark Supreme Court decision in *Medrano v. Alee* thanks to Executive Articles Editor Stephen Pate. We also look at some of Texas’ Latinx judicial trailblazers. Thanks to the Garza family, we have a unique glimpse into the life and legacy of Judge Reynaldo Garza. Justice Gina Benavides offers us profiles of Justice Eva Guzman, the first Latina to serve on the Supreme Court of Texas, and Judge Elsa Alcala, the first Latina to serve on the Court of Criminal Appeals. Victor Flores contributes a look at trailblazing Latino judges, including Raul Gonzalez, the first Latino on the Supreme Court of Texas. Finally, we are proud to include a very special essay by the Honorable Alberto Gonzales, current Dean of Belmont University School of Law, former Texas Supreme Court Justice, and the first Latino to serve as White House Counsel and U.S. Attorney General.

We hope that you enjoy our continued celebration of Latinx contributions to Texas legal history.

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Viva La Huelga! The Starr County Strike, Chicanos, Texas Rangers and the Landmark Supreme Court Decision in *Medrano v. Allee*

By Stephen P. Pate



Introduction

More than fifty years later, few remember the rise of the Chicano movement in America. This movement was the result of the Mexican American push for civil rights across the country. In its early stages, this movement manifested itself in the strikes of Mexican American farmworkers for higher wages and better working conditions, oftentimes in California and led by the iconic Cesar Chavez¹ By the mid- 1960's, the movement was spreading to Texas.



Cesar Chavez

In the summer of 1966, Mexican American farmworkers, organized into the United Farm Workers Union, began a long series of strikes against melon farm owners in Starr County, a rural county on the border with Mexico in the "Valley" of Texas. This strike, or series of strikes, would last well into the next year and become known as the "Starr County Strike." The strike was accompanied by protests, and picketing of the farms, especially when the farm owners used nonunion labor to harvest the crops.

¹ Arnoldo de León, "Chicano," *Handbook of Texas Online*, accessed May 02, 2021, <https://www.tshaonline.org/handbook/entries/chicano>.

To combat the Union, the owners struck back by employing what South Texas Hispanics called “*Los Rinches*” – the Texas Rangers. Mexican Americans in South Texas had long been persecuted by the Rangers. Ostensibly hired to provide security, many believed the Rangers were there as strike breakers. Indeed, the Rangers, though employed by the state, had previously been used to break strikes in Texas.² This was the 1960’s though. There was a rising chorus of protest against the Ranger’s involvement, especially when the Ranger’s methods of confronting the farmworkers were examined. Tensions ran high.

In June 1967, the dam burst. There were allegations of unlawful jailings and beatings of strikers by the Rangers. Fed up with the Ranger’s actions, members of the United Farm Workers filed suit against the Texas Rangers in Federal Court, alleging the Rangers had made arrests based on unconstitutional state statutes, and used violence against protestors to break the strike. It would take five years before the issue was decided by a United States District Court. It would take seven years for the case to be heard by the United States Supreme Court, but heard it was. The result was the landmark decisions in *Medrano v. Allee* and *Allee v. Medrano*³, where the Courts held that the Ranger’s pattern of brutality had deprived the farmworkers of their First Amendment rights and enjoined the Rangers from harming them.

This is the story of that case, and what it meant, or didn’t mean to the Hispanic Civil Rights movement. This is also the story of some of the protagonists, from the retired prize-fighter who ended up as the first named plaintiff, to the legendary Texas Ranger who served as the first named defendant, to the Anglo labor lawyer from Houston who championed the Union’s cause, and to the Hispanic Federal Judge who heard the matter. Beyond the jurisprudence, it is a story of a place and time.

The Protagonists

The case as filed in district court, of course, is styled *Medrano v. Allee*. The “Medrano” in the case name refers to Francisco “Pancho” Medrano. Strangely enough, one commentator has noted “his particular complaint is not apparent” from the suit papers.⁴ Nevertheless, his name is forever intertwined with what happened that summer.

Medrano was not a farmworker. What perhaps describes him best is the term “union organizer,” or “civil rights activist.” Born into poverty in Dallas in 1920, he attended a Works Progress Administration school and worked at an aviation plant. In the 1940’s, he began to be active in union work, and served as an officer in the United Auto Workers (UAW) organization. He was also a talented light heavyweight boxer and fought as a semi-professional for his



Francisco “Pancho”
Medrano

² Doug J. Swanson, *Cult of Glory: The Bold and Brutal History of the Texas Rangers*, (Viking, 2020), 362.

³ *Medrano v. Allee* 347 F. Supp 605 ,615 (S.D. Tex. 1972). *Allee v. Medrano* 416 U.S. 802 (1974).

⁴ Robert M. Utley, *Lone Star Lawmen: The Second Century of the Texas Rangers*, (Oxford University Press, 2007), 291.

employer, North American Aviation.⁵ One story has it that North American fired Medrano because of his union organizing efforts at the plant. Another story has it that North American fired him when he turned professional. In any event, by 1963 Medrano was working full time for the Union, and in 1967 he was sent to Starr County to represent the UAW and assist the United Farms Workers in their strike efforts.

Medrano was perhaps attracted to the Starr County Strike not only because it was a union versus owner struggle, but a racial struggle as well. He was well known in the Hispanic community as a civil rights proponent. He did not like the term “Latino.” Instead, he wanted to be known as a “Chicano” because that term was associated with self-assertiveness and activism.⁶ He rejected such organizations as the League of Latin American Citizens (LULAC) because they did not support protests.⁷ Medrano’s militancy put him on a collision course with a man who was the nemesis of Valley Hispanics.

This man was Captain Alfred Young (A.Y.) Allee, a famed Texas Ranger and the first named defendant in *Medrano v. Allee*. To this day, there are many who idolize Allee and regard him as the epitome of a Ranger. His father and grandfather were Rangers, and his son was a Ranger after him.⁸ Born in La Salle County in 1905, Allee had first become a Texas Ranger in 1931, fighting smuggling and cattle rustling on the border. Captain Allee has been described as a “tough, gruff thickset holdover from earlier times.”⁹ His men respected and loved him.¹⁰ He had been a competent, well-respected law enforcement officer in South Texas for thirty years. He had been involved in some notorious incidents. He once slapped a lawyer who accused him of lying on the witness stand; later, he hit a lawyer who spoke ill of his beloved Rangers in court.¹¹ There was an incident where Allee got into a physical altercation with George Parr, the South Texas political boss known as the “Duke of Duval.”¹²



Captain A.Y. Allee

He had a “benign” relationship with Hispanics, as long as they “kept their place.”¹³ He was responsible for hiring the first Hispanic Ranger. However, that Ranger, Arturo Rodriguez, would once say “They said back then that Captain Allee had Mexican blood—on the tips of his boots.”¹⁴ There had been reports of beatings of Hispanics—the ones who did not keep their place. Jose

⁵ Priscilla Escobedo, “Medrano, Francisco [Pancho],” *Handbook of Texas Online*, accessed May 02, 2021, <https://www.tshaonline.org/handbook/entries/medrano-francisco-pancho>.

⁶ Arnoldo de León, “Chicano,” *Handbook of Texas Online*, accessed May 02, 2021, <https://www.tshaonline.org/and-book/entries/chicano>.

⁷ Michael Phillips, *White Metropolis: Race, Ethnicity, and Religion, 1841-2001*, (University of Texas Press, 2006), 163-165.

⁸ John Kifner, “Texas Ranger Not a Hero to All,” *New York Times*, March 23, 1970.

⁹ *Ibid.*, 253.

¹⁰ *Lone Star Lawmen: The Second Century of the Texas Rangers*, 268.

¹¹ *Cult of Glory: The Bold and Brutal History of the Texas Rangers*, 364.

¹² *Lone Star Lawmen: The Second Century of the Texas Rangers*, 264-265.

¹³ *Ibid.*

¹⁴ *Ibid.*

Gutierrez, a prominent civil rights leader in South Texas, who himself had been beaten by Allee when he was sixteen, once said “Something made Allee hate Mexicans.”¹⁵

During the Starr County Strike, county officials, backed by the owners, called in Captain Allee and his Rangers to maintain order and combat the protestors. And just as this would not be Allee’s first conflict with Hispanics, this would not be his first experience with strike breaking. In 1947, oil workers along the Gulf Coast went on strike and the owners called in the Texas Rangers to protect oil wells and pipelines. Allee and his Ranger Company were sent to the South Texas fields. Soon, there were complaints of Ranger brutality.¹⁶ Nothing came of them.

As stated, Medrano and Allee were the first named parties in the case. Medrano, though, was joined as a plaintiff by other union organizers and citizens, including Alex Moreno and David T. Lopez, both of whom are still living and were interviewed for this article. Allee was not the only defendant: the Texas Rangers and local Starr County officials were sued too. As the first named parties, Medrano and Allee legally served as symbols of their respective positions. Yet the men served as symbols in a larger sense as well. Texas, and the world, was changing. Medrano represented the post-World War Two rise of Mexican Americans in Texas, where Hispanics did not want to be treated as second-class citizens anymore and sought their full civil rights. Allee represented the old Texas—where the status quo tolerated Mexican Americans as long as they “kept their place”—and if they didn’t, they could be brutalized. Their clash reflected changing times that would manifest itself into new legal standards.



Alex Moreno, Jr.



David T. Lopez

The Starr County Strike

Starr County borders the Rio Grande. The county seat is Rio Grande City. Even today it is regarded as one of the poorest counties in the United States. Starr County’s most recent notoriety is because of its active litigation docket. Starr County juries are regarded as favoring plaintiffs and are generous in their awards. At times, it has been labeled a “judicial hell hole.”

In the late 1960’s Starr County was known as the “melon capitol” of the world and was known for its cantaloupe.¹⁷ There were eight large farms in Starr County, with “La Casita” farm, at 1900 acres under cultivation, being the largest.¹⁸ The strike—*la huelga* – that began in June 1966, had continued off and on with disappointing results into 1967. The farmworkers resolved to try

¹⁵ *Cult of Glory: The Bold and Brutal History of the Texas Rangers*, 365.

¹⁶ *Lone Star Lawmen: The Second Century of the Texas Rangers*, 255.

¹⁷ *Lone Star Lawmen: The Second Century of the Texas Rangers*, 270.

¹⁸ Kemper Diehl, “U.S. Mexican Unions Team in Valley,” *San Antonio Express*, May 7, 1967, 1.



Picketing at La Casita



Eugene Nelson



Randall Nye

and make a major effort to renew the strike during the 1967 harvest season.

Melon harvesting began in May and would run until July. After some difficult times, the owners expected it to be the best harvest they had ever seen—unless the melons were left to rot in the field.¹⁹ That was the intent of the farmworkers. Their main demand was that they be paid a \$1.25 per hour minimum wage, which the owners refused to do. Now, in May 1967, they planned to be better organized. By May 1967, Eugene Nelson, the original strike organizer, had given way to Gilbert Padilla of California, a close associate of Cesar Chavez, who had previously organized a successful farmworkers strike in California.²⁰ Indeed, it was reported that Chavez himself would come to Rio Grande City.

So far, the strike had not taken a violent turn. There had been 56 arrests of union members and sympathizers by early May 1967, but no trials or convictions.²¹ More, importantly, no blood had been shed.²² This was about to change. The owners were gearing up for legal action. The owners had hired many nonunion workers—many from across the border, and fully expected picketing from the union workers.

It was in November 1966, Randall Nye, the county attorney,²³ (who was also an attorney for La Casita farms), first called

¹⁹ "U.S. Mexican Unions Team in Valley," *San Antonio Express*, May 7 1967, 1.

²⁰ "U.S. Mexican Unions Team in Valley," *San Antonio Express*, May 7 1967, 14.

²¹ *Ibid.*

²² James McCrory, "Allee says Valley Situation to Ease," *San Antonio Express*, May 31, 1967, 11.

²³ Frank Randall Nye was known to a generation of attorneys as the "go-to" local counsel in Starr County. See e.g.,

in Captain Allee and his Ranger Company “D” of eight white-hatted officers to oversee the strikers. At first the Rangers were only sporadically in Starr County, but now, as harvest season approached, they were there full time.²⁴ And as late May turned into June, the Ranger’s impact began to be felt.

The strike increased in tempo. Picketing was almost a daily occurrence.²⁵ Farmworkers not only tried to stop the harvest, but also picketed trains carrying the harvest, in the hopes that train crews would honor the picket lines and refuse to haul the freight. This was the spark for the incident that saw Pancho Medrano arrested. On May 26, picketers gathered in Mission, Texas around the Missouri Pacific Railroad track that ran from Rio Grande City to picket melon loaded trains. The Rangers, led by Allee, forcibly cleared the pickets away from the trains, and arrested 20 union members, bystanders, and sympathizers on the dubious grounds of “unlawful assembly.” Moreover, the Rangers shoved news photographers and warned them their cameras would be destroyed if they took pictures of the arrests.²⁶

Medrano was one of the arrested picketers and witnessed the entire incident. He was incensed. He accused the Rangers of “massive brutality” in handling the farmworkers. He told a reporter:

“I have participated in civil rights marches and demonstrations all over the country but never have I seen such brutality and criminal disregard for civil liberties as we experienced at the hands of our Texas Rangers.”²⁷

May 26 also saw a notorious event that became famous. That evening, Reverend Edgar Krueger, a strike leader, and his wife arrived at the Railroad location to organize the picketers. The Rangers detained both Krueger and another Union member, Magdaleno Dimas. After arresting them, the Rangers took both men toward a passing train. As they were waiting for it to pass, the Rangers held both Krueger and Dimas so that their faces were only inches from the train.²⁸ When Mrs. Krueger tried to photograph this incident, a Ranger took her camera and exposed the film. The Rangers arrested her for good measure, alleging that she had tried to hit Captain Allee with her camera, though no evidence ever supported this.²⁹

It was on June 1, a few days later, that the most famous strike incident occurred. It involved Magdaleno Dimas once again. Dimas was not a savory character. An ex-con with a long criminal record, including a murder conviction, he was supposedly the union



Reverend Edgar Krueger

Aetna Cas. & Sur. Co. v. Garza, 906 S.W.2d 543 (San Antonio Ct. App. 1995).

²⁴ *Lone Star Lawmen: The Second Century of the Texas Rangers*, 271.

²⁵ “Senator, Ranger Argue,” *Austin American*, June 2, 1967, 31.

²⁶ “Management Crew Operates Picketed Train,” *San Antonio Express*, May 31, 1967, 11-A.

²⁷ *Ibid.*

²⁸ *Medrano v. Allee* 347 F. Supp 605 ,615 (S.D. Tex. 1972).

²⁹ *Ibid.*

“enforcer.”³⁰ Dimas and another man named Rodriguez had allegedly been in a car near a La Casita property brandishing a gun. The La Casita General Manager filed a complaint and Captain Allee set out to find Dimas.³¹ Allee first went to the Union Hall where he was seen by Alex Moreno. Moreno, an 18-year-old college student, went to warn Dimas and Rodriguez at the house of Kathy Baker another union member.

Allee found where the pair were located. He went to the Baker house and saw Moreno outside. According to Moreno, Allee “grabbed me by the neck and stuck a shotgun in my ribs.”³² As bad as this was, Moreno suffered no other physical assault. He attributed this to his neat appearance and the fact he “was a middle-class kid.”³³



Magdaleno Dimas being released from the hospital where he was treated for injuries resulting from his arrest and beating

Dimas and Rodriguez had no such small kindness. A Justice of the Peace was called out to the house, and according to Moreno, wrote out a search warrant on the hood of a car. Then Allee, in the words of the Federal District Court’s findings of fact, “broke” into the house and arrested Dimas in what it called a “violent and brutal fashion.”³⁴ Allee claimed when he found Dimas in the house, Dimas had his hands under a table, and Allee told him to put his hands out in the open. When Dimas refused, Allee said he knocked the table against Dimas, and grazed his head with a shotgun barrel.³⁵ It appears, though, that Allee severely beat Dimas. Doctors later found Dimas suffered a brain concussion, multiple bruises on his neck and ears and on his forearms and wrists. A severe blow to his back caused his spine to curve.³⁶ Allee claimed Dimas suffered his injuries as he ran from the room and collided with a door and with Rodriguez and dismissed the injuries. Yet Moreno heard the small house “shaking” as if a major beating was taking place.³⁷

Those are the famous incidents, but far from the only ones. In another incident on June 1, Allee sent eight Rangers to arrest four persons at a railroad crossing in Mission, down the line from Rio Grande City. State Senator Joe Bernal witnessed the arrests and was convinced those arrested had done nothing wrong. One had not even been picketing. In a stinging rebuke of the Rangers, Bernal was quoted as saying “Eight Rangers for three pickets? I thought it was ‘one riot, one ranger.’” Bernal himself got into several heated arguments with Allee.³⁸

Allee’s story about Dimas and Rodriguez “colliding” with each other was not the only tale

³⁰ *Cult of Glory: The Bold and Brutal History of the Texas Rangers*, 368.

³¹ “Storied Texas Rangers Under One of Most Concerted Attacks Ever,” *The Monitor* (McAllen, Texas), July 16, 1967, 8.

³² Author’s Personal Interview with Alex Moreno, Jr., May 13, 2021.

³³ *Ibid.*

³⁴ 347 F. Supp 605 at 316.

³⁵ “Storied Texas Rangers Under One of Most Concerted Attacks Ever,” *supra* at 8.

³⁶ *Ibid.*, 317.

³⁷ Author’s Personal Interview with Alex Moreno, Jr., May 13, 2021.

³⁸ “Senator, Ranger Argue,” *Austin American*, June 2, 1967, 31.

he told about his assaults. David T. Lopez was an AFL/CIO organizer who had confrontations with Allee. At one picketing site Allee saw Lopez, walked over to him, and threw him to the ground. After recovering, Lopez asked Allee why he had done that. Allee said a truck had been headed towards Lopez and he was trying to keep him safe. Needless to say, there was no truck.³⁹

By June 1967, it appeared that there were deep concerns that Allee and Company D were out of control. Of course, many Texans, probably most, supported the Rangers, no matter what. Yet in some quarters, there was a feeling the Rangers had gone too far. Headlines in Texas newspapers such as “Storied Texas Rangers Under One of Most Concerted Attacks Ever,”⁴⁰ and “Intimidation Charged in Valley”⁴¹ could not have made Texans happy. Even worse, newspapers in other states were commenting. For example, in mid-June, the *Baltimore Sun* ran an article entitled “Abuse Laid to Rangers: Texas Group’s Conduct in Farm Strike Criticized.”⁴²



Senator Ralph Yarborough

The situation was becoming a political football; Governor John Connally defended the Rangers in Starr County, saying they were there “as a routine matter to enforce the law.” Senator Ralph Yarborough, a liberal Democrat and bitter foe of Connally, called the Rangers “Connally’s strikebreakers,” Yarborough said what many believed: that the Rangers were there to aid the owners.⁴³

Yet there were newspapers who took the Ranger’s side and denigrated the strikers. An editorial in the McAllen *Monitor* stated: “We do not believe the Rangers are habitually and habitually brutal, nor do we think there is a real labor dispute going on in Starr County.”⁴⁴ This editorial also smeared Cezar Chavez by saying he had been in Starr County with “some girl who is usually identified as a ‘student’— although its uncertain when she finds time to go to school...”⁴⁵ The article revealed a true slant on the matter by saying “We await Martin Luther King, Stokely Carmichael, Ali Baba or whatever the prize-fighter’s name is [obviously a reference to Muhammed Ali], Bertrand Russell and Jimmy Hoffa, on parole” to visit the strikers.⁴⁶ The overt racism exhibited in this editorial demonstrates the culture clash evident in South Texas in 1967.

Actual investigations took place. Three State Senators went to Starr County to investigate not the strike, but charges of Ranger brutality.⁴⁷ More importantly, the Texas Advisory Committee

³⁹ Author’s Personal Interview with David T Lopez, May 13, 2021.

⁴⁰ “Storied Texas Rangers Under One of Most Concerted Attacks Ever,” *The Monitor* (McAllen, Texas), July 16, 1967, 8.

⁴¹ “Intimidation Charged in Valley: Civil Rights Report Accuses Rangers,” *Lubbock Avalanche Journal*, June 18, 1967, 3.

⁴² “Abuse Laid to Rangers: Texas Group’s Conduct in Farm Strike Criticized,” *The Baltimore Sun*, June 18, 1967, 5.

⁴³ “Connally Defends Position of Rangers,” *San Antonio Express*, June 1, 1967, 51.

⁴⁴ “Speedy Starr Trials Needed,” *Monitor* (McAllen, Texas), June 15, 1967, 19.

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ “State Solons in Valley to Probe Ranger Situation,” *Brownsville Herald*, June 6, 1967, 6.

to the U.S. Commission on Civil Rights held hearings in Starr County.⁴⁸ Allee and his Rangers were invited to attend but refused. Both supporters of farm workers and owners testified, however. On June 17, 1967, The Committee issued a report and included these findings:

- a. Physical and verbal abuse by Texas Rangers and Starr County law enforcement officials had occurred.
- b. Jailing of union organizers and members for long hours without bond and then failure to bring them promptly to trial took place.
- c. Harassment by Rangers of supporters of the farm workers had occurred.
- d. Arrests of union organizers and members without full investigation of complaints by owners had occurred.

The Committee found that these actions “gave the appearance of the Rangers being in sympathy with the growers and packers rather than the impartiality usually expected of law enforcement officials.”⁴⁹ The Committee asked that the U.S. Attorney General investigate, and in a foreshadowing of the future, called for injunctive relief from the federal courts. Reacting to this, Nye, the Starr County Attorney, dismissed the report, saying the Committee was “biased before they arrived in Starr County and their findings reflect that sentiment.”⁵⁰

A commentator has noted “The Texas Rangers had come under attack at times in the past but never as furiously as in the years following the farm strike.”⁵¹ Attacks in the press increased, and groups such as LULAC called for the abolition of the Rangers.⁵²

But to what avail? In mid-June La Casita Farms, represented by prominent Valley attorneys Morris Atlas and Gary Gurwitz, obtained an injunction in state district court in Starr County forbidding picketing at its locations.⁵³ The United Farm Workers called off plans to picket La Casita because the Union had no money to bail out anyone who would have been arrested for violating the injunction.⁵⁴ The melon harvest was over by the end of June. The crop was regarded as one of the best in history.⁵⁵ The farm workers ended their organizing efforts; labor conditions remained the same in the Valley.⁵⁶ The strike had failed.

Yet Medrano, Lopez, Moreno and others were not defeated. This time they would not go away quietly. They would seek justice in the Federal courts to rectify the injustices they believed had caused the strike to fail.

⁴⁸ “Intimidation Charged in Valley: Civil Rights Report Accuses Rangers,” *Lubbock Avalanche Journal*, June 18, 1967, 3.

⁴⁹ “Intimidation Charged in Valley: Civil Rights Report Accuses Rangers,” *Lubbock Avalanche Journal*, June 18, 1967, 3.

⁵⁰ *Ibid.*

⁵¹ *Lone Star Lawmen: The Second Century of the Texas Rangers*, 291.

⁵² *Ibid.*

⁵³ “Union to Appeal Ban on Valley Picketing,” *Corpus Christi Times*, June 29, 1967, 51. See *United Farm Workers Organizing Committee AFL-CIO et al. v. Las Casita Farms, Inc.* 439 S.W. 2d 398 (Tex. Ct. App. San Antonio 1968).

⁵⁴ “State Solons in Valley to Probe Ranger Situation,” *Brownsville Herald*, June 6, 1967, 6.

⁵⁵ “Starr Melons Go; Labor Fight Stays,” *Dallas Morning News*, June 18, 1967, 15.

⁵⁶ *Lone Star Lawmen: The Second Century of the Texas Rangers*, 291.

The Lawsuit is Filed

On Monday, June 12, 1967, a lawsuit was filed in United States District Court in Brownsville Texas seeking a temporary injunction against the Texas Rangers and Starr County officials. The lawsuit was filed on behalf of the United Farm Workers Organizing Committee, Francisco Medrano, Kathy Baker, David Lopez, Alex Moreno, Gilbert Padilla, Magdeleno Dimas, and Benjamin Rodriguez. The Defendants were Allee and four of his Rangers, the Sheriff of Starr County and two of his deputies, a Starr County Justice of the Peace, and Jim Rochester, the La Casita Farms supervisor who had been a Starr County "Special Deputy."⁵⁷

The suit asked that the Defendants be enjoined from "interfering with the union's 'lawful picketing' and other forms of publicity." Specifically, the suit charged the officials with the following:

- a. Unlawful harassments, threats, searches and seizures
- b. Unlawful and groundless mass and individual arrests, detention and confinement accompanied by complete disregard for procedural due process of law guaranteed by the Fifth and Fourteenth Amendments.
- c. Physical assaults causing bodily injuries to some of the plaintiffs.

The suit stated the plaintiff's damages:

- a. Loss of their liberty to engage in constitutionally protected free speech and assembly.
- b. Loss of liberty by imprisonment in jail.
- c. Personal Injuries requiring medical attention and expense.⁵⁸

The original complaint would soon be amended to ask the Federal Court to declare the Texas statutes against secondary boycott, mass picketing, disturbing the peace, unlawful assembly, abusive language and obstructing a public road or bridge to be unconstitutional and to enjoin any further prosecutions under those laws.⁵⁹

Another lawsuit was filed at about the same time as *Medrano*. The Texas Council of Churches filed a lawsuit on behalf of Reverend Krueger, his wife and two others against the same defendants alleging brutality.⁶⁰ This lawsuit, or at least its allegations, was later consolidated into the *Medrano* suit. The lawsuit, the first ever filed by the Texas Council of Churches, gained a great deal of publicity, especially when the suit was publicly backed in a statement by Texas' Catholic Bishops.⁶¹

The *Medrano* lawsuit itself was widely reported in the press. Interestingly, news of the lawsuit broke on the same day that President Johnson announced he would nominate Thurgood

⁵⁷ "Injunction Sought: Rangers, Starr Law Summoned by U.S. Court," *The Brownsville Herald* (Brownsville, Texas), June 13, 1967, 1.

⁵⁸ *Ibid.*

⁵⁹ *Medrano v. Allee* 347 F. Supp at 610. "Suit to Start: Panel of Federal Judges to Ponder Law, Rangers," *Corpus Christi Caller Times*, June 9, 1968, 23.

⁶⁰ "Church Council Sues Texas Rangers, Others," *San Antonio Light*, June 28, 1967, 4.

⁶¹ "Catholic Bishops Back Suit to Curb Rangers," *Dallas Morning News*, July 4, 1967, 4.



