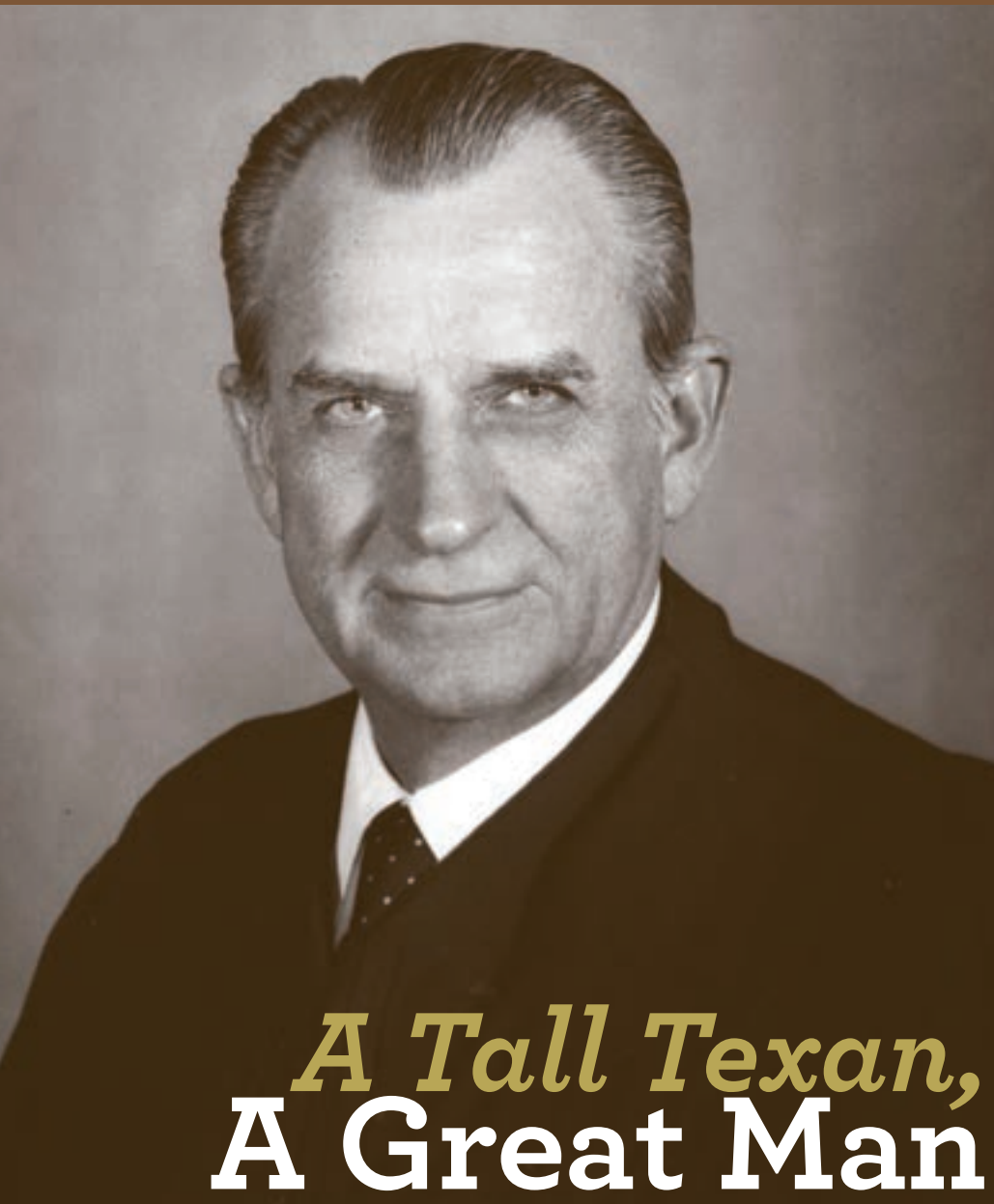


JUDGE THOMAS MORROW REAVLEY
U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT



A Tall Texan,
A Great Man

BY RHESA H. BARKSDALE

a great man and Tall Texan (6'4"), The Honorable Thomas Morrow Reavley died on 1 December 2020, only about seven months shy of reaching 100. The depth and breadth of his life, beginning at a young age during the Great Depression, are remarkable. I was blessed to be his colleague on the United States Court of Appeals for the Fifth Circuit for almost 31 years. He was far more than a colleague; first and foremost, he was a beloved friend.

Tom's remarkable life in the law is evidenced by the positions he held before joining the Fifth Circuit in 1979. He practiced law in Nacogdoches, Lufkin, and Jasper, all in East Texas, and then in Austin, between stints of public service to Texas as assistant district attorney, '48-'49; county attorney, '51; secretary of state, '55-'57; district-court judge, '64-'68; supreme-court justice, '68-'77; and court-of-criminal-appeals spe- ►

cial-judge, '78. During all of this, he also taught law on occasion. These achievements alone mark a magnificent life in the law. But, his were far more; and it is to some of those other aspects of his life that these remarks are addressed.

