

JUSTICE JAMES L. ROBERTSON

*Judge Michael P. Mills**

*So-so student, Wise Judge, teller of tall tales and fellow traveler
toward the end of a public order of human dignity.*

Absent the reference to my commonplace scholastic achievements (at least in his estimation) one might presume that the above quote was about Jimmy Robertson. But it was by him in his own write, inscribed to me, a former student who stood in line at Square Books to get a copy of his work, *HEROES, RASCALS, AND THE LAW*.¹

The inscription was dated December 20, 2018. In January of the same year, I had received another more sympathetic communication from Jimmy stating, “Informers report that you have completed all requirements for life membership in the Cardiac Inconvenience Survivor’s Club. Congratulations!”

Well Jimmy’s informants where correct. On January 18, 2018, I suffered a widow maker heart attack. Flatlined three times. Shocked a dozen times. Came out of the ordeal with four stents and toting a blinking defibrillator powered by a battery big enough to start a Farmall Cub tractor. The device was attached to my body in eight different places, primed to light me up like a Christmas tree in the event my heart fluttered. This was the state I was in when Jimmy and our mutual friend, Dr. Philip Merideth, visited me a few days after I left the hospital. Jimmy took this opportunity to regale us with the story of his own entry into the Cardiac Inconvenience Survivor’s Club.

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¹ The astute reader having some knowledge of this writer’s experience in Mississippi law might wonder whether I was one of the “Rascals” targeted by Jimmy’s quill. Not so. I also note that he did not allow his meager estimation of my scholarship to dissuade him from quoting extensively and favorably (in his work) from some of my efforts. I am just saying.

It seemed that Jimmy and his beautiful wife, Linda Thompson, were enjoying a “Mark Twain weekend” while attending a legal conference in Hannibal, Missouri when Jimmy “wound up in the Hannibal Hospital for three days.”

Back Story. Jimmy was on the Mississippi Supreme Court when I was in the legislature. Justice Robertson often joined a gaggle of legislators and camp-followers at the breakfast table at the Sun-N-Sand Hotel where we swapped tales, gossip, and opinions over scrambled eggs and ham and biscuits. Unlike the rest of us, Jimmy did not smoke, nor did he drink to excess, only imbibing wine in moderation – he being a sommelier of note. He was also a jogger, a rarity indeed among the Sun-N-Sand set. We often saw him jogging around the Capitol grounds, the picture of ruddy health. I admired his wholesome habits and thought about adopting some of them myself someday.

So, Jimmy and Philip found me sitting in my recliner, hooked up to my defibrillator, anxious to stay calm so I wouldn’t set it off (When about to activate, a computer generated voice would blare, “Bystanders Beware!”). They patiently listened to my account of my recent adventure. After a moment of quiet, sympathetic reflection (I sensed they were relieved that I appeared to still have my senses, rumors to the contrary notwithstanding. I mean, I was brain dead three times), Jimmy recounted his Hannibal experience.

Like me, Jimmy had felt tired for a few days but, being the professional he was, made his speech at the Hannibal conference. Later at the hotel he noticed a tightening in his chest which soon escalated to great pain. Linda called an ambulance. A van arrived, two medics placed Jimmy on a gurney, hooked an IV to his arm, and roared off toward the hospital.

As the van raced up and down the sharply steep Hannibal hills, one of the medics asked Jimmy if he was in pain.

“Yes,” he moaned.

“How much?”

“A lot.”

“On a scale of 1 to 10, how much are you suffering?”

Jimmy moaned, “Nine.”

“Ok.” Nothing more.

“So do you have anything for the pain?” Jimmy gasped.

“No,” the medic said, “We only wondered how much pain you were in.”

Watching Jimmy’s expression as he gave his testimony, I couldn’t help but laugh, though I am not sure he saw the humor. In fact, I laughed so hard at Jimmy’s Hannibal predicament that I feared I would set off the defibrillator. Bystanders Beware!