Judge Reynaldo Garza

Marshall, an African American, to the United States Supreme Court.⁶²

Who was the lawyer who was bold enough, or perhaps foolish enough, to file suit against the Texas Rangers? Chris Dixie, forgotten today, was at the time the pre-eminent union-side labor lawyer in Texas. A son of Greek immigrants, he graduated from the University of Texas Law School in 1936 and served in Naval Intelligence during World War Two. Practicing in Houston after the war, he represented unions, and also engaged in civil rights and school desegregation cases. He was active in the more liberal wing of the Texas Democratic Party, which led to run-ins with LBJ.⁶³



Chief Judge John R. Brown

And what about the judge, or judges? The *Medrano* suit was filed in the Court of Judge Reynaldo Garza, who, depending on how it is determined, was either the first or second Mexican American Federal Judge.⁶⁴ Certainly he was the first Mexican American Federal Judge in Texas. Garza had been appointed a United States District Judge for the Southern District of Texas in 1961 by President Kennedy.⁶⁵ Yet Garza would not be alone in hearing the case. In 1967, under a now repealed statute, lawsuits seeking to enjoin the enforcement of state statutes by state officials were required to be heard by a three-Federal judge panel, with a direct appeal to the United States Supreme Court.⁶⁶ *Medrano's* challenge to the Texas picketing statutes qualified for such a panel. Soon Garza was joined by Fifth Circuit Judge John R. Brown and fellow Southern District Judge Woodrow Seals, both of Houston.



Judge Woodrow Seals

The legendary John R. Brown was one of the most renowned judges on the Fifth Circuit during the Twentieth Century. A Republican expert on Admiralty law appointed to the Court by Dwight Eisenhower, he would become Chief Judge of the Circuit on July 17, 1967. Brown became, along with Elbert Tuttle, Richard Rives, and John Minor Wisdom, one of the "Unlikely Heroes," whose decisions advanced civil rights in the South, when many had expected his conservative background to lead him to be opposed to civil rights.⁶⁷ The third judge on the panel, Woodrow Seals, would never share the renown of Garza or Brown, but he was a well-regarded trial judge

⁶² "Negro Marshall LBJ Pick for Supreme Court," *The Brownsville Herald* (Brownsville, Texas), June 13, 1967, 1.

⁶³ "Labor Lawyer Christian Dixie dies at 86," *Houston Chronicle*, March 11, 2001, <https://www.chron.com/news/houston-texas/article/Labor-lawyer-Christian-Dixie-dies-at-86-1993854.php>; Oral history transcript, Chris Dixie, interview 1 (I), 3/23/1983, by Michael L. Gillette · Discover Production, <https://www.discoverljb.org/item/oh-dixie-19830323-1-87-4>.

⁶⁴ Harold Medina was appointed a district judge in the Southern District of New York by President Truman in 1947. His father was a naturalized U.S. citizen from Mexico. His mother was of Dutch ancestry. Both of Garza's parents were Mexican American. See *State bar of Texas: Making the Case: Reynaldo Garza 1915- 2004*, https://en.wikipedia.org/wiki/Harold_Medina?wprov=sfti1. Medina and Garza joked about who should be regarded as the first Mexican American Judge.

⁶⁵ Reynaldo Guerra Garza, Biographical Directory of Federal Judges; <https://www.fjc.gov/history/judges/garza-reynaldo-guerra>

⁶⁶ Three-Judge Court Act. | U.S. Constitution Annotated | US Law | LII / Legal Information Institute; <https://www.law.cornell.edu/constitution-conan/article-3/section-2/clause-2/three-judge-court-act>

known for his fairness and humanity. In 1967 he was a brand-new judge. He had been United States Attorney in Houston when President Johnson appointed him to the Southern District bench in 1966.⁶⁸ These were the Judges who would judge the Texas Rangers.

In August 1967, the Rangers answered the farmworker's lawsuit. The *Monitor*, the McAllen newspaper that tended to side with the owners, was not reticent in its take on the response. "The Texas Rangers fired both legal barrels Friday into the six persons and the Farm Workers Organizing Committee who brought civil suit against them in U.S. District Court here charging brutality and violations of civil rights."⁶⁹ The answer was prepared by members of Texas Attorney General Crawford Martin's staff. The Rangers denied any physical assaults, harassment, unlawful arrests, or threats. Allee denied causing any serious bodily injury to Dimas and Rodriguez. It disparaged the plaintiffs "and other members of the alleged class which they claim to represent."⁷⁰

Thus, the issue was joined. Now came the discovery period in the lawsuit, when interrogatories were filed and answered, depositions taken, and briefs prepared. Trial was set for the middle of 1968.

The Texas Rangers on Trial

Trial commenced at the Brownsville Federal Courthouse on June 11, 1968. ⁷¹ It only lasted for three days of evidence. While this was a seemingly short period of time for such an important matter, the case was being tried non-jury. Much of the testimony was by way of depositions, which could be entered into evidence and later read by the judges. Even though a non-jury matter, the trial did see some fireworks. Chris Dixie was lead trial counsel for the plaintiffs. Lead trial counsel for the defendants was Hawthorne Phillips, First Assistant Attorney General of Texas, a former state district judge in Brownsville and a future Texas Supreme Court Justice.⁷²

Pancho Medrano, noted by the newspapers as "the former Texas heavyweight boxing champion",⁷³ was one of the first witnesses called by Dixie. Medrano testified that on May 26, 1967, he had been taking pictures of the Rangers arresting picketers near the railroad crossing in Mission. He swore he heard Captain Allee say, "Get that man. I don't want any pictures taken." Medrano was then arrested.⁷⁴ He said he was then taken to a Ranger car and that he continued to take pictures through the car window until another Ranger shoved the camera against his head and took the camera away.⁷⁵ Medrano denied he had been picketing. On cross-examination,

⁶⁷ See Jack Bass, *Unlikely Heroes: The Dramatic Story of the Southern Judges of the Fifth Circuit who Translated the Supreme Court's Brown Decision into a Revolution for Equality*, Simon and Schuster, 1981. John R. Brown, <https://www.law.uh.edu/libraries/JRBrown/jrbbio.asp>

⁶⁸ "Woodrow B. Seals, 72, Federal Judge in Texas," *New York Times*, October 30, 1990, 7.

⁶⁹ "Rangers Deny Charges in Suit by Unionists," *The Monitor* (McAllen, Texas) August 6, 1967, 7.

⁷⁰ *Ibid.*

⁷¹ "Medical Depositions Read During Ranger Trial Here," *The Brownsville Herald*, June 12, 1968, 1.

⁷² "Thomas Hawthorne ("Phil") Phillips" <https://tarltonapps.law.utexas.edu/justices/profile/view/80>

⁷³ "Union Rests Case in Suit Against Rangers," *El Paso Times*, June 13, 1968, 6.

⁷⁴ "VALLEY: Suit against Rangers Nears End," *Austin American-Statesman*, June 13, 1968, 22.

⁷⁵ "Union Rests Case in Suit Against Rangers," *El Paso Times*, June 13, 1968, 6.

Phillips got Medrano to admit that he had picketed on other occasions.⁷⁶

Reverend Krueger and his wife were also important witnesses. The Reverend testified he had been arrested on charges of unlawful assembly on the same day and same place as Medrano.⁷⁷ Krueger said "... Allee grabbed me by the collar and the seat of the pants" to arrest him.⁷⁸ Mrs. Krueger corroborated that testimony. Judge Brown asked her if her husband was wearing clerical garb at the time, and she replied he was not.⁷⁹ Yet it was obvious that he was a minister. Mrs. Krueger said Ranger Jack Van Cleve slapped her husband and told him "You're not a preacher. If you were you'd stop these people. You're nothing but a troublemaker."⁸⁰ Van Cleve said he "nearly slapped" Krueger after the minister got too close to the Ranger because Krueger had "bad breath."⁸¹

Mrs. Krueger's own arrest was discussed. Van Cleve said he arrested her because she appeared to be preparing to strike Captain Allee with her camera. Mrs. Krueger said she was simply taking a picture of her husband being arrested. She also testified the Rangers took her camera and exposed the film. Ranger T.H. Dawson testified he opened the camera to determine whether "it was a camera or a weapon."⁸²

Of course, what was now known as the "Dimas Incident", Allee's alleged mistreatment of Dimas and Rodriguez, was a major portion of the plaintiffs' case.⁸³ The Las Casitas Farms foreman, Jim Rochester, said that Dimas and Rodriguez had driven up to the Las Casitas packing shed on June 1, 1967. He claimed that Dimas pointed a rifle at him. After shooting at Dimas' car as it drove away, Rochester said he called the Sheriff's department because of the threat. Allee then went to Kathy Baker's house to arrest Dimas and Rodriguez. Yet it developed that the arrests were made three hours before Rochester signed a complaint. In fact, he was called to the Starr County Sherriff's office at 2 a.m. the next day and handed a complaint that he did not actually recall signing.⁸⁴ Moreno says that Dimas had a rifle because he had gone rabbit hunting that day and may have lifted it up in the car, but he did not believe Dimas had been aggressive.⁸⁵

Dimas was not present to give testimony. At the time of the trial, he was serving time in a Mexican prison on a marijuana violation.⁸⁶ Captain Allee testified about the Dimas incident by way of deposition—Allee did not appear live at trial. He testified he considered Dimas "dangerous because he had killed a man in Floresville." Allee probably did not help his cause by saying that earlier on the evening of the incident he had seen Dimas with a rifle and said, "I could have killed

⁷⁶ "Medical Depositions Read During Ranger Trial Here," *The Brownsville Herald*, June 12, 1968, 8.

⁷⁷ *Ibid.*

⁷⁸ "Medical Depositions Read During Ranger Trial Here," *The Brownsville Herald*, June 12, 1968, 8.

⁷⁹ *Ibid.*

⁸⁰ *Ibid.*

⁸¹ "Ranger Says Union Men Tripped Over Furniture," *Odessa American*, June 14, 1968, 7.

⁸² *Ibid.*

⁸³ "Ranger Says Union Men Tripped Over Furniture," *Odessa American*, June 14, 1968, 7.

⁸⁴ "VALLEY: Suit against Rangers Nears End," *Austin American-Statesman*, June 13, 1968, 22.

⁸⁵ Author's Personal Interview with Alex Moreno, Jr., May 13, 2021.

⁸⁶ "Ranger Says Union Men Tripped Over Furniture," *Odessa American*, June 14, 1968, 7.

him if I wanted to.”⁸⁷ As it was, his version of events was severely questioned.

Allee testified that Dimas and Rodriguez had suffered most of their injuries not from his beatings, but when they tripped over the furniture and each other trying to get away.⁸⁸ Yet medical testimony, apparently unrebutted by the defense, contradicted Allee. Dr. Ramiro Casso had examined Dimas on the day after the incident at the Starr County jail. Dr. Casso testified “if somebody came to me and said he suffered these injuries in a fall I’d call him a liar.” The Doctor said that the injuries suffered by Dimas could only have occurred in a fall if Dimas had fallen from a two- or three-story height.⁸⁹

The above were the more famous occurrences of the Starr County Strike. There was evidence about others at the trial. There was testimony about a union official and a minister who were arrested while they prayed on the steps of the Starr County Courthouse. They were charged with disturbing the peace because they had bothered the night custodian of the courthouse. In another incident, which might have disturbed the deeply Catholic Reynaldo Garza, there was testimony about the arrest of five Catholic Priests during a demonstration at La Casita farms. Other evidence related to the Ranger’s May 10, 1967 arrest of 10 picketers on a “mass picketing” charge that included “blows, pushes, shoves and menacing and threatening language.”⁹⁰

Dixie also pointed out the unequal application of the law. Union sympathizers were regularly arrested. Yet it was alleged that on two occasions, at least, County Attorney Nye had failed to allow union members to file charges against a Ranger or a La Casita employee when there was a claim they had assaulted union members.⁹¹

Dixie rested his case about noon on the third day of the hearing. The newspaper accounts do not reveal that Phillips, a skilled trial lawyer, put up much of a defense. Allee had been contradicted by medical evidence. The complaint against Dimas seemed tainted. Nearly slapping someone because they had bad breath or exposing a camera because it may have been some 007 spy weapon seemed ludicrous testimony. Perhaps Phillips determined all he could do was win the case on the law.

Indeed, it appears the legal aspects of the case were not discussed at the June trial. Instead, on October 22, 1968, the three-judge panel reconvened in Brownsville to hear the attorneys’ closing arguments.⁹² Dixie summed up his evidence by saying that the strike had seen 125 arrests by the Rangers and local officials, with no convictions or even trials. Dixie noted that every time the farmworkers seemed to make a breakthrough in the strike, mass arrests followed. He asked for an injunction against the Rangers to prevent them from harassing and arresting union members.

He also asked that the six challenged Texas Statutes be declared unconstitutional; certainly,

⁸⁷ *Ibid.*

⁸⁸ *Ibid.*

⁸⁹ “Medical Depositions Read During Ranger Trial Here,” *The Brownsville Herald*, June 12, 1968, 1.

⁹⁰ “Suit to Start: Panel of Federal Judges To Ponder Law, Rangers,” *Corpus Christi Caller Times*, June 9 1968, 23.

⁹¹ *Ibid.*

⁹² “Panel Hears Final Argument in Suit,” *Beaumont Journal*, October 23, 1968,25.

their use during the strike showed they were overbroad and vague. Phillips responded by giving the Court volumes of case law saying the opposite.⁹³ Captain Allee and his Rangers were in the Courtroom for these arguments.⁹⁴

Judge Brown gave the lawyers seven more days to submit any additional briefing. Then the case would be submitted. After that Brown said the Court would “reach a decision in the very near future.”⁹⁵

But it didn't.

The Trial Court Ruling

It took until June 26, 1972, an astonishing four years from the time of trial, for the three-judge panel to make a ruling in *Medrano v. Allee*.⁹⁶ No one knows for certain why the decision took so long. Alex Moreno said there was a rumor that Judge Garza asked the other judges to hold off for a while because he feared political unrest and he wanted temperatures to cool.⁹⁷ David Lopez thinks it was the difficulty of communication between the Judges; two district judges in two different cities and the chief judge of a circuit based in New Orleans.⁹⁸ Perhaps there were disagreements among the judges that had to be ironed out. We simply do not know and can never know. It is known that the farmworkers had complained about the delay ever since 1968.⁹⁹

However long it took to produce, the 39-page opinion in the case was an almost complete victory for the farmworkers and a stunning blow to the Texas Rangers. The opinion was written not by the Fifth Circuit Judge, John R. Brown, or the Hispanic Reynaldo Garza, but by Woodrow Seals, the Houston District Judge.

The Court wrote that the primary issue to be determined “was whether the defendants stepped over the line of neutral law enforcement and entered the controversy on one side or the other. It is the judgment of this court that such was the case.”¹⁰⁰

The opinion continued:

“Looking at the circumstances as a whole, it is the conclusion of this Court that the unjustified conduct of the defendants had the effect of putting those in sympathy with the strike in fear of expressing their protected First Amendment rights with regard to free speech and lawful assembly. The conclusion is inescapable that these officials had concluded that the maintenance of law and order was inextricably bound

⁹³ *Ibid.*

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

⁹⁶ 347 F. Supp 605 (S.D Tex. 1972).

⁹⁷ Author's Personal Interview with Alex Moreno, Jr., May 13, 2021.

⁹⁸ Author's Personal Interview with David Lopez, May 13 2021.

⁹⁹ “Labor Laws Struck Down,” *San Antonio Light*, June 27, 1972, 21.

¹⁰⁰ 347 F. Supp at 617-618.

to preventing the success of the strike. Whether or not they acted with premeditated intent, the net result was that law enforcement officials took sides in what was essentially a labor- management controversy.¹⁰¹

The Court noted the record was “long and involved.” It would not provide an analysis of all the facts that proved the Plaintiffs harassment charges. Its “evaluation” of the defendant’s actions would be illustrated by specific incidents.¹⁰²

The arrests of May 26, 1967, which included Medrano and Reverend Krueger, were one of the incidents discussed. The Court noted those arrested had been first charged with trespass, then charged with unlawful assembly, and then charged with secondary picketing, and that none of these charges bore a relationship to what occurred. Indeed, Reverend Krueger and his companions had been arrested for secondary picketing based on the complaint of a Railroad agent who was not even there to witness the events.¹⁰³ The Court noted the arrestees were “roughly handled.”¹⁰⁴

The Dimas incident came in for some scrutiny. It was obvious the Court did not believe Allee’s version of events. After reviewing Allee’s testimony that Dimas and Rodriguez’s injuries were caused by running into each other and into furniture, the Court dryly observed: “It is difficult indeed for this Court to visualize two grown men colliding with each other so as to cause such injuries.”¹⁰⁵

Even limiting itself to “illustrations” there were other incidents to discuss. Domingo Arrendondo was under arrest in the hallway of the Starr County Courthouse. He and others shouted “viva la huelga” (long live the strike). A deputy sheriff struck Arrendondo and put a gun to his head, warning him not to repeat those words.¹⁰⁶ When the five Roman Catholic priests were arrested for disturbing the peace, the Court noted their crime was simply for shouting at workers in a field, peacefully exhorting them to join the strike.¹⁰⁷

An injunction against the Rangers and the Starr County Official would be entered.



Domingo Arrendondo, local president of the Starr County farm workers, signs a recognition agreement with Virgilio Guerra, a grower.

When the Court concluded its section on the violent acts toward and harassment of the strikers, it added this comment: that its statements were “not intended as a whitewash of the activities carried on by the Union and its sympathizers during this period. In a controversy such as

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*, 612.

¹⁰³ *Ibid.*, 615-616.

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*, 617.

¹⁰⁶ *Ibid.*, 613.

¹⁰⁷ *Ibid.*, 614.

this, it is rare indeed if all the blame can be laid to rest at one doorstep.”¹⁰⁸

Next the Court addressed the constitutional challenges to the Texas statutes the Rangers used to arrest strikers. The Court determined five of the six laws were unconstitutional.

First, the Court addressed the constitutionality of the Texas “Mass picketing” statute. This statute forbid more than two picketers to be within fifty feet of other picketers, or more than two picketers within fifty feet of any entrance of the premises being picketed. Picketing was defined as something that constituted or formed any obstacle to the ingress or egress of the premises being picketed¹⁰⁹ Calling this a “numbers and distance” formula, the Court said that this “mathematical straitjacket” imposed a restraint on protected First Amendment freedoms. Moreover, under the statute, it did not matter whether the obstacle was reasonable or unreasonable. The *Medrano* Court, relying on recent United States Supreme Court precedent, held the obstacle must be unreasonable to be effective. The Statute was void for overbreadth.¹¹⁰

Next, the Court addressed the challenged “Secondary Picketing” Statute. This statute prohibited a strike or picketing by persons who were acting in support of other strikers by picketing at or near the premises of an employer where no labor dispute existed. The picketing of the Missouri Pacific Railroad trains would be a classic example. Secondary picketing was designed to cause other sympathetic unions to refuse to haul goods that were the subject of another union’s strike. The Court found the statute infringed upon free speech rights, because it was not limited to circumstances in which the picketing was meant to inspire an illegal act or violate a valid State Policy.¹¹¹

The farmworkers lost on the next challenge. This was the state statute that provided fines for willfully obstructing a public street or highway. The Court held “This is a clear, precise statute drawn so as to carefully carve out a State interest worthy of protection.”¹¹² The First Amendment did not protect those who interfered with traffic safety.

Next, though, was an easy win for the farmworkers. The Texas “Breach of the Peace” statute provided a fine for those who, among other things, used “loud and vociferous, or obscene, vulgar or indecent language” or “rudely display[ed] any pistol or deadly weapon in a manner calculated to disturb the person or persons present.” In *University Committee to End War in Vietnam v. Gunn*,¹¹³ a different three-judge panel had already held the statute on its face made a crime out of protected First Amendment activity. The *Gunn* Court found the phrase “in a manner calculated to disturb” was too subjective to be reasonable. The *Medrano* Court followed *Gunn*.¹¹⁴

Another “Breach of the Peace” statute was challenged. This statute made it unlawful for

¹⁰⁸ 347 F. Supp at 618.

¹⁰⁹ *Ibid.*, 622.

¹¹⁰ *Ibid.*, 625.

¹¹¹ *Ibid.*, 628.

¹¹² *Ibid.*

¹¹³ 289 F. Supp, 469 (W.D. Tex. 1968).

¹¹⁴ *Ibid.*, 630.

one person to “curse or abuse” another, “or to “use any violently abusive language to such person concerning him or his female relatives under circumstances reasonably calculated to provoke a breach of the peace.” Following the *Gunn* reasoning, *Medrano* found this statute intruded upon protected First Amendment activity and thus was void for overbreadth.¹¹⁵

Finally, the Court examined the Texas “Unlawful Assembly” statute, so freely and notoriously used by the Rangers in arresting the strikers. The “Unlawful Assembly” statute defined unlawful assembly as the meeting of three or more persons “with intent to aid each other by violence or in any other manner either to commit an offense or illegally to deprive any person of any right, or to disturb him in the enjoyment thereof.”¹¹⁶

The Court held that the Constitution “protects those who congregate with others for the purpose of peacefully discussing unlawful pursuits.”¹¹⁷ A provision regulating assembly required an overt act by an individual in furtherance of the criminal aims of the assembly to be lawful. The Texas statute had no such requirement. Therefore, it was void for overbreadth.

The Court made a remarkable statement concerning these statutes. It noted that two of the statutes it invalidated were twenty-five years old. Two were forty-seven years old, and one was eighty-five years old. In other words, the laws did not fit the times. The Court said “Especially in these times of strife and unrest, the Legislature of this State must be sensitive to the goals of a changing society.”¹¹⁸ Implicit in the ruling, though not directly stated, was the idea that the Rangers should also be examined.

At the end of the opinion, the Court summarized its decision. One statute relating to public obstruction of a roadway was upheld. Five others were not. These statutes were declared null and void. The plaintiffs were entitled to a permanent injunction restraining the Rangers and the other defendants from enforcing those statutes. Moreover, and most importantly, defendants were restrained “from any future interference with the civil rights of plaintiffs and the class they represent.”¹¹⁹

Reaction to such an important decision seemed somewhat muted. This was understandable. The world had moved on in the five years since the Starr County Strike ended. Still, those who commented had strong opinions about what the ruling meant. Chris Dixie was quoted as saying “At least law and order applies to the Texas Rangers.”¹²⁰ Reached in California, Cesar Chavez said “It is a victory for the farmworkers and the poor people of Texas. We felt the Texas Rangers acted in matters that did not pertain to law enforcement and were breaking the strike.”¹²¹

A.Y. Allee, when contacted, was unrepentant as ever. Allee had retired in 1970, at the

¹¹⁵ *Ibid.*, 631.

¹¹⁶ *Ibid.*, 632.

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*, 632.

¹¹⁹ *Ibid.*, 633.

¹²⁰ “Court Raps Actions of Texas Rangers,” *Beaumont Journal*, June 27, 1972, 24.

¹²¹ *Ibid.*

Ranger's mandatory retirement age of 65. He would make no detailed comments on the decision: "What the courts have ruled," he said "they've ruled. I retired and I have been trying to retire for three years." He did say, in the face of all the fact findings by the Court, that the Rangers "didn't take sides...We went down there to enforce the law as it was written."¹²²

There would be one more chapter in this now lengthy saga. The State of Texas decided to appeal the *Medrano v. Allee* decision to the United States Supreme Court.

The United States Supreme Court Rules

A final decree was entered in the case on December 4, 1972, issuing an injunction and a declaratory judgment holding the statutes invalid.¹²³ Now things moved quickly again. The law then in effect that established the federal three-judge court also provided for a direct appeal to the Supreme Court. It was not a question of waiting for a writ of *certiorari* to be granted—the appeal would be heard.

Judging from the amount of Amicus Curie in the case, the decision was being taken very seriously. Brown and Root, Dow Chemical Company, the San Antonio Portland Cement Company, Eastex and other large Texas employers filed an Amicus brief seeking the lower court's reversal.¹²⁴ The AFL-CIO and the Mexican American Legal Defense and Educational Fund (MALDEF) filed an Amicus brief seeking affirmance.¹²⁵

The case was now styled as *Allee v. Medrano* as it was the defendants in the lower court who now appealed.¹²⁶ It was argued to the Supreme Court on November 13, 1973, a little more than eleven months after the final decree had been signed. Once again, Chris Dixie argued for the farmworkers. Larry York, then First Assistant Attorney General of Texas, and later a renowned Austin attorney, argued for the state.



Justice William O.
Douglas

A decision was reached May 20, 1974. The opinion was written by the iconoclastic William O. Douglas, probably the most liberal Justice at the time. The decision upheld the salient parts of the lower court's opinion, while some parts were vacated in light of new circumstances.

Early in the opinion, Douglas noted that the factual findings of the District Court were unchallenged. All the bad acts of the Rangers could be taken as having occurred. He noted that there was virtually no evidence of assault by union members. However, the officials' actions seeking to prevent the strike's success were a "prevailing pattern throughout the controversy."¹²⁷

¹²² *Ibid.*

¹²³ *Medrano v. Allee*, 1972 WL 714, (S.D, Tex 12/4/72).

¹²⁴ Amicus Brief on behalf of Brown & Root et al., *Allee v. Medrano*, (1973 WL 172266).

¹²⁵ Amicus Brief on behalf of the AFL/ CIO, *Allee v. Medrano* (1973 WL 172264); Amicus Brief on behalf of MALDEF.

¹²⁶ *Allee v. Medrano*, 416 U.S. 802 (1972).

¹²⁷ 416 U.S. at 809.

Texas argued that the State Court's injunction against the farmworkers ended the strike, thus rendering the controversy moot. If the strike had been stopped, then the actions of defendants in fighting the strike could not be enjoined. The Supreme Court did not agree with this disingenuous argument. It was the defendant's conduct, not a state court injunction, that the farmworkers complained about. The case could not be rendered moot because the farmworkers "have abandoned their efforts as a result of the very harassment they sought to restrain by this suit."¹²⁸

Douglas noted that the District Court's injunction forbid the Rangers and other defendants from arresting, imprisoning, or harassing the strikers "without adequate cause." In essence, adequate cause meant probable cause that a criminal act was being committed. This was not an unlawful restraint on law enforcement. He noted the "unchallenged" factual findings and said: "Where, as here, there is a persistent pattern of police conduct, injunctive relief is appropriate."¹²⁹

The Court then discussed the Texas statutes that had been ruled unconstitutional. Here Douglas said that three of the challenged statutes had been repealed and replaced. Apparently, the Texas Legislature had listened to what the District Court had said about these statutes. As of January 4, 1974, the "breach of the peace", the "abusive language" and the "unlawful assembly" provisions had all been repealed and replaced by more "narrowly drawn" versions. The Court could not tell from the Record whether there were any pending state court prosecutions under these former provisions. If there were not, then a ruling about them would be moot. If there were the District Court needed to make findings regarding Federal Court intervention before the Supreme Court could rule.¹³⁰ This was the same ruling regarding the two statutes that had not been repealed and replaced. Thus, the ruling on the statutes had to be vacated and remanded to the lower court.

In sum, the injunction against the Rangers, the most important part of the original holding, stood. Part of the lower Court's ruling was vacated, essentially on technical grounds. In June 1976, upon remand, it appears there were no pending prosecutions found under most of the challenged statutes, and the District Court made no ruling on them. The District Court did once again declare the salient portion of the Mass Picketing Statute invalid.¹³¹ Thus, ten years after the Starr County Strike began, its saga concluded.

Conclusion

The period from 1966 to 1976 was one of the most tumultuous in American history. It saw the assassination of Martin Luther King and Robert Kennedy, protests against the Vietnam war, the moon landing and Watergate. Perhaps the *Medrano v Allee* ruling was lost among these events. Yet, in truth, its impact is felt today.

¹²⁸ *Ibid.*, 810.