Over the years, he related many of those aspects to me. He served in combat in the Navy in World War II in the Pacific; I, about 20 years later in the Army in Vietnam. Sharing those similar experiences evolved into a consistent greeting. He would begin with a big, booming, joyful “General”, and I would respond in kind with “Admiral” or “Most High Admiral”, despite my highest rank having only been captain and his, lieutenant (equivalent of Army captain). Those shared experiences opened doors to his sharing with me many of the fascinating events in his remarkable life.

Having served on the court for almost 15 months by mid-June 1991, including on one panel with Tom, I had my first powerful inkling about his vast intellect, knowledge, compassion, and faith when he was one of the three judges on our court to present tributes at our memorial service for another great judge, Alvin B. Rubin. Being the second-most junior judge among the 20 present in our *en banc* courtroom in New Orleans, I was at one end of the long, flat-U bench, with Tom far up to my left. Near the end of his beautiful description of the life led by his beloved friend, Tom paused, then said, “Ah, sweet prince”. Those words, the latter two being from *Hamlet*, hit me like a lightning bolt; I realized what majesty surrounded Tom Reavley, as is reflected in his closing comments:

Here was a man for this world to see and to emulate. In an age of misdirection and little dedication, he was *committed*, committed to

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his Maker, his word, his wife, his family, his friends, to the welfare of all people — to the law and to justice.

He saw the paradoxes, the dilemmas and unanswerable mysteries of mortality, puzzled over the scene in good spirit, and enjoyed the whole of it. He laughed — that breathless laugh — that break in his voice when humor flashed. Ah, sweet prince —

To that Creator of Alvin Rubin and of us all, we give the praise and behold the glory in what we have seen, and whom we have loved, and for what is to be.

Tom’s remarks were — and are — as true for him as for Alvin. Those about our “Maker” and “Creator” came from Tom’s deep and abiding faith, for which he was well known from a young age.

BORN ON 21 JUNE 1921 IN QUITMAN, TEXAS, BETWEEN DALLAS TO THE WEST AND SHREVEPORT, LOUISIANA, TO THE EAST, he was around two when his family moved southeast to Nacogdoches, Texas, about 180 miles southeast of Dallas and 90 miles southwest of Shreveport. Tom was raised in Nacogdoches. His family’s fairly affluent life was changed markedly for the worse by the Great Depression, with the family’s income subsequently coming — at his mother’s initiative — primarily from opening and operating a diner in Nacogdoches in 1931: Reavley’s Lunch Room. Tom’s working in it led to an appreciation for good food. He would describe with great pride and joy the items, and their price, served in their diner, such as a hamburger for 10 cents (an order for two cost only 15 cents) and a club steak with trimmings for 25 cents. As with other commercial establishments he frequented, Tom was extremely popular in restaurants. At one of his favorites in New Orleans, his iced tea and shrimp cocktail awaited his arrival at his table.

The only occasion on which I witnessed his not enjoying all of his meal occurred in 1995, when we were on a panel for a regular court sitting, but held at the University of Mississippi School of Law. Knowing how much he enjoyed breakfast, I arranged for a special version to be served each morning at a popular restaurant in the adjoining town of Oxford. When I told him about the plan, he inquired whether sawmill gravy, with which I was not familiar, would be served. After receiving confirmation from the restaurant and assuring him it would, he was looking forward to the daily feast.

Following a royal welcome on the first morning, the bountiful dishes were served with great pride, such as eggs, sausage, grits, biscuits, and,

of course, sawmill gravy. Tom was delighted as the food was being served, until the last dish, a platter of sliced tomatoes (a surprise to me), arrived. He reacted as if a rattlesnake had been thrown on the table. When I feigned amazement at his more than negative reaction to the tomatoes, he advised that his idea of breakfast definitely did not include them, but I was left to wonder why.

Tom's far stronger feelings for justice and equality were formed at an early age, as evidenced by his presenting in his church in 1935 at age 14 a sermon against racism. He remained extremely active in the Methodist Church. To name only a few of the almost countless and varied examples of that lifetime of service, he was a member of a Youth Crusade Caravan in the summer of 1940, part of the program at a student retreat in 1941, a representative of the Methodist Church at a conference in England in 1973, and a frequent speaker at church functions. As a result, he was affectionately known on our court as "Bishop".