Jimmy then stressed to Philip and me the importance of living a good life after surviving a medical emergency. He told us of his “bucket list” of things he wanted to do before he died, one being to find the Mexico City Bar in Amsterdam, the scene in *The Fall* by Albert Camus where a “penitent judge,” Jean Baptiste Clamence, spends his days apologizing for his failure to act when he saw a woman leap to her death from a bridge. Jimmy and I would later talk about going to Amsterdam to find the Mexico City Bar. We presumed we had plenty of time to make that trip. Another item on his list was finding the plaque dedicated to the memory of Quentin

Compson III who jumped to his death off the Charles River Bridge in Cambridge on June 2, 1910.²

Jimmy felt that as good Mississippians and men of some literary pretensions, we should find the plaque. I said, “Jimmy, if I live to get out of this shock collar, I will go with you to find that plaque.”

Jimmy, Linda, Dr. Meridith, and I and several other distinguished Mississippians made the journey to Boston and found the plaque on June 2, 2019.³ Thus began the exploits of the Mississippi Literary and Musical June Bug Society. Jimmy was our founder. Without his spirit and imagination, this band of seekers would never have formed.

Jimmy was an intellectual of the first order and a force in the legal community.

In recent years, Jimmy devoted his considerable talent with the pen to philosophical and historical writings. (Not to be overlooked are the contributions of Judge Linda Thompson Robertson who edited and indexed his last two books and ensured that his final work made it to the printer!)

² See WILLIAM FAULKNER, *THE SOUND AND THE FURY* (1929). For Further edification, read WILLIAM FAULKNER, *ABSALOM, ABSALOM* (1936). And while you are at it, read CORMAC MCCARTHY, *BLOOD MERIDIAN* (1985). Jimmy and I did!

³ Professor Charles Reagan Wilson, Senator Roger Wicker, Senator Hob Bryan, Mona Mills, Alysson Mills, Rebekah Mills, James Kelly, Jay Wiener, Peyton Prospere, Krystal Walker, Lynn Paulson Dupree made the journey. Joining us from Massachusetts were Professors Jenna Grace Sciuto, Thomas Underwood, and John T. Matthews. True to form, Jimmy later could not pass an opportunity to correct the efforts of another. He called out William Faulkner in his account of the trip in the Robertson’s annual Christmas letter:

Just above Linda’s hand is the famous little plaque . . . One problem. If the fictional Quentin had leapt from the point on the bridge immediately above that plaque, he might have broken an arm or a leg, but he wouldn’t have drowned! (We are standing on firm ground). Faulkner had never been to Cambridge, much less to “the” bridge. His mentor, Phil Stone, took him to Yale.

HEROES, RASCALS, AND THE LAW: CONSTITUTIONAL ENCOUNTERS IN MISSISSIPPI HISTORY, dedicated to Linda, came out in 2019 and is a remarkable 500-page examination of how the law affected individuals in Mississippi from 1817 through the post-World War II era of nascent industrialization. I enthusiastically recommend this work to anyone seeking a broader understanding of our state's colorful, though sometimes painful, past. This was not Jimmy's last work.

I received a draft of Jimmy's most recent work, ROWDY BOUNDARIES, TRUE MISSISSIPPI TALES FROM NATCHEZ TO NOXUBEE, prior to publication. In reading the same, I noticed that Jimmy did not deny himself the opportunity to roundly criticize the majority opinion in the case of *Beckwith v. State of Mississippi*, 707 So. 2d 547 (1997), which I wrote.

An aside is appropriate here. At no point in our relationship since the late 1970s did Jimmy Robertson ever hint that he might consider me his intellectual equal. Certainly not as his former student. Or when he appeared before the Judiciary "A" Committee in the Mississippi House of Representatives, which I chaired. Or when I was on the Supreme Court. In fact, I noticed that he was not unduly deferential to my honor when he appeared before me in Federal Court. I mean he had to stand, and all, when I walked into the courtroom, but he didn't adopt any cloying antics beyond that! This in spite of the fact that my Ole Miss and Virginia Law credentials might entitle me to a rough parity with Jimmy's Harvard Law airs and graces. It is hard to overcome "so-so" first impressions!