¹²⁹ *Ibid.*, 814-815.

¹³⁰ *Ibid.*, 819-820.

¹³¹ Final Judgment as Modified Pursuant to Remand by the Supreme Court of the United States, *Medrano v. Allee*, No.67-B-36 (S.D. Tex., filed June 24, 1976), quoted in *Howard Gault Co. v. Texas Rural Legal Aid, Inc.* 615 F. Supp. 915 (N.D. Tex. 1985).

Two of the plaintiffs have commented on what that impact was. Alex Moreno says *Medrano* meant the Starr County Strike was the last time the Rangers interfered in a labor dispute in Texas.¹³² David T. Lopez, who became a prominent Houston attorney, believes that *Medrano's* main accomplishment was invalidating the Mass picketing statute.¹³³ Moreover, Mexican Americans stood up in a lawful manner to fight those who had traditionally persecuted them.

The author of this article is a proud descendent of a Texas Ranger Captain.¹³⁴ No one reveres the Rangers more than him. This article is not a wholesale condemnation of the Rangers. Yet the factual findings of three well-respected Federal judges cannot be disregarded. Captain Allee and his Company D acted as strike-breakers and perpetrated un-called for acts of brutality against Hispanics during the Starr County Strike.

Perhaps the last words should lie with Alex Moreno, the young man who had a shotgun stuck in his ribs by Allee. After the strike, Moreno, like Lopez, became a lawyer in the Valley and then was elected to the Texas Legislature for several terms. Moreno says that besides Allee and his ilk, there were decent Rangers. He would deal with them when they came to the Legislature seeking funding. His meetings with them went fine. "Over the years I suppose I became more human" Moreno says today "and I suppose the Rangers became more human too."¹³⁵

¹³² Author's Personal Interview with Alex Moreno, Jr., May 13, 2021.

¹³³ Author's Personal Interview with David T. Lopez, May 13, 2021.

¹³⁴ Stephen P. Pate, "Deaton, Elias L.," *Handbook of Texas Online*, accessed May 14, 2021, <https://www.tshaonline.org/handbook/entries/deaton-elias-l>. Published by the Texas State Historical Association.

¹³⁵ Author's Personal Interview with Alex Moreno, Jr., May 13, 2021.

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Mexicans in the Houston Courts, 1906-1926

By Ramiro Contreras

This article surveys the experiences of Mexicans in Houston's civil courtrooms, providing a deeper understanding of the population's early history. At the turn of the twentieth century, Mexicans began arriving in Houston due to many push/pull factors. In 1900, less than 500 Mexicans lived in the Bayou City, but by 1910 that increased to 2,000. Between 1920-1930 their population increased from 6,000 to 15,000. Scholars have characterized these individuals as facing "insecurity" and "cultural alienation" upon settling in the city. They argued that "Mexican workers were practically powerless" against local conditions and "tolerated...abuse on the worksite."¹ That was certainly a reality for many Mexicans; yet, court documents reveal they were active in cases regarding compensation, divorce, and guardianship/custody. Their narratives demonstrate how these newcomers quickly adapted, becoming socially included by navigating legal structures to obtain security related to corporations, spouses, or children.

There were four civil courtrooms in Houston: the 11th, 55th, 61st, and 80th. Overall, 454 Mexicans were involved in 294 court cases between 1908-1926. Men represented 52 percent of those involved, women accounted for 42 percent, while gender for 6 percent of plaintiffs or defendants was undetermined. Case matter related to the following: 156 divorces, 67 seeking compensation, ten regarding guardianship or custody, two injunctions, two disability (removing minor status), and one relief. The subject of 56 cases could not be determined.

Compensation

Most of the sixty-seven compensatory cases sought damages for injuries or deaths occurring on the worksite. Both Mexican men and women were plaintiffs, usually employing Anglo lawyers. Through this legal avenue, they gained financial security when wronged by different railroad companies, as viewed through the case of Manuela Diaz versus the Texas & New Orleans Railroad Company.

Manuela Galvan was born in 1877 in Mexico and immigrated to the United States in 1897. Luciano Diaz was born in 1876 in Mexico and immigrated to the United States in 1897. They both settled in Brownsville and were listed as married by 1900 while living with Manuela's mother,

¹ Arnaldo De León, *Ethnicity in the Sunbelt: Mexican Americans in Houston*, (Houston: Mexican American Studies Program); Arturo F. Rosales, "Shifting Self-Perceptions and Ethnic Consciousness Among Mexicans in Houston, 1908-1946," *Aztlán* 16, no. 1-2 (1987): 71-94.

Josefa Soto, a washerwoman. Luciano established a career as a shoemaker. Their first child, Jose, was born in 1898. Although already listed as wedded, Manuela Galvan and Luciano Diaz were married through the court in Corpus Christi in 1904. They moved to Houston in 1905 and rented a home at 1406 Elysian, located directly next to the New Orleans railroad line. Luciano found work as a laborer for a section gang; although, work was sporadic. He was out of work for thirty-four weeks in 1910, but Manuela was also a wage earner at the time. She was a proprietor of a beer saloon operated out of their residence. Their son, Jose, had passed away, but the couple now had three daughters, Adelfa, Consuela, and Palmira.²

By 1917, Luciano returned to his old trade, shoemaking, and was heading out to work on June 12. By this point, the shoemaker had lost a leg in a previous incident. As he crossed the New Orleans railroad at Hardy Street at 5:15 AM, an engine ran him over. The forty-one-year-old died of traumatic amputation and shock at the Sunset Hospital. He was buried two days later at the Hollywood Cemetery.³

Three years later, the non-English speaking Manuela was in court suing the Texas & New Orleans Railroad Company. C. J. Small, a white barbershop manager from Illinois, filled the role of jury foreman. The jury found the railroad company at fault. Specifically, they ruled the engine was going at an excessive speed (greater than six miles an hour) and that the engine bell was not continuously rung when crossing Hardy Street. In addition, the engine's watchman or flagman did not exercise proper caution in looking for Luciano. The jury awarded Manuela a total of \$8,000. Manuela was awarded \$4,000 as the surviving wife, then \$2,000 for each child, Consuela and Palmira. The oldest daughter, Adelfa, was married in 1916 and not included in the case. The family continued living in the Fifth Ward, with Consuelo later being employed as a laborer for a wholesale house. Manuela continued living in Houston until she died in 1943. She was buried in Hollywood Cemetery alongside her husband.⁴

² United States of America, Bureau of the Census, *Twelfth Census of the United States, 1900*, Census Place: Brownsville Ward 2, Cameron County, Texas; Page: 26, Enumeration District: 17, accessed February 14, 2019, <https://ancestry.com>; *Ibid.*, *Thirteenth Census of the United States, 1910*, Census Place: Justice Precinct #1, Harris County, Texas; Page: 15, Enumeration District: 62, accessed February 14, 2019, <https://ancestry.com>; *Ibid.*, Census Place: Houston Ward 3, Harris County, Texas; Page: 14A, Enumeration District: 94, accessed February 14, 2019, <http://ancestry.com>; Nueces County Clerk's Office; Corpus Christi, Texas, *Nueces County, Texas, Marriage Records*, Luciano Diaz to Manuela Galvan, File No. 727, 28 June 1904, accessed February 14, 2019, <https://ancestry.com>; Kelsen, J.M. *Houston Street Guide* [map]. 1913. Scale not given. City of Houston Map; Luciano Diaz, Houston, Texas City Directory, 1911, from Ancestry.com, <https://ancestry.com>.

³ Death Certificate for Luciano Diaz, 12 June 1917, File No. 16550, Texas Department of State Health Services, Ancestry.com. *Texas, Death Certificates, 1903-1982* [database on-line]. Provo, UT, USA: Ancestry.com Operations, Inc., 2013; "Wife and Daughter Get \$8000 Damages," *The Houston Post*, January 13, 1920, accessed February 14, 2019, <https://texashistory.unt.edu/ark:/67531/metaph607197/m1/8/>.

⁴ Manuela Diaz, et. al. vs. Texas & New Orleans Railroad Company, 80th District Court (1920). United States of America, Bureau of the Census, *Fourteenth Census of the United States, 1920*, Census Place: Houston Ward 5, Harris County, Texas; Page: 17, Enumeration District: 82, accessed February 14, 2019, <https://ancestry.com>; Death Certificate for Manuela Diaz, 06 May 1943, File No. 22537, Texas Department of State Health Services, Ancestry.com. *Texas, Death Certificates, 1903-1982* [database on-line]. Provo, UT, USA: Ancestry.com Operations, Inc., 2013; Certificate of Marriage, J.C. Hernandez to Adelfa Diaz, 22 November 1916, Harris County, Texas. Harris County Clerk's Office; Houston, Texas; *Harris County, Texas, Marriage Records*. Ancestry.com. *Texas, Select County Marriage Records, 1837-2015* [database on-line]. Provo, UT, USA: Ancestry.com Operations, Inc., 2014.

While money could not rectify the trauma endured by Manuela and her family, it did provide some financial security. The courtroom battle exemplifies how these early Mexicans settling in the Bayou City did not succumb to being purely victims; rather, they self-determined their futures even when facing tragic circumstances. Another case, Mrs. Felicitas Gomez versus Walker D. Hines, General Director Railroads, reveals the consciousness of labor rights by the spouses as they fought against their husband's employers.

In 1919, Felicitas and Pedro Gomez immigrated to the United States with their three children. The couple settled in Houston, where Pedro found work as a section hand for the Houston Belt and Terminal Railroad. On July 16, he stepped in the path of rolling freight cars while working on a track. Pedro's legs were severed from his hips, killing him instantly.⁵

Felicitas contracted a law firm, employing Jack Ciulla and Warren Castle as counsel. In November, the team successfully argued their case against Walker D. Hines over the incident. Felicitas was awarded \$1,350 and \$150 total for all three children. Her lawyers were given half of Felicitas' settlement, \$750, as payment. Felicitas was last visible in the 1920 census as a bilingual, illiterate widow who took the reins as head of household and gained employment as a janitor for a Catholic Church.⁶

Felicitas understood that her family was entitled to financial protection by Pedro's employer because they had placed her husband in precarious work conditions. She, like Manuela, represents how Mexican women forced their cultural inclusion in Houston's legal institutions and found security against major railroad corporations.

Injunctions

Overall, there were only two injunction cases brought by Mexicans, but Mike Cruz versus the City of Houston reveals an understanding of a right to cultural inclusion.

In 1919, Mike Cruz was in court fighting to have the Mexican dance hall he operated reopened. That year the city's Board of Censors created an ordinance to close all Mexican dance halls in Houston. Cruz obtained legal counsel through Virgil Clark, and they filed a petition for an injunction against the city. Cruz's counsel claimed discrimination, arguing that the ordinance did not specifically mention dance halls. In August, the court agreed and granted Mike Cruz his injunction. The judge stated that no violations were ever brought to Cruz's attention, nor were dance halls inherently immoral or indecent. He ruled that specific regulations should be made so that violators could be distinguished from law-abiding citizens enjoying their leisure. The city passed a new regulation on dance halls the very same month. A permit was now required to run an establishment. Applicants had to be of "good moral character," and if "vice, immorality, disease, or infraction of law and order" occurred, the permit could be rescinded.⁷

⁵ "Section Hand Killed," *The Houston Post*, July 17, 1919, accessed February 13, 2019, <https://texashistory.unt.edu/ark:/67531/metaph609643/m1/8/>; Texas Department of State Health Services, *Texas Death Certificates, 1903-1982*, Pedro Gomez, File No. 21467, 16 July 1919, accessed February 13, 2019, <https://ancestry.com>; United States of America, Bureau of the Census, *Fourteenth Census of the United States, 1920*, Census Place: Houston Ward 2, Harris, Texas; Page: 8, Enumeration District: 38, accessed February 13, 2019, <https://ancestry.com>.

⁶ *Ibid.*; Mrs. Felicitas Gomez vs. Walker D. Hines, General Director Railroads, et. al., 80th District Court (1919).

Mike Cruz's conflict complicates how we view early twentieth-century Mexicans. On the one hand, it deepens the discriminatory atmosphere already present in historiography. However, Cruz reveals the consciousness of legal rights and the know-how to navigate legal infrastructures. Court documents also deepen our understanding of Mexicana autonomy through their shrewd use of courts to secure a divorce.

Divorce

Analyzing divorce court data and juxtaposing it with Houston's historical context presents a strategic legal Mexicana mindset across various social classes. Overall, women were plaintiffs in 91 out of the 156 cases. Out of those 91 plaintiffs, 65 percent came from a working-class household. These women were aware of how to leverage their marital rights via legal infrastructures. Examining which courts those plaintiffs filed in makes their strategic mindset clear.

As mentioned, Houstonians filed civil cases in four district courts: the 11th, 55th, 61st, and 80th. It was common knowledge that if one wanted a speedier divorce, it was wise to file in the 80th for two reasons. It was the only court that met monthly, and Judge Harvey, who presided over the court, was known to be lenient when it came to granting divorces. Political opponents even used this leniency against him in reelection campaign ads.⁸ These were the 80th district court dynamics where precisely sixty-one out of ninety-one Mexicanas filed for divorce. The data reveals how shrewd and strategic primarily working-class women were when navigating legal structures. They were not maneuvering through this process ad hoc. These women knew how to influence a favorable legal outcome most effectively.

Not only were women strategic in choosing which court to file a divorce in, but court minutes also show us that they understood how to leverage their position against ex-husbands. For example, Virginia Cervantez divorced her husband Lorenzo in 1916 and secured forty dollars per month in alimony.⁹ Or take Adina de la Fuente Apolinar, who divorced her husband in 1920 and secured custody of their child, Antonia.¹⁰ In June of 1925, Josephine Saucedas Lopez applied for alimony from Leofus Lopez, who did not appear. The court found judgment in favor of Josephine, who was awarded \$9 a week for herself and her two children, Guadalupe and Alejandro. That November, Leofus showed up to a second court hearing with his white attorney, Robert M. Love. Josephine was granted a divorce with custody awarded to her, but Leofus was granted visitation within the confines of the Rusk Settlement Home.¹¹ While these women found legal protection, it

⁷ "Court Defers Action on Mexican Dance Halls," August 1, 1919, accessed July 8, 2018, <https://texashistory.unt.edu/ark:/67531/metaph609102/m1/7/>; Mike Cruse vs. City of Houston, et al, 55th District Court (1919); "City Censor Board Maintains Control Of Public Dances," *The Houston Post*, August 12, 1919, accessed July 8, 2018, <https://texashistory.unt.edu/ark:/67531/metaph609141/m1/11/>; J.G. Hautier, *The Revised Code of Ordinances of the City of Houston of 1922*, December 4, 1922, Harris County, Texas, 307.

⁸ "Lawyers Praise Judge Harvey," *The Houston Post*, July 24, 1924, accessed February 11, 2020, <https://texashistory.unt.edu/ark:/67531/metaph608604/m1/9/>; "10,445 Divorces," *The Houston Post*, July 25, 1924, accessed February 11, 2020, <https://texashistory.unt.edu/ark:/67531/metaph608760/m1/13/>.

⁹ Virginia Cervantez vs. Lorenzo Cervantez, 61st District Court (1915); Virginia Cervantez vs. Florenzo Cervantez, 61st District Court (1916).

¹⁰ Adina De La Fuente Apolinar vs Margarito Apolinar, 80th District Court (1918).

¹¹ Josephine Saucedas Lopez v Leofus Lopez, 11th District Court (1925); United States of America, Bureau of the Census, *Fourteenth Census of the United States, 1920*, Census Place: Houston, Harris, Texas; Page: 6A, Enumeration

is essential to consider the costs of pursuing one's marital rights.

For example, women faced a social cost as they had to weather a public campaign against divorce. In 1920 there was a concerted effort to denounce divorce, labeling it the "divorce evil." Religious and political leaders publicly chastised those involved in divorce and attempted to decrease their amount. Another cost was possible retaliation by ex-husbands, which was Maria Orta's experience. She divorced Nic Cedillo in 1923 and gained custody of their children, but Nic secured visitation rights every Sunday between 10 AM-4 PM. On one Sunday in 1924, Nic fled with the children to Mexico and never returned.¹²

Nevertheless, overall trends demonstrate that Mexicanas persisted in the face of these costs as plaintiff numbers continued to rise over time. In 1913, three Mexican women were divorce plaintiffs, but that number rose in the 1920s. In 1920, fifteen Mexican women were plaintiffs, while in 1925, there were thirteen. This data only represents those cases that went to trial and does not include divorces settled outside of court which is unknown. Regardless, the settlement of divorces via court further demonstrates the legal know-how of the early Mexican population.

Guardianship and Custody

As covered, custody was an issue in divorce cases, but ten cases were specific to guardianship and custody in the eighteen-year timespan covered. These plaintiffs uncover how Mexicans understood custodial rights concerning children and how to use legal avenues for security and protection of those entitlements.

In 1916, Juan, 35, and Josefa Sanchez de Estrada, 31, immigrated to the United States where Juan found work as a laborer at Camp Logan.¹³ By 1920, sources indicate they formed a relationship with Ramona Castillo de Palomarez. Soon, all three found themselves in the Eightieth District Court. The trio was embattled over Nicolas Palomarez's custody, who lived with the Estradas.

On December 2, 1920, Ramona, the maternal mother, appeared in court with her attorney to address her writ of habeas corpus filing and relief request against the Estradas who held custody of Nicolas. Juan and Josefa both appeared with counsel to defend their "possession and custody of Nicolas...by a deed of adoption regularly made and recorded." The court ruled in favor of the Estradas, stating "that the relief sought by the plaintiff should be denied; it also appearing to the

District: 37, accessed March 3, 2019, <https://ancestry.com>.

¹² "Catholics Here Start Campaign On Divorce Law," *The Houston Post*, January 17, 1920, accessed July 26, 2019, <https://texashistory.unt.edu/ark:/67531/metaph607594/m1/8/>; Harris County Clerk's Office; Houston, Texas, *Harris County, Texas, Marriage Records*, Joe Jacob with Marie J. Orta, File No. 54925, April 20, 1920, accessed March 06, 2019, <https://ancestry.com>; N. Cedillo v Mary J. Cedillo, 55th District Court (1923); "Mexican Flees With Children," *The Houston Post*, February 26, 1924, accessed March 06, 2019, <https://texashistory.unt.edu/ark:/67531/metaph608459/m1/5/>.

¹³ United States of America, Bureau of the Census, *Fourteenth Census of the United States, 1920*, Census Place: Houston, Harris, Texas; Page: 27B, Enumeration District: 33, accessed April 25, 2021, <https://ancestry.com>; United States, Selective Service System, *World War I Selective Service System Draft Registration Cards, 1917-1918*, Juan Estrada, September 12, 1918, Serial No. 1275, Washington, D.C., National Archives and Records Administration, M1509, Registration State: Texas; Registration County: Harris; Roll: 1953562, accessed April 25, 2021, <https://ancestry.com>.

Court that the defendants...are suitable persons to have the care and custody of the minor child, Nicolas Palomarez; that they are able and willing to take care of him." Ramona was "allowed to visit said child at any and all reasonable times," but she was not able to "take [Nicolas] from the care and custody of" Juan and Josefa.¹⁴ Like the Castillo-Estrada conflict, another trio of Mexicans was in court when a mother's change of heart occurred.

In 1924, Flora Gabino lived with Antonia and Jose Gomez at 411 Walker. Both were immigrants from Mexico with little education. Jose, born in 1894, finished the fifth grade, while Antonia, born in 1905, never attended school. In 1919, fourteen-year-old Antonia married twenty-five-year-old Jose in Harris County with the consent of the bride's mother.¹⁵

Flora gave birth to a daughter on Thursday, July 24, 1924, at the Gomez residence. Her newborn, 'Anita,' was considered an "illegitimate child." That following Monday, Flora filled out a Transfer of Parental Authority before a notary public, granting custody to the Gomez couple. Antonia and Jose filled out a Deed of Adoption to secure Anita. Flora must have had a change of heart because she immediately sued to regain custody of her daughter.¹⁶

In September, all three were in court battling over the infant. Flora's maternal and economic status was a point of interest used against her in the case. The court pointed out that she had five children, three of which were minors, and that she was of "very limited means." On the other hand, the defendants were "peaceful and law abiding citizens" who had been married for over five years, "not blessed with any child or children." They were considered "well able" and "competent" with a home environment in the best interest of Anita's welfare. Therefore, judgment went against the plaintiff, Flora, and custody was awarded to the Gomezes. Anita passed at the age of 40 in 1970 due to heart failure. Her parents died shortly after in 1974 and were buried with their daughter in Hollywood Cemetery. While living with her son, Ygnacio, Flora caught pneumonia in early 1935 and died soon after.¹⁷

Fathers also used the court to retrieve custody of their children. In 1890, Agustin Avila was born in San Luis Potosi. He made his way to Houston by 1917, where he found employment as a grocer. Agustin married Julia Chernosky, a white woman, settling at 811 Bell. In 1918, their "legitimate" son, Alfonso Avila, was born. Not too long after, the mother died and granted custody

¹⁴ Ramona Castillo vs Josepha Sanchez, 80th District Court (1920).

¹⁵ Jose Gomez, Houston, Texas City Directory, 1924, from Ancestry.com, <https://ancestry.com>; Harris County Clerk's Office; Houston, Texas, *Harris County, Texas, Marriage Records*, Jose Gomez with Miss Antonia Landabeide, File No. 43961, October 6, 1919, accessed March 03, 2019, <https://ancestry.com>; United States of America, Bureau of the Census, *Sixteenth Census of the United States, 1940*, Census Place: Houston, Harris, Texas; Page: 6B, Enumeration District: 258-107, accessed March 3, 2019, <https://ancestry.com>.

¹⁶ Flora Gabino v Jose Gomez et ux, 11th District Court (1924).

¹⁷ *Ibid.*; Death Certificate for Anita Gomez, 25 April 1970, File No. 26830, Texas Department of State Health Services, *Texas Death Certificates, 1903-1982*, accessed March 03, 2019, <https://ancestry.com>; Death Certificate for Antonia Gomez, 24 December 1974, File No. 97649, Texas Department of State Health Services, *Texas Death Certificates, 1903-1982*, accessed March 03, 2019, <https://ancestry.com>; Death Certificate for Jose Gomez, 20 September 1974, File No. 75487, Texas Department of State Health Services, *Texas Death Certificates, 1903-1982*, accessed March 03, 2019, <https://ancestry.com>; Death Certificate for Flora Gabino Rodriguez, 09 February 1935, File No. 8038, Texas Department of State Health Services, *Texas Death Certificates, 1903-1982*, accessed February 25, 2019, <https://ancestry.com>.

of the baby to a white couple, Thomas and Katie Pride, who lived on the same street at 1208 Bell. Agustin filed two petitions demanding possession of his son, arguing that he could provide a suitable home. The court found in favor of Agustin, and Alfonso was handed over in court on January 3, 1919.¹⁸

Whether it was a mother or father attempting to regain guardianship, Mexicans were aware of custodial rights and the place of courts in settling those disputes. These cases highlight awareness of bureaucracy, whether through filing deeds of adoption or petitions for possession. Collectively, all four categorical uses of courts form a paradigm of an early twentieth-century Mexican community who self-determined their economic and social futures by adapting to legal conventions. What follows is a short discussion regarding my research process that may assist other scholars.

Methodology

Initially, references of Mexican men entangled in court cases reported by Houston's early newspapers sparked my interest in these court documents. I located historical records, in PDF form, on the Harris County District Clerk's website to find out more about these men. As I sifted through court minutes, Spanish surnames continuously appeared as well as female given names. My research immediately shifted to delving further into the typed court minutes of all four of Houston's civil courtrooms. I began by scrolling through each page and marking any Spanish surname. Then I returned and attempted to cross-check these names using birth and death certificates, city directories, census records, draft registration cards, naturalization records, and marriage licenses pulled from Ancestry.com. On occasion, some of the individuals turned out to be of another ethnicity, usually Italian. In addition, I utilized The Portal to Texas History's and Genealogy Bank's optical character recognition technology to search key terms related to individual cases. These technologies allowed me to recover lost narratives of the everyday experiences of Mexicans in Houston's courtrooms. My methodology also allowed me to verify Mexican descent and Houston residency for many historical actors, but not without issues. I could not always verify that a Spanish surname was someone of Mexican descent, but they were still included in my data. Not being able to verify someone's background means I had to assume that an individual resided in Houston, but they may have lived in another county serviced by Houston's courtrooms.

Mining these records adds a layer of complexity regarding Mexican men and women in the early twentieth century. By exploring quotidian courtroom experiences, we can recover choices, decisions, and actions to influence economic and social contexts. Whether it was women like

¹⁸ Thomas A. Pride, Houston, Texas City Directory, 1919, from Ancestry.com, <https://ancestry.com>; Birth Certificate of Alfonso Avila, 1 January 1918, Certificate 2757, Texas Department of State Health Services, *Texas, Birth Certificates, 1903-1932*, accessed March 06, 2019, <https://ancestry.com>; Death Certificate of Augustine Avila, 30 October 1930, File No. 48844, Texas Department of State Health Services, *Texas Death Certificates, 1903-1982*, accessed March 06, 2019, <https://ancestry.com>; United States, Selective Service System, *World War I Selective Service System Draft Registration Cards, 1917-1918*, Agustin Avila, June 05, 1917, Serial No. 475, Washington, D.C., National Archives and Records Administration, M1509, Registration State: Texas; Registration County: Harris; Roll: 1953565, accessed March 06, 2019, <https://ancestry.com>; "Sues for Son's Custody," *The Houston Post*, January 3, 1919, accessed March 6, 2019, <https://texashistory.unt.edu/ark:/67531/metaph443294/m1/7/>; "Restored to Father," *The Houston Post*, January 4, 1919, accessed March 6, 2019, <https://texashistory.unt.edu/ark:/67531/metaph608309/m1/14/>.

Felicitas who pursued wrongdoing against their husband's employers or men like Mike Cruz fighting against the city's policing of Mexican behavior, the stories contained within these court minutes recover absent threads of autonomy.



RAMIRO CONTRERAS is a doctoral student at the University of Houston, pursuing a Ph.D. in American History. His dissertation analyzes the dynamics of Mexican inclusion and exclusion in Houston between 1900-1940. Currently, he is an instructional designer, but before that, he was a high school history teacher. He holds a B.A. in History and a Master's in Education from UH.

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Latino/a Pioneers in the Texas Judiciary

· Building Bridges for Future Generations ·

By Victor A. Flores

Despite all doubt and risk, pioneers have an intrinsic desire to take new ground, move forward, and expand. However, these adventures require certain navigational tools to help blaze new territory. That map and compass are present at a young age for those fortunate to be born into a legacy of trailblazing. Still, access to those tools are delayed for many other children, especially those in minority communities, where families labor in agricultural fields and other blue color jobs just to sustain basic needs.

As this article describes, Raul Gonzalez, Eva Guzman, Alberto Gonzales, Xavier Rodriguez, David Medina, Rebeca Aizpuru Huddle, and Fortunato “Pete” Benavides, did not allow themselves to be defined by their personal circumstances or the expectations established by others. These Texas judges made successful careers out of confronting a number of obstacles by sacrificing comfort and convenience, dedicating themselves to a life of continued self-improvement, and courageously pressing forward when facing uncertainty. Most importantly, as pioneers, they maintained an acute awareness of their responsibility to build bridges for those following in their wake.