Touching on religion and the Constitution, his 1992 opinion in *Jones v. Clear Creek Independent School District*, 977 F.2d 963, for which I was a member of the panel, stated in its concluding section:

The practical result of our decision, viewed in light of *Lee* [*v. Weisman*, 505 U.S. 577 (1992)], is that a majority of students can do what the State acting on its own cannot do to incorporate prayer in public high school graduation ceremonies. In *Lee*, the Court forbade schools from exacting participation in a religious exercise as the price for attending what many consider to be one of life's most important events. This case requires us

to consider *why* so many people attach importance to graduation ceremonies. If they only seek government's recognition of student achievement, diplomas suffice. If they only seek God's recognition, a privately-sponsored baccalaureate will do. But to experience the *community's* recognition of student achievement, they must attend the public ceremony that other interested community members also hold so dear. By attending graduation to experience and participate in the community's display of support for the graduates, people should not be surprised to find the event affected by community standards. The Constitution requires nothing different.

In keeping with the sentiment expressed in that section, its heading reflected his deep and abiding faith: "FROM SEA TO SHINING SEA, GREAT GOD OUR KING". That powerful heading combined parts of "America the Beautiful" and "America (My Country, 'Tis of Thee)", with its footnote quoting more complete portions from which the heading was derived. I complimented Tom often about the beauty and majesty of that heading combination.

TOM GRADUATED IN 1937 FROM HIGH SCHOOL — SHORTLY BEFORE TURNING 16 — with high honors in a class of 75. He then attended Stephen F. Austin State Teachers College in Nacogdoches for two years, where he was, among other activities, a class officer and member of the newspaper staff, including as editor for the summer of 1939. He entered the University of Texas that fall. Over the next almost three years at Texas, ending in mid-1942, he received his bachelor-of-arts degree and com-

pleted the first year of law school, where he was on the honor roll.

Tom's World War II service in the Navy then began, America's having been attacked six months earlier. Upon completing midshipman school and being commissioned an ensign (equivalent of second lieutenant) in the spring of 1943, he attended torpedo training before reporting to his ship, a new destroyer. His sleep the first night at the school, however, was fitful. As a result, he fell asleep during a class the next day, with the instructor-officer sternly — if not angrily — ordering him to leave class and report to an office. Tom walked to the door of the classroom, paused, and said calmly to the officer, who was but a few years older than Tom: "Alright, but I want you to know that my bed had bedbugs". The officer was visibly horrified by that news and immediately greatly apologetic. That officer was future U.S. Secretary of State Cyrus R. Vance. This was an example of Tom's crossing paths with many famous people, none more outstanding than he.

Tom reported to his destroyer in early August 1943, to serve as a gunnery and torpedo officer. His first significant cruise occurred that November, when President Franklin D. Roosevelt, accompanied by high-level personnel, traveled to Tehran to confer with Churchill and Stalin. For crossing the North Atlantic, the President was aboard a battleship, escorted by three destroyers, including Tom's. During the voyage, an anti-aircraft demonstration requested by the President was followed by a torpedo demonstration; but, one of the destroyers (not Tom's) accidentally fired a live torpedo, which sped toward the battleship. Fortunately, it was alerted to the approaching disaster and turned away. ►

Tom's destroyer arrived in the Pacific area of operations that December, and served continuously with aircraft-carrier task forces. He remained on the destroyer until being transferred to an aircraft carrier in that theater of war in April 1945.

One of the harrowing events aboard his destroyer that Tom would laugh about involved extremely important captured Japanese documents, which had been delivered to his destroyer for transfer to another vessel — while both vessels were running parallel — for delivery to the headquarters at Pearl Harbor of the legendary Fleet Admiral Chester Nimitz, another Texan. For the transfer, Tom had the duty of attaching a satchel containing the documents to a cable-and-pulley system rigged between the vessels. As he was doing so, he almost dropped the satchel over — as Tom described it — the deepest part of the Pacific. Had he done so, he could only imagine the ensuing retribution.

The incredible power achieved by our Navy in the Pacific following the surprise attack on Pearl Harbor in December 1941 is told brilliantly in the late James D. Hornfischer's 2016 book, *The Fleet At Flood Tide, America At Total War In The Pacific, 1944-1945*. After reading it, I called Tom to discuss it, in large part to express my amazement at how powerful our Navy had become in those years, especially in comparison to its size in December 1941. Of great significance, the number of aircraft carriers had increased exponentially. That call led to new conversations about his involvement in that crucial period, including the following two.