Jimmy's intellect was matched by his fearlessness, and therein lies the measure of the man. Other great minds may sometimes lack courage or simply have no conviction. Or perhaps their intellects are neutralized by selfish ambition. Not so Jimmy. He simply did not know how to act other than true to his beliefs and convictions. He was authentic. In that regard, I called the gracious Linda when I was asked to write this paper and referenced the scolding I had received in the first draft of *ROWDY BOUNDARIES*.⁴ Always the diplomat, Linda said that she suspected the work may have been "cleaned-up" before it went to the printer, and the strong critique might not be in the final published edition. I took the bait and immediately bought a copy and, true enough, found that Jimmy's reflections on the *Beckwith* opinion do not seem as harsh as the comments I had earlier read. Specifically, he says:

To be sure, there has long been a rule of law, the text of which has been printed and published on paper, declaring that a "delay of eight months or longer is presumptively prejudicial" to the person charged and subject to trial. A delay exceeding eight months is said to preclude further prosecution, as a matter of law. Hah! Try to find one, just one, post-*Beckwith* prosecution in Mississippi in which the legal presumption of prejudice was not ultimately and judicially held to have been rebutted, evaded, ignored; in which the court didn't find some way to wiggle around and avoid or even evade enforcing that eight-month—said to be, so-called—legally presumptive prejudice standard.

⁴ Do not get me wrong. I do not mean to imply that Jimmy may have sometimes been a bit taken with himself. Who am I to judge? I am honored to be called out by him along with some of his other targets, such as William Faulkner!

They say there is no statute of limitations for a charge of the crime of murder. Officially and formally, this is so. But, and still even more certainly, there is a right to a speedy trial that is purportedly available to each person in Mississippi. That right has been written twofold, into both state and federal constitutional bills of rights. This view is not so much a matter of what federal and state founders may or may not have intended; it's what they said, the English language fairly understood, construed, applied, and, one would think, enforced as well. Neither state nor federal constitution cordons off those charged with homicide or other nasty offenses from their fundamental right to a speedy trial.

In fairness, the judges who imposed sentences upon Byron De La Beckwith, Preacher Killen, and James Ford Seale might be cut a little slack. Scumbags such as those three convicted felons represented a mammoth change of heart for so many—the vast number of white Mississippians who for years had quite fairly been savaged for leniency shown toward those vile criminals whom many wanted put under the jail and forever. The sentences imposed on Beckwith, Killen, and Seale have come at a cost. Equal justice under the law has taken a major hit.⁵

If I may respond to my dear friend “in a word,” as he was fond of saying, the defendant in *Beckwith* was not under indictment from the 1960s till the 1980s. The charges against him were specifically dismissed in an order signed by all three circuit judges in Hinds County after the second hung jury.⁶ Speedy trial considerations

⁵ JAMES L. ROBERTSON, *ROWDY BOUNDARIES* 77-78 (University Press of Mississippi, 2023).

⁶ And “en route” to this aside, may I note that the District Attorney who first prosecuted Beckwith and tried him twice, later Governor Bill Waller Sr., has never received the acclaim he rightly deserves for his trailblazing tenacity in the *Beckwith* cases and for his courage as Governor when he vetoed the Appropriations bill funding the Sovereignty Commission, a state funded spy agency used by the state leadership to spy on Mississippians as recently as 1977.

only attach to a defendant subject to the power of the state to restrict the defendant's rights. The law must have a defendant under indictment for the statute to apply. Enough about this. (I know I should let this go, but I do not think Jimmy would. So.)

I relish my time spent with Jimmy and Linda over the last few years in our June Bug adventures. We found the plaque at Harvard; We dedicated a tombstone to Billy Joe McAllister in Tallahatchie Flats; We read papers to each other in Clarksdale. We are living out Jimmy's belief that lawyers (and all of us for that matter) have a duty to be well read. To think. And to act. Honorably.

Alas, my friend, you left us too soon. We will never find the Mexico City Bar. In this life. But I have hope that I will see you again, and we will sit as penitent judges somewhere beyond space and time, dwelling on matters of the soul.