Every event has a catalyst, something that ignites change and progress. For the Supreme Court of Texas and Texas Court of Criminal Appeals, the kindling for diversifying those benches with members of the Latino community originated with Raul Gonzalez, the first Latino elected to serve as a Supreme Court Justice; Eva Guzman, the first Latina elected to serve as a Supreme Court Justice; and Fortunato “Pete” Benavides, the first Latino to serve as Judge on the Texas Court of Criminal Appeals.

The road to change is often long and forsaken. In 1945, the Texas Constitution was amended to increase the Supreme Court of Texas from a bench of three justices to nine. It would take another thirty-nine years for the first Latino attorney and sixty-four years for the first Latina attorney to join the ranks of other Texas Supreme Court Justices. For the Texas Court of Criminal appeals, it wasn't until 1991 when Fortunato “Pete” Benavides was sworn-in as the court's first Latino judge.

As a result of the leadership and dedication of judges like Raul Gonzalez, Eva Guzman, and Fortunato “Pete” Benavides, other Latino/as have joined those same ranks, including Alberto Gonzales, Xavier Rodriguez, David Medina and Rebeca Aizpuru Huddle.

This article unpacks a few of the following key characteristics that extend across all seven justices: humble beginnings, balanced portions of confidence and humility, commitment to public service, and duty to build bridges.

Humble beginnings supply motivation necessary to continue the journey.

How does a person start with no wealth, power, or influence and become a “first,” holding seats at the table of our state’s most powerful courts? The lives of Justice Eva Guzman and the Honorable Alberto Gonzales, among others, suggest that growing up with fewer resources can be a distinct advantage. Pioneers, by definition, must possess instinctive survival skills. All the justices listed here had to be resilient and resourceful in every step of their journey.



Justice Eva Guzman

Justice Eva Guzman grew up in Houston’s East End.¹ She was the fourth of seven children. Her parents were immigrants from a town near Monterrey, Mexico, neither of which had more than some elementary school education. Her father was a welder and her mother often found jobs as a cleaning woman. At the age of 13, the teenage Guzman followed the labor line and worked nights in a drapery factory.² However, it was apparent that education was important in the Guzman household. Among the seven children, 10 degrees were earned among them, with Justice Guzman obtaining her B.B.A from the University of Houston and J.D. from South Texas College of Law.³

The work ethic and sense of determination that Justice Guzman gleaned from her parents would fuel and motivate her to become the 309th District Court Judge in Harris County and Justice on the 14th Court of Appeals, where she ruled on more than 2,000 appeals and original proceedings. Eventually, that grit and perseverance would make her the first Latina Justice to serve on the Supreme Court of Texas.⁴

Similarly, Alberto Gonzales was born in San Antonio and later his family moved to Houston. His parents were migrant workers that never attended school past the sixth grade.⁵ Still, like Justice Guzman and others listed here, Gonzales didn’t allow himself to be defined by the circumstances he was born into. Instead, he harnessed the lessons in perseverance that he learned as a child and used them as a tool to transform the trajectory of his life.

Gonzales dreamed of attending Rice University. Not having the family resources to attend, he joined the U.S. Airforce with the idea that the military would pay for his education. Accepting a military post in Fort Yukon, Alaska, Gonzales would later be persuaded to attend the U.S. Airforce

¹ Ellen Carnes, *Guzman Sworn In as Texas Supreme Court Justice*, 73 Tex. B. J. 174, 175 (2010).

² Mary Flood, “First Latina named to Texas high court,” *Houston Chronicle*, Aug. 4, 2011 (<https://www.chron.com/news/houston-texas/article/First-Latina-named-to-Texas-high-court-1726964.php>).

³ Ellen Carnes, *Guzman Sworn In as Texas Supreme Court Justice*, 73 Tex. B. J. 174, 175 (2010).

⁴ *Ibid.*

⁵ Stephanie Townsend Allala and Angelica Cervantes, *In Recognition of Alberto Gonzales: Counsel to the President*, 8 Tex. Hisp. J. L. & Pol’y 3 (2002).

Academy.⁶ Still, Gonzales never gave up on his dream to attend Rice University. In 1979, Alberto Gonzales received his B.A. from Rice University and J.D. from Harvard Law School in 1982. He would later serve as a Justice on the Supreme Court of Texas (1999-2000), White House counsel to the President in 2001, and U.S. Attorney General in 2005.⁷

The reflective point here is that neither allowed themselves to be sidelined by the imposter syndrome which plagues many aspiring attorneys and judges.⁸ It would have been easy for them to see their lack of resources and avoid some of these more difficult career choices. In a recent interview, Justice Guzman shared, “I had to be very deliberate in taking steps to overcome those instances when I felt I just wasn’t confident in the next move ... That includes seeking out people who provide the type of support that might help overcome that; being very intentional and purposeful about building a resume that was worthy of the position I sought.”⁹



Alberto Gonzales

Confidence and humility are dependent upon each other for a long fulfilling career.

Before serving as the first Hispanic elected to statewide office in Texas, Justice Raul Gonzalez was a migrant laborer growing up in Weslaco, Texas. He continued working in the agricultural fields picking apricots and packing tomatoes to pay for college tuition at the University of Texas.¹⁰ Similar to Justice Eva Guzman and Alberto Gonzales, Justice Raul Gonzalez had an incessant zeal for taking new ground in his legal career. Before serving on the bench, Justice Gonzalez served as an associate with a small firm in Houston, an assistant city attorney prosecuting municipal court cases, legal aid lawyer, and eventually as an Assistant United States Attorney. Rapidly, Gonzalez was on track to a very successful legal career.

“By the world’s standards, I was a success. I had pulled myself out of the migrant labor fields into a position of power and prestige. I had all the trappings of success: a lovely wife and children, two degrees, a professional career, an important position, a nice office, a nice home in a nice neighborhood, power, prestige, and material possessions. I was involved in civic clubs

⁶ Stephanie Townsend Allala and Angelica Cervantes, *In Recognition of Alberto Gonzales: Counsel to the President*, 8 Tex. Hisp. J. L. & Pol’y 3 (2002).

⁷ The United States Department of Justice, Attorney General: Alberto R. Gonzales, <https://www.justice.gov/ag/bio/gonzales-alberto-r>.

⁸ Susanne Aronowitz, *A Secret Epidemic in the Legal Profession Imposter Syndrome*, 77 OR. ST. B. BULL. 36, 36 (2017) (“Imposter syndrome is particularly pronounced among lawyers who are women, racial minorities, LGBT, disabled or first - generation professionals. Attorneys who don’t see themselves reflected in the people they work with tend to question their own legitimacy. Without peers and role models, attorneys in underrepresented groups are more likely to feel as though they don’t belong.”).

⁹ Adam Faderewski, *Leading by Example*, 84 Tex. B. J. 214 (2021).

¹⁰ Justice Nathan L. Hecht, *Tribute, To Justice Raul A. Gonzalez on His Retirement from the Supreme Court of Texas*, 36 Hous. L. Rev. 391 (Summer 1999).



Justice Raul Gonzalez

and was considered a leader in the community. However, appearances can be deceiving.”¹¹

In 1973, Gonzalez had a humbling and life changing experience. At the request of his wife, Dora, the couple attended a Marriage Encounter weekend, a weekend conference where married couples were counseled on improving their communication skills.¹²

Gonzalez admitted, “The power, prestige, and material possessions I had so single-mindedly pursued became less attractive to me after that weekend. I realized that my career had taken its toll on me ... I felt burned out.”¹³

After that period of his life, Gonzalez began to consider other things that he could do as a lawyer. That led him to a new and exciting career path that included serving as District Court Judge for the 103rd District Court in Cameron County (1978), Court of Appeals for the Thirteenth District of Texas (1981), and, finally, as the first Latino Justice for the Supreme Court of Texas (appointed in 1984 and elected in 1986).¹⁴

Humbling experiences like those experienced by Gonzalez test our assumptions and instincts. It affords us time to listen and take inventory of everything surrounding us. Those moments can often lead to unexpected and rewarding opportunities.

Public service helps the community and creates genuine relationships.

In addition, many of these pioneers formed key relationships through public service that led to a supportive professional network. Justice David Medina, for example, remained involved with his local community as he practiced law, including serving on the Board of Habitat for Humanity, Houston Metro, and the Spring Klein Baseball Association.¹⁵ Justice Medina also served as Advisor to the UT Hispanic National Bar Association Moot Court Team. For his contributions to the public, he was recognized by the Mexican American Bar Association and received the 2011 MABA Community Service Award.¹⁶

Similarly, Judge Fortunato Benavides, born in Mission, Texas, was a passionate legal advocate. He was equally dedicated to making his community better. While serving as a county

¹¹ Raul A. Gonzalez, *Climbing the Ladder of Success*, 27 Tex. Tech L. Rev. 1139, 1142 (1996).

¹² *Ibid.*, 1143.

¹³ *Ibid.*, 1144.

¹⁴ Justice Nathan L. Hecht, *Tribute, To Justice Raul A. Gonzalez on His Retirement from the Supreme Court of Texas*, 36 Hous. L. Rev. 391 (Summer 1999).

¹⁵ David M. Medina, <https://www.kcbd.com/story/5571600/david-m-medina/>.

¹⁶ Justice David M. Medina, https://www.chamberlainlaw.com/people-justice_david_medina.html.



Justice David Medina



Judge Fortunato Benavides



Judge Xavier Rodriguez

judge in the late 1970s, Benavides secured the funding and facilities needed to create the Ramiro H. Guerra Youth Village, a residential facility for juvenile offenders.¹⁷ Although, Benavides had an illustrious legal career serving as Judge with the Hidalgo County Court at Law Number Two (1977-1979), Judge with the Hidalgo County 92nd District Court (1981-1984), Justice for the Thirteenth Court of Appeals of Texas (1984-1991), Judge for the Texas Court of Criminal Appeals (1991-1992) and Visiting Judge for the Supreme Court of Texas (1993), it was his public service and work with the Guerra Youth Village that first drew President Clinton's attention to Benavides. That public service project would then lead to his appointment to the U.S. Court of Appeals for the Fifth Circuit.¹⁸

Another example is former Texas Supreme Court Justice, Xavier Rodriguez, now U.S. District Judge for the Western District of Texas. Prior to serving in these roles, his career was deeply rooted in public service including serving in the U.S. Army Reserve Judge Advocate General's Corps, Fellow of the American Bar Foundation and Texas Bar Foundation, and other board of directors for charitable organizations across Texas.¹⁹

For many attorneys, access to mentors and other leaders that can assist in professional development is limited. However, a surprising benefit to serving our local communities is that it creates a natural network of individuals that share equal interests. Serving in a local soup kitchen, city park board, or other non-profit organizations can yield genuine and lasting relationships. Building those personal bridges helps provide a supportive professional network that is necessary for continued growth and success.

¹⁷ Office of Press Secretary, *President Names Ten Federal Judges*, The White House, Jan. 27, 1994.

¹⁸ *Ibid.*

¹⁹ Hon. Xavier Rodriguez, <https://law.stmarytx.edu/academics/faculty/hon-xavier-rodriguez/>.

Building bridges cements a path for future attorneys to continue blazing new trails.

The road to success for these seven judges was difficult but rewarding. However, as evidenced by some of the stories shared here, their drive to take new ground wasn't fueled by personal accolades. Each judge listed here has a distinct appreciation for helping others succeed.

American author and poet, Will Allen Dromgoole, penned the following prose fitting for this section on building bridges:

... "Old man," said a fellow pilgrim near,
"You are wasting your strength with building here;
Your journey will end with the ending day,
You never again will pass this way;
You've crossed the chasm, deep and wide,
Why build this bridge at evening tide?"

The builder lifted his old gray head;
"Good friend, in the path I have come," he said,
"There followed after me to-day
A youth whose feet must pass this way.
This chasm that has been as naught to me
To that fair-haired youth may a pitfall be;
He, too, must cross in the twilight dim;
Good friend, I am building this bridge for him!"²⁰
- Will Allen Dromgoole, 1931

Last year, Rebeca Aizpuru Huddle became the second Latina to ever serve on the Supreme Court of Texas. Justice Aizpuru Huddle, a lawyer for 21 years, earned her undergraduate degree in political science at Stanford University and law degree from the University of Texas School of Law. Her professional legal career took her to Baker Botts LLP, where she was co-chair of the commercial litigation practice group. She also served as a justice on the Texas First Court of Appeals in Houston (2011-2017) before returning to Baker Botts.

It's not a surprise that one of her first statements upon being sworn-in as Texas Supreme Court Justice was, "I will be satisfied if even one person is inspired to think I can really work hard and achieve something that doesn't necessarily seem possible (to that person) today."²¹

Similarly, only ten years earlier, Justice Guzman had shared, "I want all of those of humble beginnings to know opportunities await."²² Recently Justice Guzman would add, "Leaders are made. ... They have the heart of a servant and they bring out the best in those around them. There

²⁰ Will Allen Dromgoole, *The Bridge Builder*, Father: An Anthology of Verse (EP Dutton & Company, 1931).

²¹ Vic Kolenc, "Gov. Greg Abbott Names Former El Pasoan Rebeca Aizpuru Huddle to Texas Supreme Court," *El Paso Times*, Oct. 15, 2020, <https://www.elpasotimes.com/story/news/2020/10/15/greg-abbott-el-paso-judge-rebecca-huddle-tx-supreme-court/3667161001>.

²² Mary Flood, "First Latina Named to Texas High Court," *Houston Chronicle*, Aug. 4, 2011, (<https://www.chron.com/news/houston-texas/article/First-Latina-named-to-Texas-high-court-1726964.php>).

are a lot of younger women and lawyers looking at us, so we lead by example.”²³

For these pioneers, it’s not enough to arrive. Their purpose is to take new ground, move forward, expand opportunities, and pass their compass and map to the next generation so they can continue doing the same.

As Judge Xavier Rodriguez shared, “Hispanics have taken on new visibility in government and business. But those of us who have achieved need to get out there and encourage students that anything is possible now.”²⁴

Personal gains are fleeting. Once the allure of accomplishing a certain goal is gone, it takes another to fill its void. However, the joy and fulfillment in pouring into the careers of others lasts a lifetime.

Further, and most importantly, we have a duty to help those following in our wake. In the words of the late Federal Judge, Damon Keith, “We are all walking on floors that we did not scrub. We are all walking through doors we did not open. So, wherever you go scrub floors and open doors.”



Justice Rebeca Aizpuru Huddle

Epilogue

Since 1945, eighty judges have served on the Supreme Court of Texas and only six of those were Latino/a. As evidenced by the lives of Raul Gonzalez, Alberto Gonzales, Xavier Rodriguez, David Medina, Eva Guzman, Rebeca Aizpuru Huddle, and Fortunato “Pete” Benavides, being a pioneer is difficult.

As retired U.S. Navy Admiral, William H. McRaven said, “Life is a struggle and the potential for failure is ever present, but those who live in fear of failure, or hardship, or embarrassment will never achieve their potential. Without pushing your limits, without occasionally sliding down the rope headfirst, without daring greatly, you will never know what is truly possible in your life.”²⁵

The judges discussed in this article demonstrate the grit and determination that Admiral McRaven described. Still, we don’t have to travel the road to success alone. We are better together.

This article was intended to be more than a highlight of the careers of seven remarkable Texas judges. It’s a survey of how Texas attorneys and judges can turn these successes stories into a compass and map to help pursue their own exceptional dreams. It’s intended to share the

²³ Adam Faderewski, *Leading by Example*, 84 Tex. B. J. 214 (2021).
Jenny B. Davis, *What Matters Now*, 88-Jan ABA J. 36, 41 (2002).

²⁵ Admiral William H. McRaven, *Make Your Bed, Little Things That Can Change Your Life ... and Maybe the World*, (Grand Central Publishing, 2017).

importance that public service plays into creating genuine relations and supportive professional networks. And, most importantly, this article should encourage those that have arrived at the pinnacle of their career and others still breaking new ground to remember to build bridges for the next generation of legal advocates following in our footsteps.



VICTOR FLORES has developed a career in providing legal counsel to municipalities across Texas, including McAllen, Plano, Rio Grande City, and Denton. Currently, he serves as an assistant city attorney for McAllen, Texas. He's received the Texas City Attorneys Association (TCAA) Susan Rocha Award for Outstanding Public Service by an Assistant City Attorney and the International Municipal Lawyers Association's Daniel J. Curtain Young Public Lawyer. In addition, Victor Flores is the immediate past president of the Texas Young Lawyers Association and a United States Marine Corps Veteran.

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Judge Reynaldo G. Garza

• The First Federal Judge of Mexican American Descent •

By David Garza and Reynaldo G. Garza, III (Trey)

This article is written on the sixtieth anniversary of Judge Garza's appointment as a Federal Judge. Reynaldo G. Garza's career was rooted in his modest upbringing in the small border community of Brownsville, Texas. During his early years there were very few bridges to cross the river, and future political battles over border walls were nonexistent. Immediately across the Rio Grande River lies the Mexican city of Matamoros. Brownsville's cultural melting pot proved fertile ground for Judge Garza to grow and thrive into the man he was.

Judge Garza's life was centered on his family, faith and community. He was the sixth of eight children born to Ygnacio and Zoila Garza in Brownsville in 1915. At an early age, the value of education was stressed on Judge Garza as a primary means for future success. In one of his frequently told stories, Judge Garza recalled sitting at his father's bed side with his brothers and sisters. Ygnacio told all his children that he could not afford to leave them much wealth when he died, but that he had left them an education, and that was something no one could take away from them. Judge Garza went on to become a champion for education.

The Garza family was and remains devoutly Catholic. Judge Garza's life was shaped by his faith. Many of his early memories involved church related functions such as festivals and dances. His family were members of the Immaculate Conception Cathedral in Brownsville. Judge Garza often recalled his earliest desire to study law coming during a Sunday morning mass where the priest spoke about the gospel of the adulterous woman. When Jesus was asked how she should be punished, his response was, "He that is without sin among you, let him first cast a stone at her." (Gospel of John). It was a theme he reflected on throughout his career.

Judge Garza's parents were very encouraging of their young son's desire to become an attorney. Judge Garza researched his family history to find a great-uncle who had studied law and then went on to become the governor of the State of Tamaulipas, Mexico. Judge Garza's



Judge Garza at his office circa 1990's



Judge Garza (standing on left) with parents Ygnacio & Zoila Garza & Siblings - Sept 26 1926

enthusiasm to study law only increased over time. He realized that he had to study hard if he wanted his dreams of having a legal career to become reality.

Judge Garza loved all sorts of games and sports. He played football and baseball. In an interview later in his life, he noted that what he lacked in athletic ability, he made up for in team spirit. He was spirited indeed; his grandchildren were often startled by his passionate reactions as he watched his beloved Texas teams from his wicker chair. He was not shy about bitterly denouncing any perceived bad call or play. Judge Garza's colorful personality was often at its best during sporting events.

As he progressed through high school, Judge Garza honed his academic prowess. With his goal of becoming a lawyer, he would attend local trials. He made friends in the local legal community. He received encouragement and guidance from local lawyers. He graduated from high school with honors and was accepted into the University of Texas at Austin. Unfortunately, his family could not afford to send him at that time. The realities of the Great Depression had reached the Garza family. Devastated, but undaunted, Judge Garza started at Brownsville Junior College. His dream of attending the University of Texas was never far from his mind though. While he studied, he worked and saved money until he transferred to the University of Texas at Austin.



It was during high school in Brownsville that he met the love of his life, Bertha Champion. In fact, he claimed that before he was even introduced to her, he told a friend of his, "I'm going to marry that girl." He would often tell his children and grandchildren that he loved Bertha from the first time he saw her. At the time, Judge Garza was focused on his goal of becoming a lawyer, so he went off to continue his studies at the University of Texas at Austin, keeping Bertha in his heart always.



Judge Garza's years in Austin proved to be very consequential. Aside from his devotion to his ongoing education, he maintained a strong connection to the Catholic Church. He joined the parish at Our Lady of Guadalupe Catholic Church in Austin. He joined and actively participated in many social and educational organizations in Austin. While in law school, he was fortunate enough to befriend many young people who would go on to serve in various powerful political roles in Texas. Among them were Henry B. Gonzalez (the first Mexican American elected to the

Top left: Garza Hardware Store in Brownsville - Judge Garza standing at right base of stairs with brothers Ygnacio, Leonel and Osbaldo circa 1920's. Top right: Judge Garza at Brownsville High School with National Honor Society Pin circa 1932-33. Bottom: Judge Garza (standing on right) and Bertha celebrating a Texas victory over A&M 1940



Judge Garza (standing to the right) with his Boy Scout Troop above Brownsville City Hall 1940

Texas Senate), John Connally (Governor of Texas, United States Treasury Secretary, and a one-time Presidential candidate), and Lyndon B. Johnson (U.S. Senator, Vice President and President of the United States of America).

Judge Garza's early friendship with Lyndon B. Johnson would open many doors for him. Judge Garza fondly remembered how he introduced Lyndon B. Johnson to his East Austin church community at a church festival. At Garza's request Johnson was allowed to give a campaign speech while Garza translated. That first church event led to a lifelong friendship, based on mutual respect, between Judge Garza and Johnson. This was the first campaign Judge Garza helped Lyndon B. Johnson with and he helped Johnson on all his subsequent campaigns through the 1960 Presidential Election.

During law school he continued to network and establish important relationships that would help define his career. He campaigned for future governor John Connally as he ran for University of Texas student body president. Always keeping his Hispanic culture in mind, he frequently gave speeches and advocated for the needs of Hispanic communities in Texas. He joined several civic clubs and community organizations to help the Hispanic population, which he felt was underserved in many ways.

In 1939, as Judge Garza turned 24 years old, he graduated from the University of Texas School of Law. He became engaged to Bertha and was focused on starting his legal career. Back in

his hometown of Brownsville, he opened his first law office in the fall of 1939. It did not take long before he won his first case and found himself with a successful law practice.

Cognizant of the importance of civic engagement, Judge Garza continued to be actively involved in his community in Brownsville. He was an active member of his Catholic church, he volunteered with the Red Cross, he joined the League of United Latin American Citizens (LULAC), and he was a scoutmaster of a local Boy Scout troop. Judge Garza's passion for his community was ever present. Garza continued to focus on politics. In 1941 Garza won his first political office, when he was elected to the Brownsville Independent School District Board of Trustees.

While his political standing was rising, so too was his legal reputation which increased because of his outstanding trial results. His mother Zoila asked him to help clients that could not afford to pay him which he did willingly. He handled numerous pro bono cases. Later in life, his wife Bertha would mirror Zoila's kind heartedness and ask her sons and grandchildren to also help those less fortunate and handle pro bono cases as Judge Garza had done in his career. Judge Garza's Catholic faith and strong devotion to the underserved community guided his willingness to assist people in need.

In 1941 World War II interrupted his legal career. He enlisted in the army, and bid a tearful farewell to his fiancée Bertha. He was a gunnery sergeant in the U.S. Army Air Corps training air corps gunners. As the war progressed, Garza was tasked with a public relations job encouraging people to buy war bonds. Later he was assigned to translate during a meeting between President Roosevelt and then Mexican President Camacho. Garza was very proud of the opportunity.



Judge Garza in WWII Army Uniform

In June 1943 he and Bertha were married. During a brief leave from his duties, Reynaldo and Bertha had a traditional Catholic wedding in Brownsville. Bertha would later tell her family that it was one of the happiest days of her life. Similarly, Reynaldo would regularly speak fondly of his love for Bertha, and their war time wedding.

In March 1944 Bertha gave birth to the first of their five children, Reynaldo Garza, Jr. After the war ended he returned to his young family in Brownsville to resume his legal career. He also re-engaged his civic and political activities. Among the many organizations he rejoined was the Knights of Columbus, a Catholic men's organization with councils throughout the world. Garza would eventually rise to a leadership position in the Knights of Columbus as Texas State Deputy, which is the highest position in the state.

As Garza's practice grew so did his list of clients. Some of his most influential and largest



Left: Judge Garza and Bertha Champion Wedding Picture June 9, 1943
Right: Judge Garza and Bertha celebrating Charro Days circa 1940's

clients were well known large corporations operating in South Texas. Being an attorney for such large corporations gave him access to the most influential business leaders in Texas. He continued to help his community and the less fortunate.

Garza continued his political growth, by winning a seat on the Brownsville City Commission in 1948. His longtime friends from college came calling again as they also continued their political careers. Lyndon B. Johnson visited Brownsville while campaigning for U.S. Senate. Also, during this time, a young Lloyd Bentsen asked Judge Garza to help in the Rio Grande Valley as he was running for U.S. Congress. Both men won their races, and Garza's political star continued to rise.

In 1948, Bertha gave birth to their second child, David. By 1950, Garza joined a local law firm. Finally, after struggling though the depression and World War II, his hard work began paying dividends, when he purchased his first home. He continued his civic and political involvement.

In July of 1953, Bertha gave birth to their third child, Ygnacio, whom they affectionately called "Nacho." Once again Garza found himself part of a successful campaign for Lyndon Johnson who easily retained his previously won senate seat. By 1955 Lyndon Johnson had become majority Leader of the U.S. Senate, and Garza was a regular advisor to Lyndon Johnson regarding political appointments in South Texas. Garza himself landed statewide political appointments, his first to the Texas Good Neighbor Commission.

In 1957 Bertha gave birth to their first daughter. Just like the couple had named their first son after his proud father Reynaldo, so too did they name their first daughter after her proud mother, Bertha. They affectionately called her Bertita, a nickname meaning "little Bertha." The Garza family was growing, and they moved into a larger home in 1961.

In 1960 President John F. Kennedy and Vice-President Lyndon Johnson were elected. Garza actively campaigned for the Kennedy & Johnson ticket. In 1960, when Johnson made a campaign stop in Harlingen, Judge Garza spoke at the event. Later a person who was with Johnson on the plane told Judge Garza that Johnson said "Reynaldo has always helped me in my campaigns and

he has never asked me for anything." One of the people pointed out to then Senator Johnson that there was a Federal Judgeship open in Brownsville. Kennedy and Johnson won, and Garza was immediately a leading contender to fill the vacancy on the federal bench in South Texas. In early 1961 he was nominated by President Kennedy to fill a vacancy in the U.S. Southern District of Texas as a U.S. District Judge. He had his confirmation hearing by the Senate shortly thereafter. (How times have changed.) When Judge Garza went to Washington D.C. for his Senate confirmation hearing he was invited to the White House where he met with both President Kennedy and Vice President Johnson in the Oval Office. Judge Garza's children each proudly have copies of the photographs of them together. He was confirmed by the Senate and at age 45 sworn in as a United States District Judge on April 29, 1961 before a packed civic center in Brownsville. His appointment was historic because he became the first person of Mexican American descent to be appointed to the Federal Bench.