In the closing hours of the historic multi-day Battle of the Philippine Sea in June 1944, west of the Mariana Islands, our carrier aircraft inflicted huge, greatly-disproportionate losses on Japanese aircraft, in what became

When I think about Tom's service in the Navy, as I often do, I am reminded of well-known lines from James Michener's 1953 novella, "The Bridges at Toko-Ri", about our carrier pilots in the Korean War . . . "Why is America lucky enough to have such men? . . . Where did we get such men?" That certainly applies to Lieutenant Thomas Morrow Reavley.

known as the "Great Marianas Turkey Shoot". Because our aircraft were launched late in the afternoon against distant Japanese vessels, some of our returning aircraft ran out of fuel and had to ditch in the ocean in the dark, with the pilots hoping to be rescued by our ships. Tom's destroyer was one of many engaged in that duty. When a rescue took place by his vessel, Tom recognized the fortunate pilot; he was an acquaintance from Texas. On approaching him, Tom called him by name and jokingly asked what he was doing there.

In the fall of 1944, the huge naval base at Ulithi became operational; it was located at an intersecting point east of the Philippines and south of Japan. When I asked Tom about the base, which served as a staging area for numerous decisive operations, he described its ability to harbor, for example, the very large and famous

task force in which his ship was serving. In demonstrating how large the task force and harbor were, testimony to our great naval strength, Tom stated it took all day for that huge task force to depart that equally huge harbor.

Upon his transfer in late April 1945 to an aircraft carrier, Tom served primarily as a gunnery officer in continuing combat operations. His carrier sailed into Tokyo Bay within weeks of war's mid-August end, with his service ending that November. While he served on the destroyer and carrier, they were awarded numerous battle stars.

WHEN I THINK ABOUT TOM'S SERVICE IN THE NAVY, AS I OFTEN DO, I am reminded of well-known lines from James Michener's 1953 novella, "The Bridges at Toko-Ri", about our carrier pilots in the Korean War, especially one who had also flown in World War II and been called-back from his law practice. After an attack on those bridges, an admiral, reflecting on the resulting loss of that pilot from his carrier, asked the questions prompted by each of our Country's armed conflicts: "Why is America lucky enough to have such men? . . . Where did we get such men?" That certainly applies to Lieutenant Thomas Morrow Reavley, a young man from East Texas with no experience at sea, yet who served skillfully and gallantly in continuous combat operations for almost two years in the world's greatest navy. Thank God our Country does find such men and women; better yet, that they step forward: I am here; take me.

Following his service in the Navy, Tom resumed law school, but opted to do so at Harvard, graduating in 1948. His return to Texas began his illustrious and varied life in the law and other pursuits, including an active role in the Democratic Party. Among his activities

in that organization was his loss in its second-primary for attorney general in 1962.

His role in a political event for which he took his greatest pride was during the 1960 presidential contest between Senator John F. Kennedy and Vice President Richard M. Nixon. An extremely important issue was Kennedy's being Catholic, including whether that would conflict with his decisions as president. Then practicing law, Tom held an important position in the Kennedy campaign in Texas, and wrote the national campaign organization to urge that the candidate address the religion issue head-on during his scheduled mid-September appearance in Texas, with the recommended event to be without the usual political trappings. Tom's forceful recommendation was for the candidate to appear before a large gathering of Protestant ministers, make a short presentation about the issue, and open the meeting to questions from them; there would be no introduction of the candidate and the props would be limited to a podium and the American flag. That recommendation was adopted, leading to the historic, nationally televised, highly acclaimed, and very effective presentation to the Greater Houston Ministerial Association. (Tom's adopted no-introduction recommendation was resented greatly, however, by Kennedy's running mate, Texas Senator Lyndon Johnson, who naturally wanted to introduce Kennedy in Johnson's home state.)

Tom's many attributes included consoling others. Upon the death of my wife's father in 2006, Tom, father to two daughters and two sons, penned a beautiful letter to her in which he marveled over the special relationship that exists between fathers and daughters. His closing paragraph — concerning

the pain caused a daughter by the loss of her father — reflected, as always, his deep and abiding faith:

And that parting has to be a hurt. But the fathers have faith in the miracles of life over death, and in the daughters who go on with this life. And we know that all is well — thankful for the multitude of blessings given to us.

Love to you,
Tom

Florence Wilson Reavley, Tom's beloved wife of 60 years, died in 2003, after an extended illness. Not long before her death, she urged Tom to marry our colleague and friend, Judge Carolyn Dineen King. They shared a wonderful 16-year marriage. She, as well as Tom's children, grandchildren, and great-grandchildren, survive him.

Judge Thomas Morrow Reavley is buried in the Texas State Cemetery in Austin. Almost 60 years ago, his campaign literature for Texas attorney general proclaimed "TOM REAVLEY — TALL ENOUGH FOR TEXAS". He certainly was — in every way . . . and for our Country . . . *and for us all.*



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Circuit. He is a graduate of the United States Military Academy at West Point and the University of Mississippi Law School, as well as a decorated veteran of the Vietnam War. He served as a law clerk to Justice Byron White and, as a judge himself, had a close friendship with his colleague Judge Reavley for almost 31 years.



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