

TRIBUTE TO JIMMY ROBERTSON

*Danny Cupit**

Although I never took federal procedure in law school, I had the best teachers on this subject that a student could envision.

When I was a young undergraduate at Mississippi State University in the mid-60's, there had never been an African American approved to speak at a predominantly white Mississippi university. The state college board required that any speaker at a state supported university had to be pre-approved by the college board. My roommate and I took it upon ourselves to challenge that policy by requesting to invite the state President of the NAACP, Aaron Henry, to speak on Mississippi State's campus on the subject of the recently enacted federal Voting Rights Act. We were firmly told no.

After trying without success to secure counsel from various legal services or civil rights organizations, it was recommended that we contact a young lawyer in a white-shoe law firm from Greenville who might take the case. His name was Jimmy Robertson. He was an Ole Miss graduate, but Harvard Law educated partner in the firm. He agreed immediately to take our case *pro bono* which was precisely what we could afford. After Jimmy threatened Mississippi State with litigation, the president of the University approved Aaron Henry to speak on the MSU campus without the approval of the college board. Henry spoke before a standing room only crowd in the largest auditorium on campus. His speech ended with a standing ovation from the audience.

We thought the battle was over. But to our surprise, it had only begun and merely shifted to Ole Miss.

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Mississippi State had defied the college board under threat of litigation, but the board continued to refuse approval of other speakers and the leadership at Ole Miss was unwilling to ignore the college board's speaker ban policy. First, an invitation for Charles Evers to speak was not approved and even an invitation to the Student Body President at nearby Mississippi Valley State University was turned down because the Chancellor allegedly feared he might advocate the destruction of school property. This led Robertson, by then joined by other colleagues from the Washington County Bar, to file the first federal court lawsuit challenging the constitutionality of the college board's speaker ban policy. The case was assigned to the newly confirmed District Judge William C. Keady who had, ironically, been a senior partner in the law firm to which Jimmy then belonged. Defending the state college board was Bill Allain, then a young Assistant Attorney General for Mississippi. By this time, I had become a first year law student at the University of Mississippi, and became an *et al.*, in many of the subsequently published opinions.

What followed was a half-decade of litigation in the federal District Court and the Fifth Circuit Court of Appeals over the First Amendment rights of students at a state supported college to invite speakers without pre-approval by the state college board. Ultimately, a three judge panel of the District Court, including Judge Keady, enjoined the college board's speaker policy and wrote its own, which remains today. Who could imagine a better classroom - with better teachers - to learn federal practice and procedure than in real time from a seat in a courtroom dominated by Jimmy Robertson on one side, Bill Allain on the other, and refereed by Judge Keady.

As I learned from that experience, above all else, Jimmy Robertson was a student of the law with the tenacity and courage of a zealot, traits which followed him throughout his career.

In 1983, then Governor William Winter appointed Jimmy to the Mississippi Supreme Court as his second appointment. Jimmy had submitted his application to Governor Winter's Judicial Nominating Committee when the first vacancy on the court occurred, but Governor Winter appointed his longtime friend, Lenore Prather, to fill the first vacancy of his term.

Since he felt he had been passed over on the first appointment, Jimmy initially and stubbornly declined to resubmit his application for the second vacancy, but friends prevailed on him to apply again. For a time, Jimmy was the youngest Justice to sit on the Mississippi Supreme Court.

It was as a member of the Supreme Court that Jimmy was able to draw his training in journalism, history and the law into focus. He approached every legal issue he confronted on the court with the thoroughness of a treatise from its historical origin to its contemporary application, and ultimately its effect on society, often infused with hints of subtle humor. He was on the cutting edge of legal scholarship which, admittedly, often cut both ways. While his political leanings were hardly in doubt, he never allowed politics to enter into his opinions. To the consternation of many of his allies, he would frequently write dissenting opinions, often without anyone joining, when it would have been more expedient to keep his opinions to himself, a characteristic that eventually likely led to his election defeat. Whether one agreed with him or not, his Supreme Court opinions will stand forever as elucidations of thoroughness, clarity and scholarship, if not brevity. His opinions were always well-researched, painstakingly discussed, and thoughtfully explained.

Even after he left the court, his passion for writing never left him. In addition to a multitude of law journal articles, he authored two books reflecting his love of history and his grounding in the law. *Heroes, Rascals, and the Law: Constitutional Encounters in Mississippi History*, Robertson, Jimmy L. (2019) and *Rowdy Boundaries: True Mississippi Tales from Natchez to Noxubee*, Robertson, Jimmy L. (2023). Both books, published by the University of Mississippi Press, provide important contributions to Mississippi's history focusing, as they do, on little known individual stories of unique events, personalities and locations necessarily overlooked in broader historical surveys. Anyone with an interest in Mississippi history would be well served by reading these perspectives.

The legal profession in Mississippi was well-served by the trail left by Jimmy Roberston.