Judge Garza with President Kennedy and Vice President Johnson in the Oval Office 1961



Left: Judge Garza with Vice President Johnson in the Oval Office 1961.
Right: Judge Garza and Bertha with President Johnson at the LBJ Ranch circa 1960's

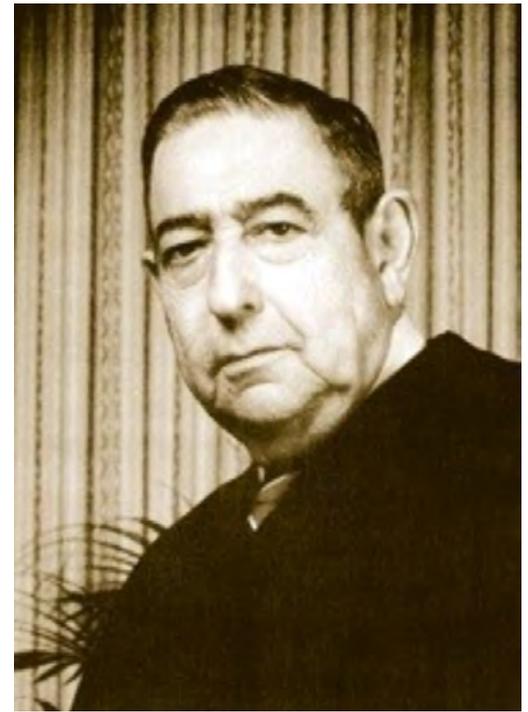
In the early sixties, Judge Garza heard cases in Brownsville, Victoria, Corpus Christi, Laredo, and Houston. He charged into his judicial responsibilities, and developed a reputation for having both a keen wit and sharp legal mind. His courtroom sessions were efficient, and his booming voice contributed to his ability to keep order.

In 1962 Bertha gave birth to their fifth and youngest child, Monica. Children were not the only members of their growing family. Judge Garza and Bertha made long and lasting relationships with his courthouse family. Throughout his 40 plus years in the Federal Judiciary, his law clerks were ever present. Law clerks became part of the family at the Garza household. In addition to the opportunity to learn more about the law, his clerks were also allowed to be part of his personal life and share in experiences they were able to recount to others through the years.

After clearing the backlog of cases left by the previous vacancy in South Texas, Judge Garza continued to focus on his daily judicial responsibilities as well as his family and community. He enjoyed hunting and other outdoor pursuits. His sons were growing up and playing high school sports which he attended whenever he could. When he wasn't traveling for Court, he spent time with his family and friends in Brownsville.

By the early seventies Judge Garza had risen through the ranks of the federal judiciary to the position of Chief Judge of the Southern District of Texas. Judge Garza fully embraced his role as the Chief Judge. Schools were named after him, and he received numerous awards and recognitions from his peers and the communities he served, as well as statewide recognitions.

After President Jimmy Carter was elected in 1976 Judge Garza was asked to serve as Attorney General of the United States. He declined, often citing that he would have to leave his beloved lifetime appointment to the Judiciary for a short term position in the Cabinet. President



Left: Judge Garza in Knight of St Gregory regalia with Bishop Marx, the first Bishop of Brownsville circa 1965.
Right: Judge Garza circa 1970's

Jimmy Carter nominated him to serve on the Fifth Circuit Court of Appeals. And in 1979 he was confirmed by the Senate. Judge Garza was the first American of Mexican American descent to serve on the Fifth Circuit or any Federal Circuit.

U.S. District Judge Garza heard a wide variety of cases. Because of proximity to the Gulf of Mexico he had numerous civil cases involving injuries to seamen, disputes involving vessels and recovery of treasure in the high seas. Because of proximity to the border he heard numerous criminal cases including drug and alien smuggling. Judge Garza always commented to his family that the most difficult part of being a Judge was having the power to sentence people, and he always struggled with sentencing decisions. This was before the sentencing guidelines. During the 1960's and 1970's he dealt with many of the issues facing the nation. He heard a case to integrate the longshoreman unions, which at the time were segregated in various ports. Another case involved farm unions. Judge Garza sat on a three Judge panel which dealt with the suit by union farm workers against various state officials. The case went to the U.S. Supreme Court. See *Allee vs Medrano*, 416 U.S. 802 (1974).

Judge Garza served as the Judge in the case of *Turner vs American Bar Association*, 407 F. Supp (1975). It was a consolidation of related cases from around the Country. The Chief Justice of the United States Supreme Court and the Chief Judge of the Fifth Circuit designated Judge Garza to hear the case. It dealt with whether under the Sixth Amendment unlicensed laymen could assist a party in litigation. The action was dismissed when Judge Garza ruled that licensed attorneys had to represent defendants in criminal prosecutions.

Anybody who has traveled in South Texas and passed through a Border Patrol checkpoint



Left: Judge Garza and Bertha at their home in Brownsville circa 1990's.

Right: Judge Garza and Bertha with their children Reynaldo Jr, David, Nacho, Bertha and Monica circa 1990's

has felt his legal decisions. Judge Garza's long career on the Fifth Circuit yielded a lasting and meaningful impact on the communities he served. Balancing the need for law enforcement along the border against protecting rights of citizens against unreasonable search and seizure was and remains a serious concern for the judiciary. Judge Garza crafted a series of rulings that he hoped would protect the freedoms of people living in the border communities, and allow law enforcement the latitude needed to protect those same citizens from criminal activity. See *United States v. Cardona*, 955 F.2d 976 (5th Cir.1992); *United States v. Nichols*, 142 F.3d 857 (5th Cir. 1998); *United States v. Adelco*, 168 F.3d 148 (5th Cir. 1999). Judge Garza participated in numerous other high-profile cases, too many to set out here.

Garza would travel from Brownsville to New Orleans to hear cases before the Fifth Circuit. Bertha was with him on many of those trips. They loved New Orleans, the food and the culture. Throughout this time the Garza family continued to grow with the addition of grandchildren, and even great grandchildren. Judge Garza was happiest surrounded by his friends and family.

Judge Garza was particularly proud of his induction into the ranks of the University of Texas at Austin Distinguished Alumni. More than just a place to get an education, the University of Texas served as a melting pot for future Texas leaders. Garza would never stop advocating that all people should have the same opportunities that he did, and that required access to an education.

During the twilight of his career Judge Garza continued to serve as a Senior Judge and actively engage in civic and religious functions. He attended mass daily, and never stopped advocating increasing educational opportunities for the people of South Texas. His extended family would eventually grow to include over 80 law clerks, 12 grandchildren and an ever increasing number of great grandchildren. His two oldest sons and five of his grandchildren are lawyers while two more grandchildren are currently in law school.



Judge Garza and Bertha with their 12 grandchildren circa 1997

Judge Garza passed away on September 14, 2004. His memorial service was attended by past and present elected officials at the national and state level as well as members of the judiciary from all over the country. He will always be remembered as an example of the power of the education he advocated so fiercely for. Judge Garza's was a life well lived.



DAVID C. GARZA is the second son of Judge Garza. David graduated with honors from the University of Texas School of Law in 1973 and received the Order of the Coif. He practices law with his brother Reynaldo in the firm of Garza & Garza in Brownsville. David's wife Diane received a Doctorate from the University of Texas at Austin. David has two daughters Elizabeth and Alexandra. Elizabeth will be receiving a master's degree from SMU and Alexandra is a first-year law student at Saint Mary's.



REYNALDO G. GARZA, III (TREY) is the oldest Grandson of Judge Reynaldo Garza. He graduated from Baylor School of Law in 1998, and is a practicing attorney in Brownsville, Texas. His law practice is primarily focused in the areas of Family law and Criminal Defense.

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To Serve for Others: A Profile of Justice Eva Guzman

By Justice Gina M. Benavides

Pick any day of the week and Justice Eva Guzman – our state’s first Latina supreme court justice – is serving our state and its legal system as she has done throughout her career.

One day she can be found leading a meeting of the Permanent Judicial Commission for Children, Youth, and Families – a commission tasked with improving the legal system for our children. On another, she can be found in the halls of the Capitol talking to lawmakers and ensuring funding is allocated to provide access to justice. In between, she is either planning a symposium, preparing a speech, or serving in her biggest role: sitting as one of nine justices on our state’s highest court.

Justice Guzman’s passion for her work and community has been ingrained in her life since an early age. She was born a daughter of immigrants in Chicago. Justice Guzman’s family later moved to Houston when she was in the first grade. She recalls her time in Houston as “always a community.” They were seven children, but their home was also filled with people that needed help. Her mom and dad lived by the motto “to serve for others.” “I remember that well and try every day to pay it forward,” she recently said.

She later attended a primarily Hispanic high school, Stephen F. Austin High School, and excelled in reading, writing, and English. During her time there, she won a statewide writing contest with an essay that she says she would not have entered without the encouragement of her English teacher.

Justice Guzman’s appreciation for education and a strong work ethic began at a young age. This work ethic has served her well. At the age of 16, she began working in a textile factory using a blind switch machine. She used the skills that her mother and aunts taught her. She recalled that while she worked at the textile factory, the owner would walk the floor where his employees worked. Years later, Justice Guzman said the textile factory owner approached her and introduced himself at her fundraiser at the River Oaks Country Club. “He never knew that I had been one of his workers,” she said.



Guzman, while a Judge on the 14th Court of Appeals

Helping others is a lesson Justice Guzman has carried with her throughout her life and professional career. She always takes time to mentor others and make sure everyone in the room has opportunities to succeed.

Armed with grit and determination, Justice Guzman attended the University of Houston and then earned her law degree from South Texas College of Law. Following law school, she started her own practice dealing with commercial litigation and family law matters. During that time, she earned the respect of the legal community. In 1999, a district court bench opened in Harris County. When an opening on the district bench became available, Justice Guzman applied and was eventually appointed to the 309th District Court bench. She was later elected in 2000 and served as the first Hispanic female judge of the 309th.

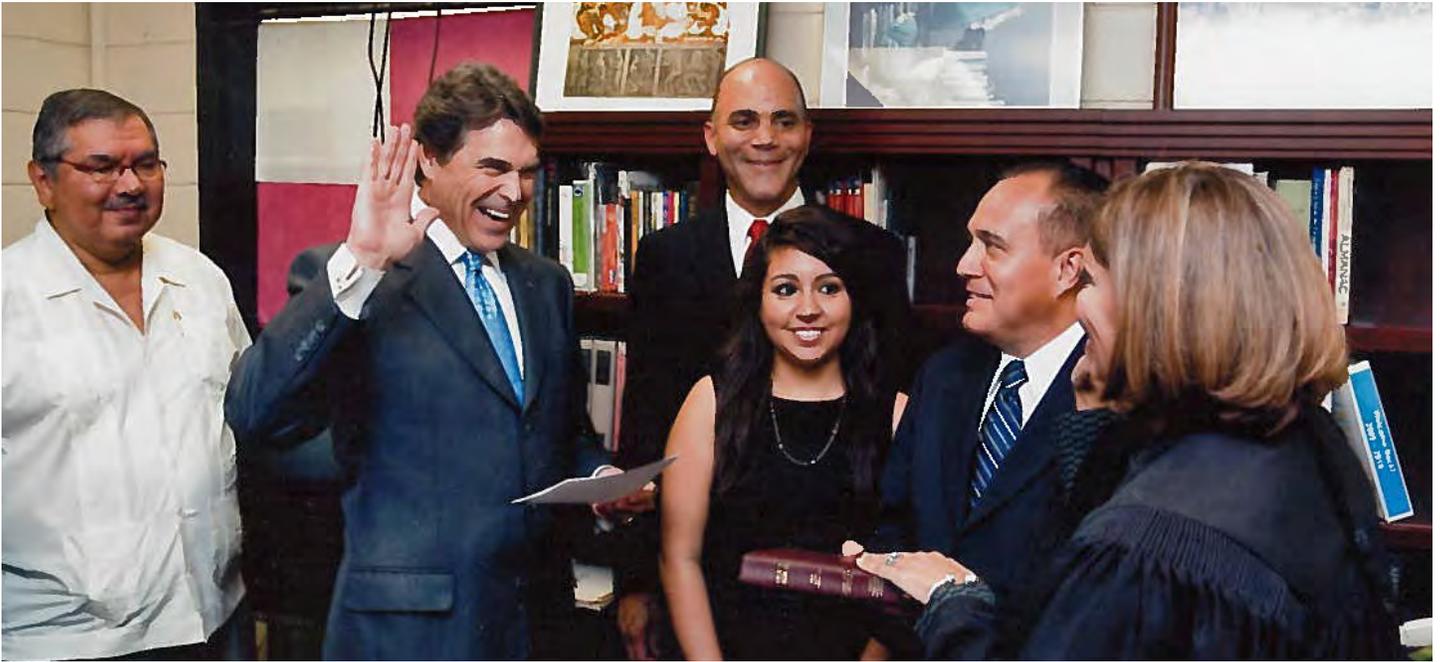


With Gov. Bush, family, and friends after being appointed to the 309th District Court bench.

On the bench, the Bar recognized Justice Guzman as an excellent jurist. Then-Governor George W. Bush recognized her efforts and reputation by appointing Justice Guzman to the 14th Court of Appeals in 2001. This appointment made her the first Latina justice on that court. For the next nine years, Justice Guzman authored hundreds of published opinions, covering a wide range of civil and criminal law topics, including various issues of first impression.

Throughout her career, Justice Guzman has embraced public service. While on the bench in Harris County, she received the Houston Bar Association President's Award for Outstanding Committee Service (2006, 2008) and the Houston Bar Association, "Distinguished Faculty Recognition," Continuing Legal Education (2000-2005, 2007), among other accolades.

Her efforts and service while on the 14th Court of Appeals were not only apparent to the Bar, but also to former Governor Rick Perry. In 2009, former Governor Rick Perry appointed Justice Guzman to fill a vacancy on the Texas Supreme Court. When she was elected to a full term in November 2010, she became the first Latina elected to statewide office in Texas.



At the ceremony announcing Gov. Perry's appointment of Justice Guzman to the Texas Supreme Court

As the first Latina justice appointed to the Texas Supreme Court, Justice Guzman knew that her appointment came with great responsibility. She has therefore served not only as an exemplary judge, but as a leader in the legal community. In a recent podcast titled “Lady Justice: Women of the Court,” Justice Guzman recognized that only five percent of the U.S. attorneys are Hispanic and only about two percent are Latina, so her perspective is borne of the unique experiences of an underrepresented group of professionals.

Drawing on her experience as a commercial litigator, Justice Guzman has written extensively on contract interpretation during her time on the high court, including *Rider v. Woods*, 603 S.W.3d 86 (Tex. 2020), *Pathfinder Oil & Gas, Inc. v. Great Western Drilling, Ltd.*, 574 S.W.3d 882 (Tex. 2019), *URI, Inc. v. Kleberg County*, 543 S.W.3d 755 (Tex. 2018), just to name a few. Of course, by necessity, Justice Guzman is a generalist, having authored opinions on topics as varied as the workers’ compensation scheme, *TIC Energy and Chemical, Inc. v. Martin*, 498 S.W.3d 68 (Tex. 2016), governmental immunity, *Worsdale v. City of Killen*, 578 S.W.3d 57 (Tex. 2019), and parental termination, *In re A.C.*, 560 S.W.3d 624 (Tex. 2018).

In writing opinions, Justice Guzman said, “When bright line rules are not possible, which is often the case, I strive to provide as much guidance as possible to help provide boundaries and contours to the law. To the extent possible, I will provide guiding principles, balancing factors, and illustrations to help augment thorough discussion and analysis of precedent and relevant scholarship.” As illustrative cases, she pointed to *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), which presented an issue of first impression concerning discovery of electronically stored information, and *Kramer v. Kastleman*, 508 S.W.3d 211 (Tex. 2017), a case involving the acceptance-of-benefits doctrine, “which courts had been rigidly applying in a way that deprived litigants of merits-based appellate review.”

True to form, always striving to better herself, while she has been sitting as a justice on the Texas Supreme Court, Justice Guzman worked on and received her Master’s in Judicial Studies from Duke University School of Law.

But importantly, Justice Guzman’s commitment to the legal community is boundless. In 2016, she organized the inaugural “Beyond the Bench: Law, Justice, and Communities Summit,” a first-of-its-kind assembly of judges, law enforcement officers, public servants, and national, state, and community leaders with a mission to strengthen trust and confidence in our justice system by addressing issues of unconscious bias.

Additionally, for more than a decade, Justice Guzman has chaired the Supreme Court of Texas Permanent Judicial Commission for Children, Youth and Families, where she has worked with leaders from across the state to foster the well-being of Texas’s most vulnerable children and families to improve safety and permanency outcomes. As adjuncts to those efforts, she helped found the Texas Judicial Commission on Mental Health and allied with a consortium led by U.C. Berkeley’s Goldman School of Public Policy to create resources to better prepare Texas judges for Hague Convention cases involving domestic violence.

As a Senior Fellow of the American Leadership Forum, Justice Guzman also has a long track record of community service. She has devoted many volunteer hours to organizations committed

to children, including service on the boards of Texas Court Appointed Special Advocates, The Escape Center, Wesley Community Center, and the Houston Area Chapter of the American Red Cross.

For the past seven years, Justice Guzman has also been the Texas Supreme Court's liaison to the Texas Access to Justice Commission, an organization dedicated to expanding legal access in civil legal matters for low-income Texans.

Among other engagements, Justice Guzman is currently serving as Chair for the prestigious Appellate Judges Education Institute's 2021 Summit. She is also a member of the Board of Trustees for The Center for American and International Law, the Board of Trustees for South Texas College of Law, and the Board of Visitors for Duke University School of Law. Since 2005, Justice Guzman has been a member of the American Law Institute and is a former board member for the Garland Walker American Inns of Court.

Her accolades since joining the Texas Supreme Court are numerous and can only be done justice by listing all of them:

- Lifetime Achievement Award from the Hispanic Bar Association of Houston (2016)
- Appellate Judge of the Year, Texas Association of Civil Trial and Appellate Specialist (2016)
- John Ben Sheppard Public Leadership Institute "Outstanding Texas Leader 2015"
- Recognized by Houston Chronicle "35 Houston Latinos [You] Should Know" (2015)
- South Texas College of Law "Alumni Impact Award" (2014)
- Texas Asian Republican Club "Statesman of the Year Award" (2014)
- Association of Women Attorneys "Premiere Women in The Law-Modern Trailblazer Award" (2014)
- State Bar of Texas Women in the Law Section "Sara T. Hughes Women of Achievement Award" (2014)
- Sucesos Publications Tribute to Hispanic Women "Woman of the Year Award" (2014)
- Texas Association of Mexican American Chambers of Commerce "Women of Distinction Award" (2013)
- SER Jobs for Progress "2013 Community Leader Award"
- TWEF "2013 Leadership Award"
- Hispanic Women's Network of Texas "2012 Latina Trailblazer Award"
- Children's Assessment Center of Houston, "Special Recognition for Devotion to Children" (2012)
- Hispanic National Bar Association "Las Primeras of Texas" Recognition (2011)
- LULAC Council 402 Latina Woman of the Year Award (2011)
- Latino Leaders Magazine "101 Most Influential Latino Leaders" (2010) (2011)
- Hispanic Business Magazine "100 Influentials in Government" (2010)
- Houston Woman Magazine "Houston's 50 Most Influential Women" (2010)
- Hispanic National Bar Association "Latina Judge of the Year Award" (2009)
- Mexican American Bar Association of Texas Foundation "Judge of the Year Award" (2009)
- Hispanic Women in Leadership "100 Outstanding Women in Leadership Award" (2009)
- Houston Independent School District "Distinguished Alumnus" Award 2009
- Travis County Women Lawyers' Association "Pathfinder Award" 2010

Even with all her success, family is everything to her. She has been married for over 25 years to her husband and they have one daughter. Her daughter has followed her mother's footsteps and is a licensed lawyer. If you follow Justice Guzman on Twitter, you'll see she has a passion for the law, her family, and cooking. She recently combined these passions to help raise money for access to justice by demonstrating how to cook her famous Mexican rice as part of the Texas Access to Justice Foundation's Cooking for Justice fundraiser. "I am blessed," she said.

When asked what she would like her legacy to be, Justice Guzman said, "I'm deeply grateful for people who used their seat at the table to help me, especially when they had nothing to gain. Part of my life's work—and hopefully my legacy—is to pay it forward by mentoring and supporting others and working to dismantle obstacles, in whatever form they arise. Access to justice and the welfare of our most vulnerable children are hallmarks of my service on the bench. I hope they also form part of my legacy." Always in the service of others.



JUSTICE GINA M. BENAVIDES *has been on the Thirteenth Court of Appeals for 15 years and has served both as the Chair of the Judicial Section and Texas Center for the Judiciary, being the first Hispanic female. She is published in the St. Mary's Journal on Legal Malpractice & Ethics. She is the recipient of the 2021 Judge Merrill Hartman Pro Bono Judge Award and Judge of the Year by HNBA and Hispanic Section.*

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Profile of Judge Elsa Alcalá

By Judge Gina M. Benavides



Judge Elsa Alcalá's beginnings are humble and scarred by tragedy. She overcame these challenges by rising to prominence in the legal profession and becoming the first Latina to serve on our state's highest criminal court.

She was born and raised in Kingsville, Texas as one of five children living in a two-bedroom home. She sadly lost her mother while she was still in elementary school and later lost her father while in high school. After losing both parents, her oldest sister—who was fifteen at the time—became the family's caretaker. But in reality, all the Alcalá siblings joined forces to

work and care for each other by taking jobs in sandwich and pizza shops to pay the bills.

Despite losing her parents at a young age, their lessons stayed with her. She recalls her mother telling her that she would have to work much harder than others because she was Hispanic and that no job was without honor. Her father, who worked until the day he died, also taught her about work ethic meaning Judge Alcalá worked hard in her education and career.



With her parents and brother



With one of her sisters

After high school, Judge Alcalá attended and graduated from Texas A&M University-Kingsville. She remembers being in high school and learning that the Reagan Administration was going to eliminate Social Security benefits for students with deceased parents. She and her family relied on their Social Security which they received upon the death of her parents. She needed the financial assistance if she was going to college. She

then learned that she might be grandfathered in if she was already enrolled in college so drove down the street and enrolled; allowing her to start her degree.



Judge Alcala (second from right) and her four siblings

While in high school and college she learned that she had a gift for public speaking and competitive debate. She thought law school would be the next logical step, applying and getting accepted to the University of Texas School of Law in Austin, where she received her doctorate of jurisprudence and was named to the Order of Barristers.

While competing and excelling in mock trials and moot court, she caught the eye of one of the guest judges, a prosecutor working for the Harris County District Attorney Office who encouraged her to apply and she was hired shortly thereafter.

Judge Alcala spent nine years as an assistant district attorney under DA Johnny Holmes in Harris County. She was the lead trial attorney in more than seventy felony jury trials, with a focus on violent offenders and distributors of narcotics including death penalty cases. In the book, *Let the Lord Sort Them: The Rise and Fall of the Death Penalty* by Maurice Chammah, Judge Alcala tells the story of trying her first death penalty case in which Defendant Gerald Eldridge was charged with murdering his children. By the time she left the District Attorneys' office, she had tried three death penalty cases. These cases have had a profound lifetime effect on her and she continues to keep in touch with the families of the victims.

In 1998, a judicial vacancy opened on one of the Harris County District Courts, so she applied. Governor George W. Bush later appointed her to the 338th District Court, making her one of the youngest judges in the state at thirty-four years old. In 2002, Governor Rick Perry appointed her to the First Court of Appeals, where she served for nine years. During her tenure on the First Court, Judge Alcala signed more than 650 majority opinions and presided in some 3,000 cases.



Being sworn in as Judge for the 338th District Court

In 2011 Governor Perry appointed Judge Alcala to the Texas Court of Criminal Appeals, and she became the first Latina to serve on that court.

During her tenure on the high court, Judge Alcala became known for writing fiery dissenting opinions and for expressing "great concern" over the way Texas implemented death penalty cases.



Top left: On the bench with the twins. Top right: With Erin while on the First Court of Appeals.
Bottom: The Judges of the First Court of Appeals.



Speaking at her investiture to the Court of Criminal Appeals

According to Judge Alcala, she always started writing them as concurrences, but they always ended as dissents. She says her philosophy became to write as plainly as possible so the party defendant could read and understand it and know that their case was being fully heard. During her tenure on the Court of Criminal Appeals, she disliked one sentence orders which lacked explanation and/or reasons. Judge Alcala began researching the “one sentence orders”, and they would develop into fully explained opinions, either concurring or dissenting with the result because she believed the law needed review or was no longer applicable.

One example of that was *Ex Parte Moore*, 470 S.W.3d 481 (2015). In *Moore*, Judge Alcala wrote that the Court’s reliance on a decade-old standard to measure intellectual disability which was no longer used by the medical profession was constitutionally unacceptable. On writ of certiorari, the U.S. Supreme Court agreed with her. Justice Ruth Bader Ginsburg wrote that the *Briseno’s* factors adopted by Texas Court of Criminal Appeals for evaluating an *Atkins* claim in death penalty cases are based on superseded medical standards that create an unacceptable risk that a person with intellectual disabilities will be executed in violation of the Eighth Amendment. See *Moore v. Texas*, 137 S.Ct. 1039 (2017).

In 2016, she wrote *Ex Parte Murphy*, 495 S.W.3d 282 (2016), which gave an explanation concerning the historical and current application of the death penalty. She wrote that several death row inmates have raised compelling arguments that too often are discarded by the court based on decisions made years, if not decades, ago — including whether confinement in a sixty-square-foot cell was impermissibly cruel, or whether the death penalty is unconstitutional because it is arbitrarily imposed by race, disproportionately affecting minorities.

Even though, while on the court, she expressed no opinion on whether the death penalty was constitutional — she instead wrote that the court should continue to examine capital punishment issues on a case-by-case basis. But her opinions do require us to examine the death penalty cases, especially when based on scientific evidence or jail house testimony.

Additionally, Judge Alcala wrote more than one hundred opinions on the lack of appointed counsel in post-conviction cases, as well as ineffective assistance of counsel issues. The right of counsel in indigent defendants in habeas cases is critical in reviewing cases where there is no other direct appeal.

Judge Alcala also wrote the precedent-setting case of *Villarreal v. State*, which holds that nonconsensual search of a DWI suspect’s blood conducted pursuant to the mandatory blood draw and implied consent provision in the Transportation Code, when undertaken in the absence of a warrant requirement or any applicable exception to the warrant requirement, violates the Fourth Amendment.

In 2016, Judge Alcala announced she would not seek re-election after her term ended in 2018. Her decision was largely based on a desire to avoid having to run another statewide campaign in Texas's system of partisan elections. She wrote in her announcement:

Although I have been fortunate in that I have repeatedly been elected or re-elected by the public, I believe that the results from partisan judicial elections are too random and unreliable for me to engage in this process for a fifth time. I have seen too many qualified judges lose their bids for election or re-election.

Alcala added that she has witnessed unqualified judicial candidates be elected, but her decision not to run was also based on the fact that campaigning across Texas would take her away from her home too often, particularly with her three children in high school. "I've been missing everything — missing the track meets, the cross-country meets, the band concerts," she said. "I think it's the right decision, it's just hard. This has been what I've done for a long time." After leaving the court, Judge Alcala worked as the policy director at Texas Defender Service. She continues her advocate work and is working on a book.

Judge Alcala made an even more difficult decision that attracted media attention in 2019. After decades as a Republican, she publicly left the party. In a Facebook post, Judge Alcala wrote: "It has taken me years to say this publicly but here I go. President Trump is the worst president in the history of this country." "Even accepting that Trump has had some successes — and I believe these are few — at his core, his ideology is racism. To me, nothing positive about him could absolve him of his rotten core."

In a follow-up interview with the Austin American-Statesman, Alcala said that tweets from Trump, where the president allegedly told certain minorities to "go back" to their countries, played a role in her decision. She told the Austin newspaper that Trump worked to exclude "people who look like me."

"Every day with the Republican Party seemed worse than the day before. Trump speaks about brown people like me as lesser beings," Alcala said. "It's cliché to say, but the Republican Party left me."

Judge Elsa Alcala is married to Dan Jeffry Spjut, an attorney and retired lieutenant of the Houston Police Department. They have three children.

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Bridges to Judicial History

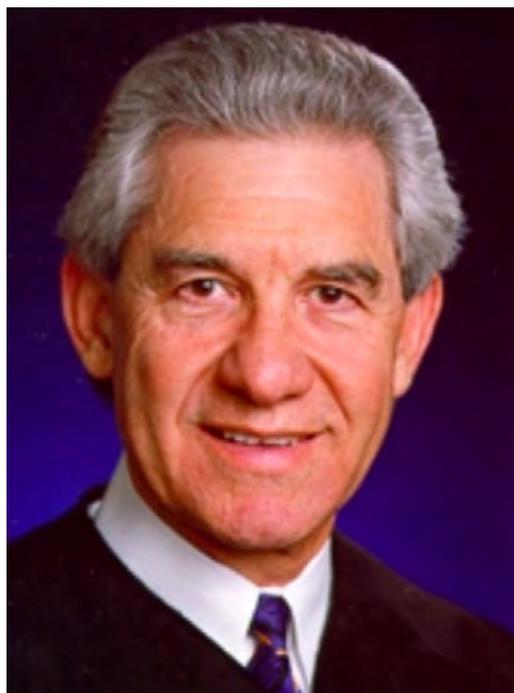
By Alberto R. Gonzales



Judge Reynaldo Guerra Garza

It is hard to put in words the meaningful and enduring impact that Judge Reynaldo Guerra Garza and Justice Raul A. Gonzalez, Jr. had on my life, career, and on the lives of so many other Americans. While Garza and Gonzalez were from different eras, they share a common history and legacy.

Both men were raised in large, loving and relatively poor Mexican American families, and both are products of South Texas. There were few bridges to connect the region of South Texas and Mexico during their early lives. However, over time the social norms and characteristic features of both regions became one. Families and friends shared a common language and heritage. The physical bridges literally and figuratively acted to bring together two cultures. The life and service of Garza and Gonzalez bridged the past to the future and united new generations of Hispanic trailblazers in the law. Because of their hard work, wisdom, and integrity other Hispanics had opportunities to serve and succeed in Texas and beyond.



Justice Raul A. Gonzalez, Jr.

Other profiles of each man include a detailed history of their lives of service so my discussion will be brief. Garza was the first Mexican American federal district judge and he was also the first Mexican American and first Latin American on any federal circuit when he became a judge on the United States Court of Appeals for the Fifth Circuit. Gonzalez began his judicial career as a state district judge. He then served as a justice on the Texas Thirteenth Court of Appeals before becoming an Associate Justice on the Supreme Court of Texas. He has the distinction of being the first Hispanic to serve on the Supreme Court of Texas, and the first Hispanic to be elected to a statewide office in Texas.

I was a young lawyer ambitious to make partner at one of the largest, most prestigious law firms in Houston when I had the pleasure of meeting and becoming friends with Gonzalez and his family. In my law firm's 70+ year history, there had never been a minority partner and I was determined to be one. When that day came, it was a proud moment for me, my family, and the Houston Hispanic community. During this time, Gonzalez was an inspiration and encouraged me to dream and achieve.

Our friendship continued when I went to Austin to work for newly elected Governor George W. Bush, first as his General Counsel and then as Texas Secretary of State. My wife Rebecca and I grew to admire Raul and his wife Dora, their commitment to each other and their strong faith in God. I followed Gonzalez's achievements and am proud to call him friend.

When Gonzalez announced he was retiring from the Supreme Court of Texas, Governor Bush asked me if I was interested in going on the Court. I must confess; I initially was not sure about the opportunity. Gonzalez had already demonstrated a Mexican American could be elected statewide, and he had proven, by virtue of his abilities and judgment, that a Mexican American could professionally discharge the duties of an appellate judge at the highest levels. Unlike Gonzalez, I had no trial or appellate experience. Furthermore, I would have to campaign as a Republican in a statewide election for a full six-year term with the last name "Gonzales." Ultimately, Gonzalez's successful example on the campaign trail and work on the bench gave me the confidence to accept the appointment by Governor Bush.

The significance of Gonzalez's service became even more clear during my investiture to the Court. The testimonials from others that day reflected wisdom, honor, and respect for this good man, further increasing the weight of expectations on my shoulders. Gonzalez, a Democrat, made it possible for me to serve on the Supreme Court of Texas as the first Republican Mexican American, and I am honored to have been appointed to fill the vacancy created by his retirement.

I did not have the privilege of knowing Garza, but I certainly knew of him when I entered Texas government. He was a legend in South Texas, and we are linked together in history by one common thread. In doing research about Garza, I learned that following the presidential election of Jimmy Carter, Garza was offered the position of U.S. Attorney General. According to a published source he struggled for several days with the decision over a job that would take him away from his beloved South Texas. Although he was excited about the challenges of this cabinet position, Garza, who had a lifetime appointment as a federal judge, worried that he might be in the position of Attorney General for only four years, eight at the most. He expected that he would have to find work afterwards at the age of 70 following his service at the Justice Department.

In the end it was the prospect of leaving friends and family in Brownsville for the uncertainties and politics of Washington, D.C. that convinced him to pass on the opportunity. If he had accepted the position, he would have been at the time the highest ranking Mexican American official in the history of the Nation, and the appointment almost certainly would have put him in line to be the first Hispanic to serve on the United States Supreme Court. Of course, as it turned out President Carter only served four years and he did not have an opportunity to appoint a justice to the Court.

If circumstances had been different, Garza would certainly have been in the conversation. His son David told me that Garza never looked back on this decision, content in the knowledge his service was needed and appreciated in the Valley. The decision reflected an extraordinary love of family and community, as well as maturity and wisdom akin to that of King Solomon.

Because of his decision, our Nation benefitted for many years from his honorable service as a judge on the Court of Appeals for the Fifth Circuit. Additionally, because of this decision, at the time of my appointment as Attorney General I became the highest ranking Mexican American federal official in the history of our nation. I was also mentioned as a possible candidate for the United States Supreme Court during my service in Washington. But like Garza, circumstances prevented that from happening. I am convinced that the career progression of Garza to Gonzalez to Gonzales led to judicial opportunities for other Hispanics, culminating in the appointment of Justice Sonia Sotomayor to the United States Supreme Court.

Garza and Gonzalez overcame impossible odds at a time it was rare to see Hispanics in judicial roles. Their stories are remarkable examples of the promise of America and important for the development of the law and building public confidence in our judiciary. Their success was also important in demonstrating the possibility of achievement for anyone in Texas no matter their race, gender, or last name. Finally, their accomplishments are a reminder that individual success is often the by-product of the efforts of others. I am grateful to Judge Garza and Justice Gonzalez, and I am honored to recognize their contributions to society and to the rule of law.



ALBERTO R. GONZALES *is the former U.S. Attorney General and Counsel to the President in the George W. Bush Administration. Presently he is the Dean at Belmont University College of Law in Nashville, Tennessee.*

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Giving Thanks, 400 Years Later: Pilgrim Legacies that Shaped Texas

Book reviews by David A. Furlow

*We come on the ship they call Mayflower,
We come on the ship that sailed the moon.
We come in the age's most uncertain hour,
And sing an American tune.*

— Paul Simon, *American Tune* (1973)

How far back can we trace Texas's traditions of democratic elections, self-government, constitutionalism, and the rule of law? Attending a meeting of the Old Colony Club in Plymouth, Massachusetts on Forefathers Day, December 22, 1802, at a time when Texas was a frontier province of Spain's New World empire, John Quincy Adams hailed the Mayflower Compact of November 11, 1620 as "perhaps the only instance, in human history, of that positive, original social compact which speculative philosophers have imagined as the only legitimate source of government."¹ When *Mayflower* passengers elected John Carver as Plymouth Colony's governor at Cape Cod on November 11, 1620, they organized and voted in the first election of a colonial governor in the Western Hemisphere, establishing American traditions of democratic elections, self-government, constitutionalism, and the rule of law.

Many of Texas's most important early leaders, including empresarios Moses Austin and Stephen F. Austin, Brazoria founder John P. Austin, journalist and poet Mary Austin Holley, the Republic's Treasurer Asa Brigham, Anson Jones, the last president of Texas, reform-minded Governor Elisa Marshall Pease, and many immigrants to Stephen F. Austin's colony shared deep New England roots, often originating in Plymouth.²

George Washington Cottle, a descendant of Plymouth Colony Governor William Bradford, and Dr. Amos Pollard, whose *Mayflower* ancestor was colonist William White, died defending the Alamo on March 6, 1836.³ Samuel Maverick, a descendant of *Mayflower* passenger John Howland, signed Texas's March 2, 1836 Declaration of Independence, inspired the word "maverick" to

¹ John Quincy Adams, *An Oration, Delivered at Plymouth, December 22, 1802* (Boston, Ma: Russell & Cutler, 1802), 17.

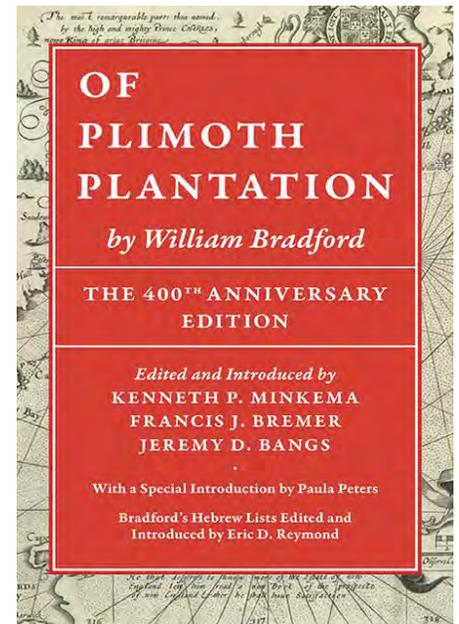
² David A. Furlow, "New England Roots Run Deep in Texas: A 400th Anniversary Salute, Part II," *Journal of the Texas Supreme Court Historical Society*, vol. 9, no. 3 (Spring 2020): 27-57, https://texascourthistory.org/Content/Newsletters//TSCHS_Spring_2020.pdf; David A. Furlow, "New England Roots Run Deep in Texas: A 400th Anniversary Salute, Part III," *Journal of the Texas Supreme Court Historical Society*, vol. 9, no.43 (Summer 2020): 29-47, https://texascourthistory.org/Content/Newsletters//TSCHS_Summer_2020.pdf.

³ Nancy Powers, "Mayflower Descendants Who Were Alamo Defenders," 135-138 in Judie P. Allen, Kathryn Allen Eisenbarth, and James B. Battles, *Gone to Texas: How Mayflower Descendants Got to Texas* (Austin: Texas Society of Mayflower Descendants, 2019).

identify someone who does things his own way (by not branding his cattle), and saved the Alamo from destruction by preserving it.⁴ Amasa Turner, a Scituate (Plymouth-County) born descendant of Plymouth Colony Elder William Bradford and *Mayflower* passengers Francis Cook and Edward Doty, raised a hundred-man company of volunteers and led them as a captain at the Battle of San Jacinto, and acquired a vast ranch near Hallettsville.⁵ George Herbert Walker Bush and George W. Bush, Texas residents and U.S. presidents, descended from John and Elizabeth (Tilley) Howland, Francis Cooke, and John and Joan (Hurst) Tilley of the *Mayflower*.⁶

Recently published books now enable us to trace Texas's legal and constitutional traditions back to where those Texans originated in seventeenth century Plymouth Colony. Let's take a fresh look at the light Plymouth Colony's candle shines on Texas's constitutional, legal, and military history, including the history of the Texas Supreme Court.

Plymouth Colony Governor William Bradford wrote one of America's first works of history in a "plain style" when he quilled *Of Plimoth Plantation*.⁷ Edited, analyzed, and footnoted by three Pilgrim scholars—Kenneth P. Minkema, Francis J. Bremer, and Jeremy D. Bangs—the 400th Anniversary edition presents a plain, unadorned style of writing that contains passages of stunning simplicity and beauty. When the *Mayflower* ended a harrowing, tempest-tossed, trans-Atlantic voyage at Cape Cod on November 11, 1620, Bradford wrote with great power:



Being thus arrived in a good harbor, and brought safe to land, [the Pilgrims] fell upon their knees & blessed the God of heaven, who had brought them over the vast, & furious ocean, and delivered them from all perils & miseries thereof; again to set their feet on the firm and stable earth, their proper Element.⁸

Born in 1590 and shaped by the rural rhythms of life in Nottinghamshire, England, Bradford joined a congregational church in Scrooby, England as a teenager. After coming to believe that England's Anglican Church was too inherently corrupt to reform, he joined like-minded Christians in the Netherlands, then sailed to America aboard the *Mayflower* to create a godly commonwealth, a Calvinist kibbutz on the colonial periphery of England's Atlantic world.

Bradford did not write objective history but, instead, penned a providential narrative that

⁴ Ross L. Shipman, "Samuel A. Maverick," in Allen, Eisenbarth, and Battles, *Gone to Texas*, 140-145.

⁵ Lisa H. Pennington, "Lucy Morse Wilkins, 1852," in Allen, Eisenbarth, and Battles, *Gone to Texas*, 42-48; Charles Christopher Jackson, "Turner, Amasa," *Handbook of Texas Online*, accessed April 22, 2021, <https://www.tshaonline.org/handbook/entries/turner-amasa>.

⁶ Allen, Eisenbarth, and Battles, *Gone to Texas*, 146-147.

⁷ William Bradford (Kenneth P. Minkema, Francis J. Bremer, and Jeremy D. Bangs, editors), *Of Plimoth Plantation, by William Bradford, the 400th Anniversary Edition* (Boston: Colonial Society of Massachusetts/New England Historic Genealogical Society, 2020).

⁸ *Ibid.*, Book I, Chapter 9, 178.

set out to prove that God prospered Plymouth's colonists only after first testing them with disaster, disease, and a fifty percent death rate during the colonists first winter in America:

But what could now sustain them, but the spirit of God & his grace? May not, and ought not the children of these fathers rightly say, "Our fathers were Englishmen who came over this great ocean, and were ready to perish in the wilderness, but they cried out unto the Lord, and he heard their voice, 'and looked on their adversity,' etc. Let them therefore 'praise the Lord, because he is good; & his mercies endure forever.'"⁹

To Bradford, the Pilgrims' errand into the wilderness was the ultimate faith-based initiative.

To understand the seventeenth century world of New England, one must begin by exploring the faith that convinced men to leave England and create a new England in America. This 400th Anniversary Edition contains not only Bradford's text but articles written by seventeenth century historians who place Bradford's narrative in context. Kenneth P. Minkema, Executive Editor of *The Works of Jonathan Edwards*, Director of the Jonathan Edwards Center at Yale University, and Research Scholar at Yale Divinity School, produced a verbatim transcript of Bradford's handwritten manuscript and other writings. Dr. Minkema's essay, "Of Plimoth Plantation: An Overview," examined the themes Bradford developed in his journal, including the ways that the Mayflower Compact created a "Civil body politic" that enabled Plymouth's settlers to frame "just & equal laws" to which all settlers gave "due obedience and submission."¹⁰

Francis J. Bremer, Professor Emeritus at Millersville University of Pennsylvania, biographer of Massachusetts Bay Governor John Winthrop, and, most recently, author of *One Small Candle: Plymouth Puritans and the Shaping of Puritan New England*, introduces the reader to "William Bradford: His Writings and Religion."¹¹ He describes how Plymouth Colony arose as a result of "values and behavior derived from the debates that emerged following the English reformation engineered by Henry VIII and his son Edward VI, reversed by Mary Tudor, and then solidified by Elizabeth I."¹²

Jeremy D. Bangs, the retired former Director of the Leiden American Pilgrim Museum, the world's foremost expert on the Pilgrims' 1608-1620 exile in the Netherlands, and an internationally recognized scholar of the Reformation, checked every word, every letter, and every inkblot of the transcript, compared photos of the original manuscript with Kenneth's transcription, proposed an alternative reading on a few occasions.

The result of this scholarly troika's collaboration is a definitive presentation of Bradford's journal. Yet it is not the only way to understand the birth of Plimoth Plantation. Looking back across four centuries, many Native Americans lament the Pilgrims' arrival as a story of depopulation, tragic losses, and promises betrayed that began at the farming fields they knew by the Algonquian

⁹ *Ibid.*, 180.

¹⁰ *Ibid.*, 49-88, at 58.

¹¹ *Ibid.*, 3-24.

¹² *Ibid.*, 3.

Indian name as *Patuxent*. Frank Wamsutta James, an activist of the Wampanoag tribe, offered a non-European perspective in 1970:

What has happened cannot be changed, but today we must work towards a more humane America, a more Indian America, where men and nature are again important; where the Indian values of honor, truth, and brotherhood prevail. You the white man are celebrating an anniversary. We the Wampanoags will help you celebrate in the concept of a beginning. It was the beginning of a new life for the Pilgrims. Now, 350 years later it is a beginning of a new determination for the original American: the American Indian.¹³

From 1970 to the present, some Native peoples have commemorated, rather than celebrated, Thanksgiving as the *National Day of Mourning*.

Paula Peters, a journalist, educator, and member of the Wampanoag tribe, offers a Native perspective long missing from books about the birth of New England in her essay, "Of Patuxet."¹⁴ She rejects traditional interpretations of the six-point, March 1621 treaty between Plymouth Colony settlers and the Wampanoag Natives as a "harmless and friendly agreement," opining that "the authors, penning the document in English, took clear advantage of language and cultural ambiguity to deceive [Wampanoag sachem/chief Massasoit] Ousamequin, who was unable to discern the not-so-subtle threat to Wampanoag sovereignty."¹⁵ She delves into an early version of the *Theory of Discovery* that Bay Colony Governor John Winthrop relied upon to assert sovereignty over Native lands: "This savage people ruleth over many lands without title or property; for they enclose no ground, neither have they cattle to maintain it, but remove their dwellings as they have occasion, or as they can prevail against their neighbors. And why may not Christians have liberty to go and dwell amongst them in their waste lands and woods...as Abraham did among the Sodomites? For God hath given to the sons of men a twofold right to the earth: there is a natural right and a civil right."¹⁶ Although the Indians enjoyed a natural right to possession of their lands, English settlers claimed a superior, civil right to claim the land under their king. Plymouth Governor William Bradford reached similar conclusions, yet cloaked his intentions by using language far more diplomatic, and far less offensive, than Winthrop's words.

Bradford writes so movingly it becomes easy to forget he was a career politician. Elected and re-elected governor every year but five from 1621 until 1657, he bestrode Plymouth like a colossus. Fearful of England's kings and bishops, Spanish, French, and Dutch rivals, and indigenous peoples, Governor Bradford augmented his fledgling state's military, elevated farming over fishing and finance, and safeguarded Separatism by suppressing competing Christian faiths. The 400th Anniversary edition of Bradford's history, the finest edition available, will reward any reader interested in learning about Anglo-American law, government, and religion.

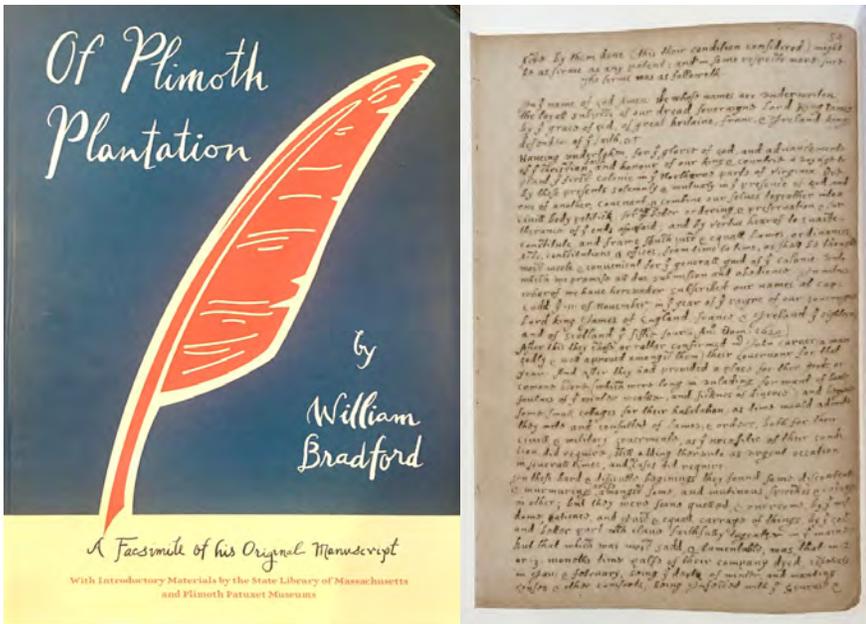
¹³ *Ibid.*, xi.

¹⁴ *Ibid.*, 25-48.

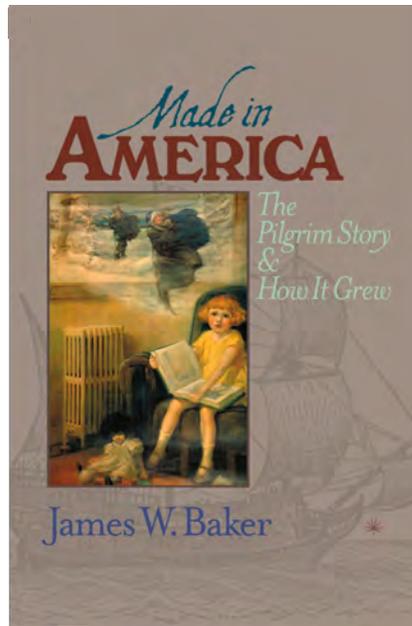
¹⁵ *Ibid.*, 35.

¹⁶ *Ibid.*, 41, quoting Francis Higginson's copy of John Winthrop's "General Observations" (May 1629), in Allyn B. Forbes, editor, *Winthrop Papers* (Boston: Winthrop Society, 5 vols., 1929-1947), volume 2, 120, <http://www.masshist.org/publications/winthrop/index.php/view/PWF02d073>.

If you're one of those history-minded folks who insist on reading primary sources, you should think about buying *Of Plimoth Plantation, by William Bradford: A Facsimile of his Original Manuscript, with Introductory Materials by the State Library of Massachusetts and Plimoth Patuxent Museums*.¹⁷ You can see how Bradford wrote in dark brown, iron gall ink on cream-colored rag paper. Scholars at Plimoth Patuxent, a Plymouth museum that reconstructs the colony as it appeared in 1627, and the State Library of Massachusetts, have carefully crafted a photographic facsimile of Bradford's handwritten journal. They published its 580 pages in a unique 11 ½ inch by 7 ¾ inch format that makes it look as if Bradford just set it down.



Plymouth historian James W. “Jim” Baker, a twelfth-generation descendant of nine Mayflower families and a life-long resident of Plymouth, presents the stories of Plymouth Colony’s Pilgrims in an excellent book *Made in America: The Pilgrim Story & How It Grew*.¹⁸ The former Director of Research at Plimoth Plantation and the former President of Plymouth’s Old Colony Club, Baker authored *Thanksgiving: The Biography of an American Holiday, A Guide to Historic Plymouth*, many other books, and countless articles about his home town and the Pilgrims. He has a wry sense of humor, as reflected in his choice of “Cheerio,” the dour, buckle-hatted prude on the June 24, 1920 issue of *Life Magazine*, to exemplify stodgy stereotypes of Pilgrims.¹⁹



Baker examines the birth of the term “Pilgrims” and the differences between them and the

¹⁷ (Plymouth, Ma.: Plimoth Patuxent Press, 2020).

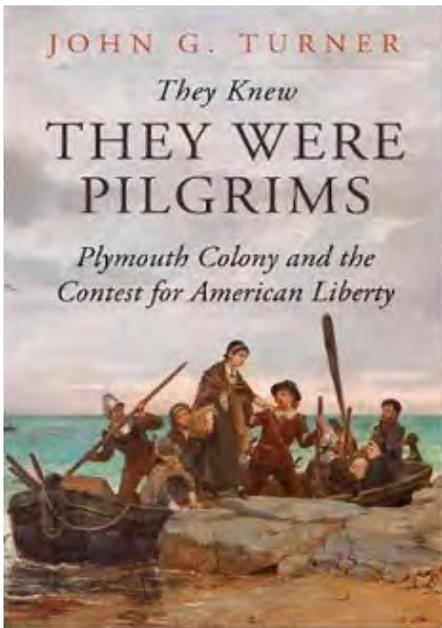
¹⁸ (Plymouth, Ma.: General Society of Mayflower Descendants, 2020), <https://shop.themayflowersociety.org/product/made-in-america-the-pilgrim-story-and-how-it-grew-by-james-w-baker/357>.

¹⁹ James W. Baker, *Made in America*, 40.

Puritans of the Massachusetts Bay Colony. He unpacks traditions of Plymouth Rock, Forefathers' Day, and the first Thanksgiving, as well as allegations that the Pilgrim Fathers experimented with communism in 1623. His gallery of plaques, landmarks, and statues reveal the special character of Plymouth, "America's Home Town." He devotes three chapters to music and songs. Three-dimensional postcards created for viewing through stereopticons, covers of novels and popular histories, and even crassly commercial ads for *Plymouth Rock Matches*, *Pilgrim Positive Wear Hosiery*, and *John Alden Brand Absolutely Boneless Codfish*, bring the Pilgrims' story to life.

Most importantly, Baker chronicles the Pilgrims' historiography—from Edward Winslow and William Bradford's first, roughly contemporaneous (1622) account, *Mourt's Relation, A Journal of the Pilgrims at Plymouth*,²⁰ through modern times. "We owe the Pilgrim colonists, whose lives and achievements—and failures—are the historical basis for the narrative of the 'Pilgrim Story,' an impartial appreciation of their actual role in history apart from partisanship by either their advocates or critics," Baker observes. Plimoth Patuxet Deputy Executive Director Richard Pickering praises Baker's "always distinctive, balanced, and perceptive voice." Pickering is right about that. "The facts are what they are," Baker writes, "the opinions are those of the author, and may be honestly debated given the evidence shown or referenced."

"Lord have mercy upon us, *Kyrie eleison*." Religious Studies Professor John G. Turner begins by quoting the Anglican Church's formal prayer in his new book, *They Knew They Were Pilgrims: Plymouth Colony and the Contest for American Liberty*.²¹ "Familiar from their repetition in the Church of England's *Book of Common Prayer*, the words assumed a very different meaning when [future Pilgrim leader] Robert Cushman tacked them on a church door" in Canterbury in 1603. Harkening back to Martin Luther's 95 theses, "[t]he implication was that God needed to save his people from a corrupt church. A few years later, Cushman concluded that the Church of England was beyond rescue. The church-door libels were the first step that took Cushman to the Dutch Republic and then to Plymouth Colony."



The book takes its title from Governor William Bradford's lamentation at leaving Leiden, Holland to sail to America: "they knew they were pilgrims, and looked not much on those things, but lift[ed] their eyes to the heavens, their dearest country, and quieted their spirits." Turner focuses on the history of Christian liberty, which required biblically-based worship and church government. In accord with Jean Calvin's teachings, each congregation's members elected their own minister, ruling elder, and deacons in accord with New Testament precedent.

Religious toleration was the exception rather than the rule when it came to Christian liberty. In 1645, Governor Bradford pocket-vetoed the Court of Assistants' vote in favor of religious dissident William Vassall's petition for "full and free tolerance of religion to all men that would preserve the Civil peace and submit unto Government...[with] no limitation or exception against Turk,

²⁰ (Cambridge, Ma.: Applewood Books, 1986).

²¹ John G. Turner, *They Knew They Were Pilgrims: Plymouth Colony and the Contest for American Liberty* (New Haven: Yale University Press, 2020).

Jew, Papist, Arian, Socinian, Nicholaytan, Familist, or any other.” Governor Bradford understood Christian freedom to mean that the people of Plymouth were free to become Separatists—or they were free to leave. The Court of Assistants’ vote shows that other Pilgrims took real religious freedom more seriously than Bradford or his Puritan counterparts in the Bay Colony.

These four books show that the Plymouth Colony’s Pilgrims paved the path that led America to real religious freedom. That’s something to be grateful for on November 25, 2021—the 400th anniversary of the first Thanksgiving at Plymouth.



DAVID FURLOW *spends much of the year in his house at 2 Carver Street in Plymouth.*

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2021 Texas Bar Foundation Award Recipients

The Texas Supreme Court Historical Society is pleased to present the Texas Bar Foundation's 2021 award recipients. The Texas Bar Foundation honors legal professionals who exemplify the highest standards of the profession and this year is no different.

This year's recipients of the Outstanding 50 Year Lawyer Award include Allen K. DuBois of San Antonio, TSCHS contributing member Kelly Frels of Houston, Harriet Miers of Dallas, and Terry O. Tottenham of Austin.



The Dan Rugeley Price Memorial Award will be awarded to Billie J. Ellis of Dallas. The Outstanding Law Review Article Award will be awarded to Kem Thompson Frost of Houston. The Ronald D. Seacrest Outstanding Trial Lawyer Award will be awarded to Frank L. Branson of Dallas. The Lola Wright Foundation Award will be awarded to TSCHS Greenhill Fellow Robert A. Black of Beaumont. The Samuel Pessarar

Outstanding Jurist Award will be awarded to TSCHS trustee Judge Xavier Rodriguez of San Antonio. The Gregory S. Coleman Outstanding Appellate Lawyer Award will be awarded to former TSCHS President and current Greenhill Fellow Marcy Hogan Greer of Austin. And finally, the Terry Lee Ganthem Memorial Award will be awarded to Terry Bentley Hill of Dallas.

This year's winners will be recognized at the 2021 Texas Bar Foundation's annual dinner. More information and registration options for this event can be found at www.txbf.org.



Robert A. Black



Marcy Hogan Greer



Hon. Xavier Rodriguez

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Call for Applications: 2022 Larry McNeil Research Fellowship in Texas Legal History

By David A. Furlow

The Texas Supreme Court Historical Society and the Texas State Historical Association (“TSHA”) are pleased to announce that applications are now being accepted for the 2022 Larry McNeill Research Fellowship in Texas Legal History.

Established in 2019 in honor of attorney Larry McNeill, the \$2,500 annual fellowship is awarded to an applicant who submits the best research proposal on some aspect of Texas legal history. Competition is open to any applicant pursuing a legal history topic, including judges, lawyers, college students, and academic and grass-roots historians. The award will be made at the Texas Historical Association’s Annual Meeting in March 2021.



Larry McNeil

An application, which should be no longer than two pages, should specify the purpose of the research and provide a description of the end product (article or book). An applicant should include a complete vita with the application. The award will be announced at TSHA’s Annual Meeting in Austin in February of 2022. Judges may withhold the award at their discretion.

Individuals wishing to apply should submit an application form (and attach the proposal and a curriculum vita) by October 15, 2021. Only electronic copies submitted through the link below and received by the deadline will be considered. For more information, please see the announcement at <https://www.tshaonline.org/awards/larry-mcneill-research-fellowship-in-texas-legal-history>.

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An Exceptional Supreme Court History and Current Practice Symposium

By David A. Furlow



Lynne Liberato and Richard Orsinger presented an all-encompassing *Supreme Court History and Current Practice* symposium on April 14. The State Bar has sponsored this course since its inception in 2002, while the Society added a Texas Supreme Court History Course component in 2013. This year 115 attorneys registered for the April 14 program, a mark of the program's success.

"This year the Zoom format allowed us to bring together contributors for wide-ranging, tightly-packed presentations covering six eras of Texas Supreme Court History," Richard Orsinger stated. "We offered a close look at Chief Justices Calvert, Greenhill, and Pope; a panel discussion of Texas's three living Chief Justices; the story of one of the first African-American female attorneys in Texas; the development of Texas's best-in-the-nation continuing legal education and legal specialization programs; and the Office of Court Administration's 2020 twin crises of ransomware attack and the Covid pandemic."

Last December, Richard Orsinger and Lynne Liberato asked me to participate in presenting a series of six 10-minute "lightning-round" presentations about key eras in the history of the Texas Supreme Court. Richard and Lynne asked which trustees had knowledge of both the nineteenth century court and the nineteen-thirties and nineteen-forties and might join us in making such a presentation. I recommended Stephen Pate, a trustee, because of the scholarly articles about both eras he published in our society's journal. Richard and Lynne approved.

Richard then suggested that we could cover the history of the court by presenting six fast-paced lightning-round sessions to former Texas Supreme Court Chief Justices Tom Phillips and Wallace Jefferson and current Chief Justice Nathan Hecht, to serve as a basis for conducting a wide-ranging discussion about the recent history of the Texas Supreme Court. And that's what we did, dividing responsibility as follows:

1. The Republic of Texas's Frontier Court, 1836-1846, David Furlow;
2. Early Statehood: 1846-1860, Steve Pate;
3. Rebellion, Reconstruction & Restoration, 1861-1876, Richard Orsinger;
4. Industrialization and the Progressive Era, 1882-1925, David Furlow;

5. Depression, New Deal & World War II, 1929-1945, Steve Pate; and
6. Chief Justices Calvert, Greenhill and Pope, 1961-1985, Richard Orsinger.

Sample slides from presentations

Key Eras In the History of the Texas Supreme Court

RICHARD R. ORSINGER
 Tower Life Building, 26th Floor
 San Antonio, Texas 78205

 5950 Sherry Lane, Suite 800
 Dallas, Texas 75225

 2600 Network Blvd. #200
 Frisco, Texas 75034

Texas Supreme Court: History & Current Practice
 April 14, 2021
 Webcast

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 Richard R. Orsinger
 All Rights Reserved
 rorsing@texascourts.com

Calvert: Personal Timeline

- 1905 -- born in Tennessee
- 1912 – father died; lived with paternal grandparents
- 1913 – mother took kids to Texas; Corsicana Orphans' Home
- 1918 – sister died in influenza epidemic
- 1921 – lobbied Legislature for Orphan's Home; \$100,000 grant
- 1923 – graduated high school; Univ. of Texas pre-law; job operating elevator in Capitol
- 1924 – dropped out of school
- 1925 – full-time job at Industrial Accident Board
- 1926 – entered law school
- 1927 – half-time job as mail clerk in State Fire Insurance Dept.
- 1928 – quit school; full time job night watchman at Land Office Building
- 1929 – re-entered law school; full time job as night watchman
- 1931 – graduated law school; moved to Hillsboro; free office; earned \$7.50 1st month
- 1933 – elected House of Representatives from Hill & Navarro Counties
- 1934 – 2nd term in the House; ran for Speaker, lost to Coke Stevenson
- 1936 – 3rd term in House; unopposed for Speaker; practiced law
- 1943 – elected Navarro County criminal district attorney; Hillsboro School Board
- 1946 – selected Chair of State Democratic Executive Committee
- 1948 – canvassed votes in LBJ's stolen primary election vs. Coke Stevenson
- 1994 – died; buried in State Cemetery, Austin

1861–1865 Civil War Court



Oran M. Roberts



George Fleming Moore



James Hall Bell

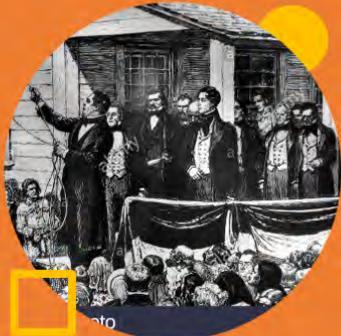


Royall T. Wheeler



Reuben A. Reeves

Present at the
Creation: The Texas
Supreme Court
1845-1860-
Stephen Pate, Cozen
O'Connor





Key Eras Leading to the Modern Court: The Republic of Texas's Frontier Court, 1836-1846

David A. Furlow

Texas Supreme Court Historical Society:
History of the Texas Supreme Court




The 3rd Chief Justice, Thomas Rusk, opened the Court's 1st session in the house of the Republic's Treasurer, Asa Brigham, on January 13, 1840.

The Court consisted of a chief justice and the Republic's five district court judges.

That first session handled 49 cases and issued 18 opinions.

Texas Supreme Court: History & Current Practice

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WEBCAST

April 14, 2021

WEBCAST REPLAY

May 12, 2021



Wednesday

7.25 hours including 2.75 ethics

8:55 Welcoming Remarks

Course Directors

Lynne Liberato, *Houston*
Haynes and Boone

Richard R. Orsinger, *San Antonio*
Orsinger Nelson Downing & Anderson

9:00 Key Eras Leading to the Modern Court .75 hr

David A. Furlow, *Houston*
The Law Office of David A. Furlow

Richard R. Orsinger, *San Antonio*
Orsinger Nelson Downing & Anderson

Stephen P. Pate, *Houston*
Cozen O'Connor

9:45 Chief Justices' Panel: The Texas Supreme Court Through the Eyes of Its Chief Justices 1 hr (.25 ethics)

Moderator

Lynne Liberato, *Houston*
Haynes and Boone

Panelists

Hon. Nathan L. Hecht, *Austin*
Chief Justice, Supreme Court of Texas

Hon. Wallace B. Jefferson, *Austin*
Chief Justice (Ret.), Alexander Dubose & Jefferson

Hon. Thomas R. Phillips, *Austin*
Chief Justice (Ret.), Baker Botts

10:45 Break

11:00 A Profile in Courage: Gloria Katrina Bradford .5 hr

Jasmine S. Wynton, *Dallas*
Thompson Coburn

11:30 Best in the Nation: The Development of CLE and Legal Specialization in Texas .5 hr (.25 ethics)

Moderator

Richard R. Orsinger, *San Antonio*
CLE Committee Chair 2000-2002

Panelists

Julene Franki, *San Antonio*
Director, TexasBarCLE 2000-2005;
Former Executive Director, ALI-ABA

Gary W. McNeil, *Austin*
Executive Director, Texas Board of Legal
Specialization 1985-2016

Pat Nester, *Driftwood*
Attorney at Law
Director, Professional Development
Division 1986-2000;
Director, TexasBarCLE 2005-2015

12:00 Break

12:15 2020 in Review: The Texas Court System's Response to the Ransomware Attack and COVID-19 .25 ethics

David Slayton, *Austin*
Administrative Director, Office of Court
Administration

12:30 Statistics and Probabilities of Petition Granted, Briefing, and Reversal in the Texas Supreme Court .25 ethics

Don Cruse, *Austin*
Law Office of Don Cruse

12:52 New Year? New Discovery Rules! .25 ethics

Thad Spalding, *Dallas*
Durham Pittard & Spalding

1:15 Break

1:30 The State of the Texas' Supreme Court and Judiciary .5 hr

Hon. Nathan L. Hecht, *Austin*
Chief Justice, Supreme Court of Texas

1:55 Recent Texas Supreme Court Decisions .5 hr

Hon. Jane Bland, *Austin*
Justice, Supreme Court of Texas

2:20 Getting Your Foot in the Door: The Art of Crafting a Successful Petition for Review .5 hr (.25 ethics)

Kevin Dubose, *Houston*
Alexander Dubose & Jefferson

2:45 Break

3:00 Preparing a Winning Brief on the Merits .5 hr (.25 ethics)

Warren Harris, *Houston*
Bracewell

3:25 What the Justices Are Looking for in Briefs on the Merits .5 hr (.25 ethics)

Hon. Rebeca Huddle, *Austin*
Justice, Supreme Court of Texas

3:50 Preparing for and Giving an Effective Oral Argument .5 hr (.25 ethics)

Anne Johnson, *Dallas*
Haynes and Boone

4:15 Rare Earth: Original Mandamus Jurisdiction in the Texas Supreme Court .5 hr (.25 ethics)

Jay Jackson, *Houston*
Burford Perry

4:40 Pending Legislation & Rule Changes You Should Know About .25 ethics

Jerry D. Bullard, *Grapevine*
Adams Lynch & Loftin

5:00 Adjourn

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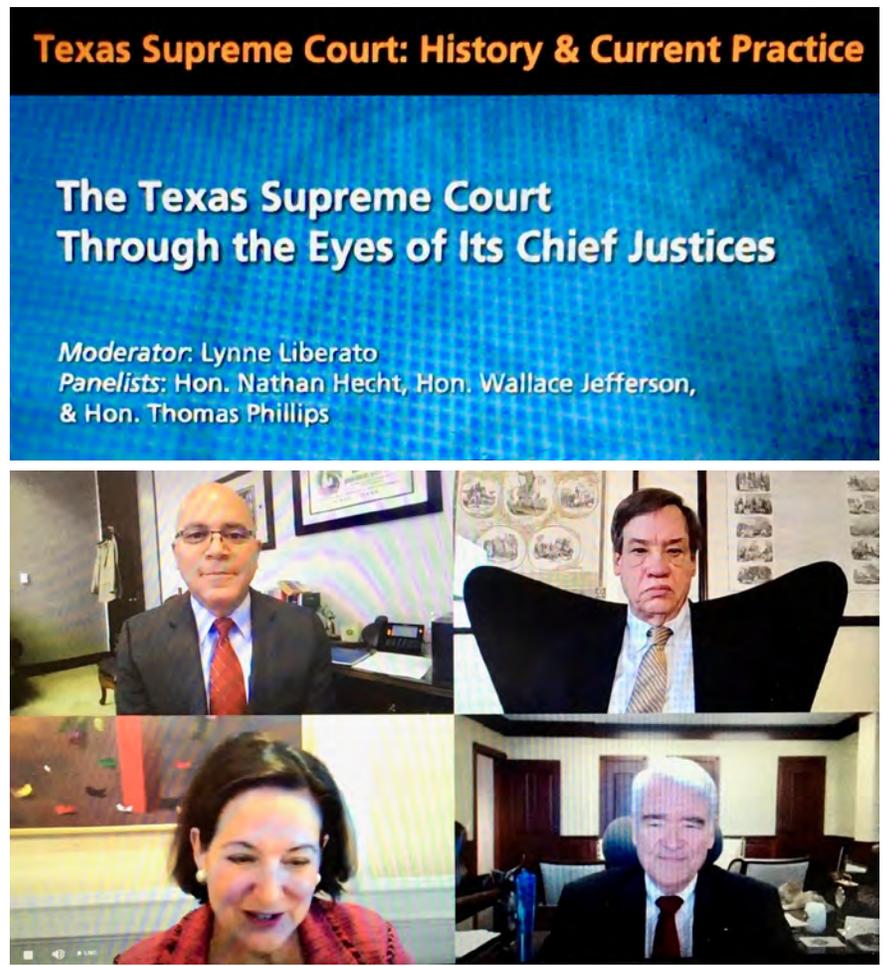
Richard, Lynne, Steve, and I planned our work, then worked our plan. We prepared our PowerPoints, each in ways that accorded with experience developed over many years. We recorded our presentations in late February so the Chief Justices could see them before Lynne interviewed them as part of the April 14 panel discussion. Everyone who registered for the program received a copy of each panelist's paper or Powerpoint presentation.

Everything went according to plan during the April 14 webcast. Lynne Liberato led the Society's special panel of Chief Justices through a lively discussion of the Court's past, present and future. Lynne asked Chief Justice Hecht about the impact of Covid-19 on the Texas Supreme Court and judiciary.

"The pandemic is not the disaster we wanted," Chief Justice Hecht responded. "But it may be the disaster we needed.... I'm hopeful, twenty-five years from now, this will be the beginning, the first efforts to have really visionary change in the justice system. Just like the problems in the Eighties led to a different Court in the Nineties, and the necessities and benefits of working more closely with the branches—with the Executive Branch and the Legislative Branch—for improvements in the justice system led to changes in the Aughts and the Teens, I wonder if they won't say, I hope they'll say, that the Covid pandemic led to a period of really profound changes in the way the civil justice system operates. And that the Texas Supreme Court led the way..."

Chief Justices Hecht, Phillips, and Jefferson then engaged in an overview of the Court's history and the prospects for future reform. That colloquy alone was worth the price of registration.

"In the afternoon our speakers included Chief Justice Hecht on the state of the Judiciary," Orsinger continued, "Justice Jane Bland discussing recent significant Supreme Court cases, and tips from new Justice Rebeca Huddle on effective brief-writing techniques." Justice Bland provided one of the speeches trial and appellate attorneys value, "Recent Texas Supreme Court Decisions." Justice Huddle pulled back the curtain of judicial decision-making to reveal "What the Justices Are Looking for in Briefs on the Merits." In addition to judicial insights, the day-long program included special insights about the development of continuing legal education.





Screen shots of the speakers

Pat Nester, Director of the State Bar's Professional Development Division from 1986-2000, Director of *TexasBarCLE* from 2005-2015, and this Society's previous Executive Director, returned from rustic Driftwood to participate in "Best in the Nation: The Development of CLE and Legal Specialization in Texas." Richard Orsinger moderated panel discussions among Pat, Gary W. McNeil, Executive Director of the Texas Board of Legal Specialization from 1985 to 2016, and Julene Franki, Director of *TexasBarCLE* from 2000-2005.

In addition to judges, justices, and CLE All-Stars, presenters included some of the best appellate practitioners in the State. Warren Harris provided a pragmatic analysis of how to brief a case in the Texas Supreme Court. Jerry D. Bullard examined pending legislation and changes in the rules governing judicial proceedings. Anne Johnson offered tips for preparing for oral argument. The symposium offered something for everyone. And those were only a few of many great speakers who presented papers at the symposium.

One of the best things about working on this program has been seeing Richard's scholarly, thirty-two-page paper "History of the Texas Supreme Court through Rebellion, Reconstruction & Restoration (1860-1876)." I look forward to seeing more scholarly analysis from him in the immediate future. "I am close to finishing my article on Calvert, Greenhill, and Pope, and a history of the efforts to reform judicial selection in Texas." This is precisely the kind of work that Chief Justices Calvert, Greenhill, and Pope organized the Society to undertake.

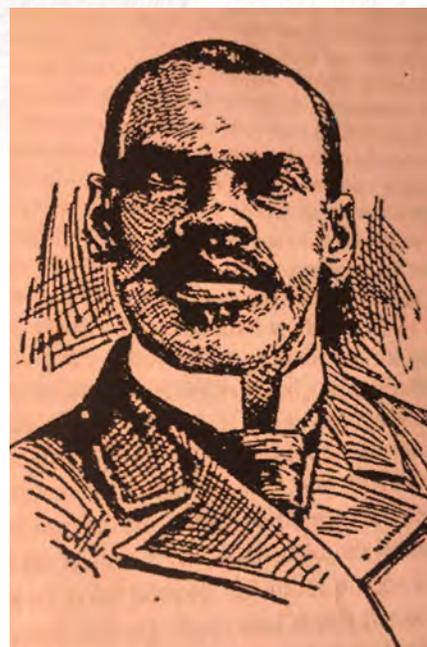
"This is a great opportunity to enjoy hearing 7.25 hours of MCLE credit," Richard Orsinger observed, "as well as 2.75 hours of ethics, all from the comfort of your office or home."

Anyone interested in learning more about the symposium, obtaining access to the papers presented, or viewing the archive of the webcast can find additional information at <https://www.texasbarcle.com/CLE/AABuy0.asp?sProductType=EV&IID=19727>.

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Journal Article on Trailblazing Lawyer Earns Media Spotlight

The Journal's work shining a light on the previously overlooked history and contributions of Texas' African American lawyers and judges has inspired people throughout our state's legal community and earned a national award from the American Association for State and Local History. Apparently, it has also attracted interest from outside the legal and academic communities. The Fall 2020 article by Society Trustee John G. Browning about John N. Johnson—Austin's first Black attorney and Texas' first civil rights lawyer—piqued the interest of longtime *Dallas Morning News* columnist Dave Lieber. The veteran journalist was amazed that Johnson's inspiring story had evaded historical scrutiny until Browning's research. Lieber made Johnson the subject of his February 12, 2021 Black History Month feature story in the *Dallas Morning News*, "Lawyer Ahead of His Time, Lost to History."



John N. Johnson

Noting that Johnson was making cutting-edge racial justice arguments at a time when such strategy could mean racial violence or even death for a Black lawyer, Lieber said that Austin's first African American attorney was simply asking for equality, or as Johnson himself put it, to "untie our hands and give us a white man's chance." Lieber drew liberally from the Journal's article about the trailblazing lawyer and was quick to credit both the TSCHS Journal and author John Browning for "raising this ghost from the land of the forgotten." Lieber's article also quoted Randy Haynes, historic preservation officer for the city of Bryan (where Johnson first sought admission to the bar and where he tried some of his early civil rights cases). Haynes stated that thanks to Browning's research, the city is considering a historical marker to commemorate Johnson's legacy.

The *Dallas Morning News* article triggered a wave of calls and emails to John Browning. Most were communications thanking him for informing the public about Johnson or inviting him to speak on the topic to local civic groups. Some, says Browning, "were pretty emotional," especially from members of the African American community, who were "grateful that the Society and I were bringing this history to light." An abbreviated version of the Journal's article on Johnson also appeared in the February 2021 *Texas Bar Journal* as part of the magazine's special Black History Month issue. Browning also appeared on the national legal podcast "Law to Fact" to discuss Johnson and other early Black lawyers in Texas.

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The Society Went Virtual at TSHA's 125th Annual Meeting to Examine "Account-Ability in Court, From Slavery to Scandal"

By David A. Furlow

The Society presented a special panel-program, *Account-Ability in Court: From Slavery to Scandal*, at the Texas State Historical Association ("TSHA") 2021 Annual Meeting. This was TSHA's first online, virtual annual meeting, something that required more advance planning for the Society than in any of its previous programs for an annual meeting. While the format was unprecedented and challenging, thanks to the Covid-19 pandemic, the Society's speakers and TSHA representatives worked hard to ensure that the Society's panel-program was memorable, educational, and fun. This year's meeting included research and work from Texas's best historians—including our Society's President, Cynthia Timms, Stephen Pate, one of the Society's trustees and a panel-presenter, the Society's guest speaker University of Texas History Department Dean Daina Ramey Berry, and Society trustee Justice David Keltner, who served in the vital role of TSHA Commentator.



Both Covid-19 and the virtuosity of virtual programming made TSHA's 125th Annual Meeting special.

The Society's speakers made themselves available in January to prerecord presentations—a first for TSHA. This presented a challenge when one of the Society's speakers—Steve Pate—came down with Covid-19 a week before State Bar Video Department Director Paul Burks was scheduled to record his session. Pate persevered, however, presented his own PowerPoint, and contributed his historical expertise to the session—despite the exhaustion and illness Covid brings with it. Dean Berry overcame a bicycle injury to offer her own contribution. Everyone who registered for TSHA's annual meeting could watch our speakers' programs from February 17, 2021 through the conference's end on March 6, 2021—enabling many attendees to ask follow-up questions during the live panel presentation on the conference's final day.



Account-Ability in Court: From Slavery to Scandal

Speaker: Cynthia Timms, President, TSCHS

Introduction

Texas Supreme Court Historical Society
TSHA 2021 Annual Meeting Saturday, March 6, 2021

Left: Society President Cynthia Timms. Right: The first slide of President Timms' presentation introducing the Society and the panel. Below: President Timms' slides shared the Society's story with those in the audience.

Journal of the TEXAS SUPREME COURT HISTORICAL SOCIETY
 Summer 2018 Vol. 7, No. 4 General Editor Lynne Liberato Executive Editor David Furlow

Columns

Immediate Past President's Message
 By Dale Wainwright
 Before I look back at some of the highlights of the past year, I want to feature two upcoming events on the Society's calendar. [Read more...](#)

Executive Director's Page
 By Sharon Sandle
 It has been sixty-eight years since the landmark case *Serrano v. Priest* challenged the "separate but equal" doctrine of segregation in education. [Read more...](#)

Executive Editor's Page
 By David A. Furlow
 Soon after becoming the Society's President, Texas Supreme Court Justice Dale Wainwright (ret.) suggested that the *Journal* dedicate an issue to the contributions of African-American judges. This special issue is the culmination of that project. [Read more...](#)

Message from the 2018-19 President
 By Marcy Hagan Greer
 Our outgoing President has done so much to advance the Society, and I have big shoes to fill. I want to thank him for his many contributions to and support for the Society. [Read more...](#)

Friday's Column
 By David J. Beck
 Thanks to coauthors Jon Haley and Marilyn Duncan, we are pleased to report that the third book in our judicial chiefs and court history project, *Taming Texas*, is nearing completion. [Read more...](#)

Emeline a free woman of color suing for herself & children by Gray & Cooke att'ys

AASLH
Leadership in History Awards

Philadelphia, Pennsylvania | August 30, 2019

AMERICAN ASSOCIATION OF STATE AND LOCAL HISTORIES
 PRESENTS
Award of Excellence
 TO
 Texas Supreme Court Historical Society
 FOR
 the Journal of the Texas Supreme Court Historical Society

The Society's President, Cynthia Timms, a partner in the Locke, Lord law firm and the Chair of its Appellate Practice Group, began the panel-program by introducing the Society and speakers—first in her pre-recorded presentation and then again, live, on March 6. Through her PowerPoint, she highlighted the Society's books and journal, praised the Taming Texas teaching program, and hailed the Society's groundbreaking "Night with the Court" collaboration with the State Bar Appellate Section. President Timms's slides showed the audience the many unique and important ways the Society carries out its mission of educating the public about the history of the Texas Supreme Court, the state's judiciary, and the rule of law.

The Society's first speaker, Prof. Daina Ramey Berry, is the Dean of the History Department at the University of Texas at Austin. A renowned scholar of slavery, the African diaspora, and Black Women's History, she is the award-winning author and editor of six books, including *A Black Women's History of the United States*.



Left: Dean Daina R. Berry. Right: Slide 1 from Dean Berry's PowerPoint, "Improper Intimacy: Slavery & Infidelity in Montgomery County, Texas."

Dean Berry focused her presentation on slavery in Montgomery County, Texas by focusing on *Cartwright v. Cartwright*, 18 Tex. 626 (1857). In the 1850s, Williford and Pink Cartwright divorced after nearly twenty years of marriage. As customary, the Cartwrights divided their property incidental to their divorce—but their property included human beings as well as land, livestock, and personal items. Issues of infidelity, community property, and rights to land ownership ended up in the Texas State Supreme Court. The couple fought over the ownership of two enslaved women, Jane and Mary, a mother and daughter with connections to a larger enslaved community.

Were the enslaved women community property or separate property, the Court asked. And what about the allegations about Williford Cartwright's improper intimacies with his slave, Jane? If consent cannot be denied, as a matter of law, it cannot be given, either. Any child born to such a coerced union must be seen as one conceived in rape. Dr. Berry's presentation enabled TSHA attendees to explore the lives of the enslaved, their kinship ties, and their experiences with slavery in Montgomery County, Texas. She finished her presentation with slides that provided information

about on-going historical projects gathering data useful for studying the lives of enslaved people, and specifically runaway slaves, in Montgomery County and throughout Antebellum Texas.

Stephen Pate, the Society's second speaker, is a lawyer, historian, and Society trustee. He has published works in the *Handbook of Texas* and has contributed many deeply-researched articles to the *Journal of the Texas Supreme Court Historical Society* over the past five years. A partner at Cozen O' Connor in Houston, Texas, Steve is a Phi Beta Kappa graduate of Vanderbilt University, where he majored in History, and a graduate of Vanderbilt Law School. An Advocate in the American Board of Trial Advocates, a Regent of the American College of Coverage Counsel, and a Member of the American Law Institute, he brought a life-long litigator's experience to bear while examining an important election case that could have been ripped from recent headlines.

Account-Ability in Court: From Slavery to Scandal

A Hot Time in the Old Town Tonight! Wurzbach vs. McCloskey—Scandal in a 1928 Texas Congressional Election

Speaker: Mr. Stephen Pate

Cozen & O'Connor Law Partner; Texas Supreme Court Historical Society Trustee; TSCHS Journal Research Editor

Texas Supreme Court Historical Society
TSHA 2021 Annual Meeting Saturday, March 6, 2021

TSCHS - Account-Ability in Court: From Slavery to Scandal

Left: Stephen Pate, law firm photo. Middle: Slide 1 from Stephen Pate's PowerPoint, "A Hot Time in the Old Town Tonight! Wurzbach vs. McCloskey—Scandal in a 1928 Texas Congressional Election." Right: In *U.S. v. Wurzbach*, 280 U.S. 396 (1930), Associate Justice Oliver Wendell Holmes, Jr. wrote for a unanimous Supreme Court.

Mr. Pate analyzed an election scandal about missing and fraudulent votes in the 1928 election in the Fourteenth Congressional District, which included eleven counties. The contest involved the only Texas Republican Member of Congress for a fifty-year stretch. Republican Harry Wurzbach was the incumbent Congressman. San Antonio Mayor C.M. Chambers, "Duke of Duvall County" George Parr, State Representative Sam Ealy Johnson, and Johnson's son Lyndon met in Houston to plot Wurzbach's defeat.

The San Antonio political "machine" supported Augustus McCloskey, a Democrat. Insiders destroyed and altered ballots, resulting in an election contest in Congress, ultimately won by Wurzbach. Prosecutors indicted *both* candidates for election fraud. The U.S. Supreme Court's ruling in *U.S. vs. Wurzbach*, 280 U.S. 396 (1930), upheld the validity of the Federal Corrupt Practices Act, reviving an indictment of Harry Wurzbach, though the charge was later dismissed. A jury acquitted McCloskey of stealing votes. Mr. Pate showed how a Texas case affected national law governing disputed elections, ballot-counting, and claims of stolen elections.

WHY IT MATTERS

- **This Election Contest in the House of Representatives disputed results in the 1928 election in the Fourteenth Congressional District covering Bexar County and ten other counties in South Texas.**
- **Rare—but it happens. In *Giddings v. Clark*, in 1871, a Republican House of Representatives ousted a fellow Republican.**
- **This contest involved the only Texas Republican Member of Congress for a fifty-year stretch.**
- **The lawsuit tested the power of Bexar County’s political machine.**
- **Both candidates were indicted for election fraud. Has that happened any other time?**



Justice David Keltner. Kelly, Hart firm photograph.

The Hon. David Keltner, a partner in the Kelly & Hart Law Firm, and a former Justice of the Fort Worth Court of Appeals (retired), served as our panel’s commentator. As Commentator, Justice Keltner presented his commentary about the cases Dean Berry and trustee Pate presented. Justice Keltner also handled questions from the audience and provided answers from the online audience.

With the guidance of our TSHA Advisor, Dr. Katherine Walters, the Society’s panelists prepared to go where no Society panel had gone before—into the realm of virtual history. Knowing that some members of the audience might not have watched the prerecorded program, she briefly introduced them, then handed over the program to Justice Keltner.

Justice Keltner began by inviting readers to “look at the cases and look behind the cases” raised by the Society’s speakers. He praised Dean Berry’s focus on *Cartwright v. Cartwright*. He stated that he first saw the case cited regarding division of marital property; he then read the decision and realized, to his dismay, that the marital property being divided consisted of enslaved human beings. “Obviously, slavery is the great stain of our country, and of our state.”

Justice Keltner responded to Dean Berry’s discussion of the links between slaveowners who came to Texas from Montgomery, Alabama in the 1850s to found Montgomery County, Texas,

the county where the *Cartwright* case arose. As Montgomery, Alabama’s municipal seal reflects, the city is central to the history of slavery, the Civil War, and the Civil Rights Movement—as Montgomery County has been in Texas.



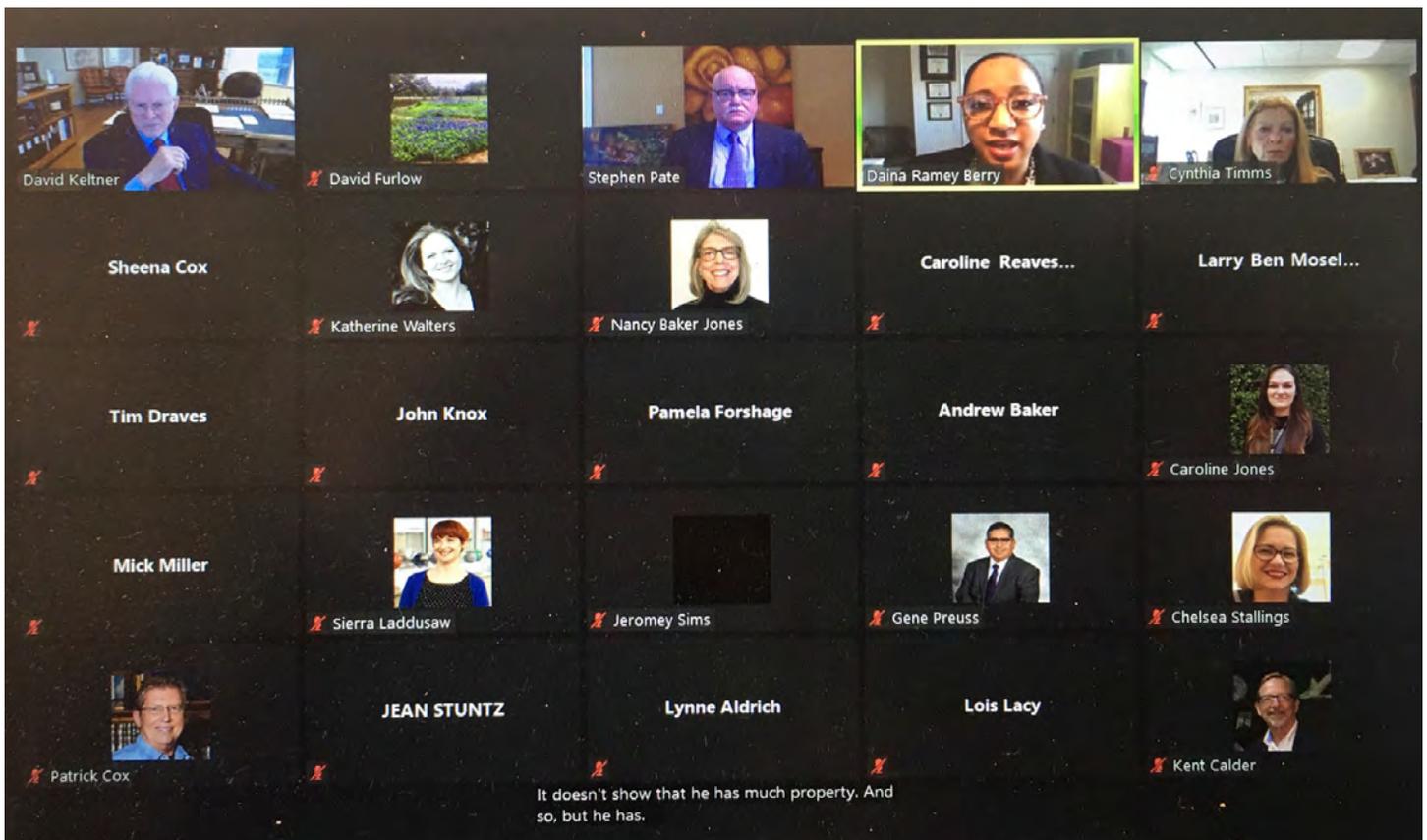
Justice Keltner then examined the way that Chief Justice John Hemphill approached the case, framing it in the context of Spanish Castilian law: “I shall examine, first, the main question in this case, and that is, whether, under the Laws of Spain, in force at the time of the marriage, the children born since the marriage, of female slaves, who were the separate property of the husband, became a portion of the community, or were the separate property of the husband.”

Dean Berry and Justice Keltner then analyzed Chief Justice Hemphill’s resolution of the *Cartwright* case in favor of the slave-owner, Williford Cartwright. He claimed that his slaves constituted his separate property because he owned them prior to marrying. When Chief Justice Hemphill decided the case, he, too, was an unmarried man. Hemphill’s enslaved concubine Sabina bore him two daughters he emancipated, in 1858, by sending them out of Texas to Xenia, Ohio to receive their education at William Wilberforce University, America’s first African American college. While Dean Berry explored the dynamics and contradictions of slavery’s impact on the enslaved, Justice Keltner analyzed how the *Cartwright* case shaped Texas jurisprudence regarding slavery, divorce law, and community property. The Court had to balance notions of justice, morality, and property law traditionally applied in an equitable division of real property, cattle, and partnership interests rather than human beings.

In his role as Commentator, Justice Keltner and Stephen Pate entered into a fascinating dialogue focusing on the law and politics of *U.S. v. Wurzbach*, 280 U.S. 396 (1930) and the bitterly-contested election of 1928. “Let’s talk about *Wurzbach*,” Justice Keltner began. “*Wurzbach* was the only Republican congressman from Texas at the time. How did politics shape that case?”

Stephen Pate spoke about *Wurzbach*’s popularity in an almost century old German immigrant community whose members liked beer and detested Prohibition. Pate and Keltner described key elements of the case—broken ballot boxes, vote totals that kept changing, and allegations of vote-stealing on a massive scale. They then explored issues in the background but not in the briefing: Texas’s All-White Primary justified on the grounds that political parties were akin to private clubs. Mr. Pate responded to TSHA President Patrick Cox’s question about the impact of the case in paving the way forward for John Nance Garner’s rise to power and prominence by discussing the likelihood that *Wurzbach* would have lost a re-election campaign in 1932, and how the scandal enabled reformer Maury Maverick to destroy the San Antonio political machine. Justice Keltner ended by praising Associate Justice Oliver Wendell Holmes’ laconic decision in *Wurzbach* as one of the briefest U.S. Supreme Court opinions that fully resolved all issues in any case. Wit brings brevity.

Members of TSHA’s virtual audience thanked the Society’s speakers for excellent presentations about important aspects of Texas history. The Society’s Hemphill Channel will make the panel program available for viewing later this year.



As the program continued, the Annual Meeting virtual audience expanded exponentially —until it exceeded the size of a laptop screen. Photo by David A. Furlow.

With the hope that the new vaccinations will end the Covid-19 pandemic, TSHA plans to hold its 126th Annual Meeting on March 3–5, 2022 as a live conference in Austin. Looking ahead, TSHA’s planners have already approved the Society’s panel-proposal for the next annual meeting. The Society’s theme is “We Stand on Their Shoulders: The Lives and Legacies of Texas’ Earliest Black Lawyers.” Tom Leatherbury will chair the program, introducing the Society and the speakers in his capacity as the Society’s President for the 2021-2022 year.

The Hon. Justice John Browning, a former justice of the Fifth Court of Appeals in Dallas (ret.) and now the Editor-in-Chief of the Society’s journal, will be the Society’s first speaker. He will present “William A. Price: From a Legacy of ‘Firsts’ to a Civil Rights Milestone.” He will examine the life and legacy of William Abram Price, Texas’ first African American attorney, first Black judicial official and elected county attorney (the equivalent of a modern D.A.), as well as Price’s contributions to Texas law and history, and as an “Exoduster” who founded Kansas’ first Black-owned law firm and won a pivotal Kansas Supreme Court desegregation case, which later served as precedent for *Brown v. Board of Education of Topeka, Kansas*, 347 U.S. 483 (U.S. 1954).

The Society’s second 2022 speaker will be the Hon. Chief Justice of the Fifth Court of Appeals in Dallas Caroline Wright (ret.). Her presentation will be “John N. Johnson: Texas’ First Civil Rights Lawyer.” She will discuss the life and work of John N. Johnson, the first African American admitted to practice before the Texas Supreme Court in 1883 and the architect of Texas’ first civil rights cases. As a lawyer, journalist, and community organizer, Johnson spoke out against many of the

issues that the African American community still deals with today—from exclusion from juries to mass incarceration and deaths of Blacks in white custody. I will again serve as panel-organizer and as TSHA Commentator in 2022.



DAVID A. FURLOW *is a historian, journalist, and former Executive Editor (2011-2020) of this journal.*

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Iconic Women in Legal History Interactive Website

On March 15, the Texas Young Lawyers Association launched the online educational platform *Iconic Women in Legal History*. The interactive website, available at <http://iconicwomen.tyla.org/>, was designed to educate high school students about the iconic women in our nation's legal history who have championed, promoted, and protected civil rights, fought for equality, and helped shape our present culture.

Iconic Women, made possible through a generous grant from the Texas Bar Foundation, was TYLA's signature program for the 2020-2021 bar year. The concept for the project was created by TYLA President Britney Harrison, a family law attorney with Goranson Bain Ausley in Dallas. This project includes several women that students are required to learn about under the Texas Essential Knowledge and Skills requirements, such as Rosa Parks, Justice Sandra Day O'Connor, and Dolores Huerta.

Harrison also wanted to focus on several women that are often overlooked or completely left out of history books. Many African American women had a profound impact on the women's suffrage movement, but they are generally not discussed in mainstream textbooks or curriculum. *Iconic Women* features a riveting discussion on the National Association of Colored Women, an organization that mobilized after emancipation to fight for black women in America to also have the right to vote.



Screen shot of the home page of iconicwomen.tyla.org

“The Texas Young Lawyers Association is incredibly proud to celebrate the impact women have made to the legal profession and on the history of this nation,” Harrison said. “As a black female, I am particularly grateful for the women that stood up for equality and fought for the rights and privileges that I enjoy today.”

TYLA was thrilled to interview some of the iconic women themselves, including Gloria Allred, one of our nation’s prominent defenders of civil rights for women and minorities. The website features interviews on several Texas legal legends such as Louise Raggio and Kay Bailey Hutchison. Other videos focus on the Second Wave of Feminism, Shortlisted Women for the Supreme Court, and Texas Women Attorneys. In addition to the women featured in the videos, the website further highlights several women with a paragraph about their accomplishments and contributions including Chief Judge Barbara Lynn, Yuri Kochiyama, Harriet Miers, and Vice President Kamala Harris.

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Hemphill Dinner 2021 Announcement

The Society will be hosting its annual Hemphill Dinner this year live and in person at the Austin Four Seasons Hotel on September 3, 2021. Although we are returning to our usual venue, we anticipate there will be fewer seats than in the past due to the continued need to provide for some degree of social distancing during the dinner. At the time this announcement is going to press, we anticipate we will have only 204 seats for the dinner.

The speaker this year will be Lisa Blatt of Williams & Connolly in Washington D.C. She will discuss the life and career of Justice Ruth Bader Ginsburg. Ms. Blatt is an alumni of the University of Texas, having obtained both her undergraduate and law degrees from UT. Upon graduating from law school, Ms. Blatt clerked for Ruth Bader Ginsburg while Justice Ginsburg was a judge on the Court of Appeals for the District of Columbia.

Ms. Blatt began her career at Williams & Connolly in Washington D.C., a premier litigation firm founded by legendary lawyer Edward Bennett Williams. After a few years, however, Ms. Blatt realized she preferred appellate work and accepted a position with the Office of the Solicitor General. There, she began her impressive evolution into one of the nation's premier Supreme Court advocates. More recently, Ms. Blatt returned to Williams & Connolly, where she serves as Chair of the firm's Supreme Court and Appellate practice.

Ms. Blatt has argued 41 cases before the United States Supreme Court, winning 37 of them (with one pending). In Ms. Blatt's most recent argument, she represented a school district in a first amendment case dealing with the question of a school's authority to discipline a student based on the student's off-campus speech. *The National Law Journal* called Ms. Blatt a "visionary" and one of "the 100 most influential lawyers in America." *Bloomberg* described her as a "legendary high court litigator" while *The National Journal* referred to her as a "SCOTUS legend." Ms. Blatt's Supreme Court cases have covered a wide range of substantive issues, from trademark and ERISA to superfund sites and first amendment issues.

Ms. Blatt has racked up a number of impressive awards. *Washingtonian* Magazine has named her to its list of Top Lawyers. She was also recognized as a *Law360* Appellate MVP and was



Lisa S. Blatt

named to *The National Law Journal's* 2020 list of Washington, D.C. Trailblazers.

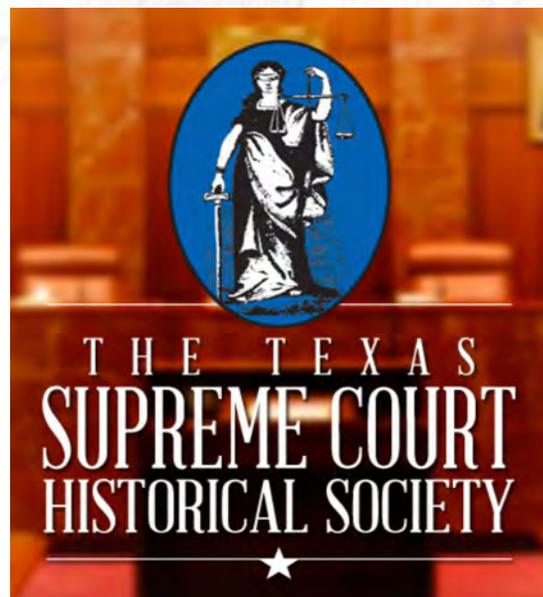
This past September, when NPR needed assistance in covering Justice Ginsburg's funeral, they enlisted Nina Totenberg and Ms. Blatt. During the broadcast, Ms. Blatt spoke about her relationship with Justice Ginsburg, which commenced with her clerkship and continued through Ms. Blatt's Supreme Court practice. Ms. Blatt will share some of those same stories with the guests at the Hemphill Dinner this September.

If you are interested in attending the Hemphill Dinner, you can either call the Society at its office: (512) 481-1840 or you can email tschs@sbcglobal.net.

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Annual Board Meeting Continues Looking Forward

The Board of Trustees lost no time this year getting down to business at the 2021 Spring Board of Trustees Meeting, as they navigated the now familiar online format. Though the meeting was originally slated to be held in person at the Alamo, that has been delayed for the foreseeable future. Enthusiasm was unaffected, and the Board dove directly into its end-of-year business. Treasurer Richard Phillips reported that the Society finished the fiscal year in good financial condition and with net revenue considerably ahead of the projected budget. The Board then moved on to consideration of a Financial Controls Policy proposed by Treasurer Richard Phillips. The Financial Controls Policy, which was adopted by the Board, sets out the roles of the Society's executive director, officers, and administrative coordinator concerning financial issues and financial best practices for its future operations. The Board also considered and unanimously passed proposed revisions to the Society's Bylaws, which included adding an additional trustee seat to the Board of Trustees and clarifying the provisions concerning trustee term limits and their effect on officers.



The Board heard about upcoming issues of the Texas Supreme Court Historical Society's quarterly journal and the upcoming release of the fourth *Taming Texas* book on women in the law.

The Board then switched gears to a discussion of this year's upcoming Hemphill Dinner, currently scheduled for September third with a "soft" reopen allowing for limited in-person seating. Certain registration levels will be removed as a result of this limited seating, but the Board will be making a recording available following the dinner proper. The keynote speaker for the event will be attorney Lisa Blatt, veteran U.S. Supreme Court practitioner and former clerk to Justice Ruth Bader Ginsburg.

The Board meeting continued with the election of the slate of officers for 2021-2022. Thomas S. Leatherbury has advanced to become the Society's new President this Summer with Cynthia K. Timms transitioning to Immediate Past President. The remaining officers for the 2021-

2022 year will be Hon. Ken Wise, President-Elect; Richard B. Phillips, Jr., Vice-President; Lisa Bowlin Hobbs, Treasurer; and Jasmine S. Wynton, Secretary.

The Board of Trustees Meeting was followed by the Annual Meeting of the Society's membership during which the slate of new and returning Trustees was approved. Trustees elected to a first term are: Anthony F. Arguijo, Marianne Auld, Kendyl Hanks, Allyson Ho, Rachel Stinson, Hon. Michael Truncala, and Brandy Wingate Voss.

The Board meeting concluded with a brief interview by Justice Ken Wise with Stephen Harrigan, author of the recently published *Big Wonderful Thing: A History of Texas*. Justice Wise led Harrigan through a discussion of the book writing process, including the how and why certain facets and characters were used as the primary focus. The book, a narrative history of Texas, is published by University of Texas press and is available for sale [here](#).



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Unexpected, but Welcome Praise

This year, the Journal has focused two of its issues on the frequently overlooked contributions of Latinx judges and attorneys to the development of the law and courts in this state. In the course of that journey, we have been horrified by the stories of racial violence against Mexican Americans along the Texas border; we have been mesmerized by the struggles of Ricardo Rodriguez to attain citizenship; and we have been inspired by the life of Roy R. Barrera, Sr. Articles like these are an integral part of the Society's mission to explore and preserve the history of the state's appellate courts.

The Society did not expect, and was thrilled to receive, a very special thank-you message from the Texas State Bar Hispanic Issues Section:

The 2021 Winter edition of the Journal of the Supreme Court Historical Society (JSCHS) aptly memorializes and recognizes some of the many significant contributions of the Latinx community in Texas. The Hispanic Issues Section (HIS) celebrates and applauds the efforts of the JSCHS and that of its columnists, staff, officers, and board of trustee members. The HIS appreciates this edition and the Spring edition which will continue highlighting Latinx contributions in Texas.

There are times, when publishing a free journal on the web, when you wonder if there is anyone out there listening. It turns there is. But more than that, to receive such accolades from an audience such as the Hispanic Issues Section warmed our hearts and made our day. We are pleased and proud to be of service.

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TEXAS SUPREME COURT
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P.O. Box 12673
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JOURNAL STAFF

General Editor
Lynne Liberato
lynne.liberato@haynesboone.com

Editor-in-Chief
Hon. John G. Browning
jbrowning@spencerfane.com

Executive Articles Editor
Stephen P. Pate
spate@cozen.com

Managing Editor
Karen Patton
karenpatton133@gmail.com

Editor
Kevin Carlsen
kevinw.carlsen@gmail.com

Production Manager & Graphic Designer
David C. Kroll
dckroll@gmail.com

Editor Emeritus
David A. Furlow
dafurlow@gmail.com

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The Texas Supreme Court Historical Society (the "Society") is a nonprofit, nonpartisan, charitable, and educational corporation. The Society chronicles the history of the Texas Supreme Court, the Texas judiciary, and Texas law, while preserving and protecting judicial records and significant artifacts that reflect that history.

The *Journal of the Texas Supreme Court Historical Society* welcomes submissions, but the Editorial Board reserves the right to determine what will be published in every issue. The Board does not discriminate based on viewpoint, but does require that an article be scholarly and interesting to the *Journal's* readership. The *Journal* includes content concerning activities of public figures, including elected judges and justices, but that chronicling should never be construed as an endorsement of a candidate, a party to whom a candidate belongs, or an election initiative. Publication of an article or other item is neither the Society's nor the *Journal's* endorsement of the views expressed therein.

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2020-21 Membership Upgrades

The following Society members have moved to a higher dues category since June 1, 2020, the beginning of the membership year.

GREENHILL FELLOW

Cynthia K. Timms

CONTRIBUTING

Misty Hataway-Coné

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2020-21 New Member List

The Society has added 437 new members since June 1, 2020. Among them are 19 Law Clerks for the Court (*) who receive a complimentary one-year membership during their clerkship.

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Membership Benefits & Application

Hemphill Fellow \$5,000

- Autographed Complimentary Hardback Copy of Society Publications
- Complimentary Preferred Individual Seating & Recognition in Program at Annual Hemphill Dinner
- All Benefits of Greenhill Fellow

Greenhill Fellow \$2,500

- Complimentary Admission to Annual Fellows Reception
- Complimentary Hardback Copy of All Society Publications
- Preferred Individual Seating and Recognition in Program at Annual Hemphill Dinner
- Recognition in All Issues of Quarterly *Journal of the Texas Supreme Court Historical Society*
- All Benefits of Trustee Membership

Trustee Membership \$1,000

- Historic Court-related Photograph
- All Benefits of Patron Membership

Patron Membership \$500

- Discount on Society Books and Publications
- All Benefits of Contributing Membership

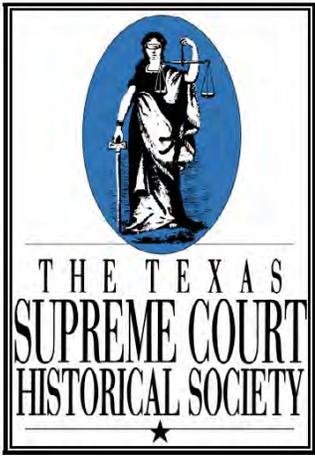
Contributing Membership \$100

- Complimentary Copy of *The Laws of Slavery in Texas* (paperback)
- Personalized Certificate of Society Membership
- All Benefits of Regular Membership

Regular Membership \$50

- Receive Quarterly *Journal of the Texas Supreme Court Historical Society*
- Complimentary Commemorative Tasseled Bookmark
- Invitation to Annual Hemphill Dinner and Recognition as Society Member
- Invitation to Society Events and Notice of Society Programs

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Membership Application

The Texas Supreme Court Historical Society conserves the work and lives of the appellate courts of Texas through research, publication, preservation and education. Your membership dues support activities such as maintaining the judicial portrait collection, the ethics symposia, education outreach programs, the Judicial Oral History Project and the Texas Legal Studies Series.

Member benefits increase with each membership level. Annual dues are tax deductible to the fullest extent allowed by law.

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