

# TRIBUTE TO MISSISSIPPI SUPREME COURT JUSTICE JAMES L. ROBERTSON: REFLECTIONS ON THE IMPACT OF A PROFESSOR, JUDGE, AND LAWYER

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When word that former Mississippi Supreme Court Justice James L. Robertson had died of cancer on December 10, 2023, the personal reflections and professional accolades of his life in public service flooded the Internet. And there was much to laud.

## EDUCATION

Robertson's leadership and impact were evident from an early age. He was an undergraduate student at the University of Mississippi during the late 1950s and early 1960s. During that time, Robertson challenged the power structure of the state of Mississippi at great personal and professional risk in pursuit of important values that would make our society one "in which "all should want to live."<sup>1</sup> On January 21, 1961, twenty-eight-year-old James H. Meredith, an Air Force veteran, mailed his application for admission to the University of Mississippi.<sup>2</sup> That application set off a series of legal, political, and social events that culminated in Meredith's admission, federal mobilization of tens of thousands of troops, and a deadly riot.<sup>3</sup> Robertson had served on the University's student newspaper, the *Daily Mississippian*, for several years. By the 1961-62 academic year (the run up to Meredith's admission to Ole Miss), Robertson had become the Editor-in-Chief of the *Daily Mississippian*. In that role, Robertson "challenged the school's approach to race-related matters, and his outspoken editorial policy sparked efforts to impeach him as editor by both the Campus

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<sup>1</sup> *Dycus v. Sillers*, 557 So. 2d 486, 493 (Miss. 1990).

<sup>2</sup> JACK BASS, UNLIKELY HEROES 174 (1981).

<sup>3</sup> *See id.* at 172-200.

Senate and the Mississippi Legislature. Robertson refused to back down and would go on to be inducted into the Ole Miss Hall of Fame.”<sup>4</sup>

After receiving his Bachelor of Arts Degree in History from the University of Mississippi and his Juris Doctor degree from Harvard Law School, Justice Robertson practiced law in the Greenville, Mississippi, law firm of Keady, Campbell and Delong. He began teaching as an adjunct professor at the University of Mississippi School of Law during this time and joined the law school faculty full time in the fall of 1979.

#### PROFESSOR OF LAW

My own reflections took me back to my law school days before Professor Robertson became Justice Robertson upon his appointment to the Mississippi Supreme Court. Professor Robertson joined the law school faculty the same year I began my legal education at Ole Miss. He remained on the faculty until he was appointed to the court four years later. Professor Robertson taught Admiralty, Federal Civil Procedure, and Appellate Advocacy. I was fortunate to have him as a professor and to work with him as a part-time law clerk at Freeland & Gafford in Oxford where he had an office while on the law school faculty.

As a professor, Robertson was simultaneously philosophical in his approach to jurisprudence and practical in the application of legal theory to real-world problem-solving. He was also a bit impish.

One beautiful spring day in 1982, he suggested to the small group of us in his Admiralty course that we hold class outside in the Grove. As we sprawled out under an oak and he began the lecture, he watched with amusement as a bird dropped hot excrement on my hand and yellow legal pad where I had been taking notes. Seeing my disgust, he said, “Don’t wash that off, Slabach. In many cultures, that’s considered good luck!”

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<sup>4</sup> *Former Mississippi Supreme Court Justice James Robertson died Dec. 10*, STATE OF MISSISSIPPI JUDICIARY: ADMINISTRATIVE OFFICE OF COURTS (Dec. 12, 2023), <https://courts.ms.gov/news/2023/12.12.23%20James%20L.%20Robertson%20death.php> [https://perma.cc/S578-8EAY].

Professor Robertson's intellectual curiosity was insatiable. During his time on the faculty, Professor Robertson became fascinated with the relatively new discipline of space law. Dr. Stephen Gorove, a native of Hungary and a space law pioneer, had recently joined the UM Law faculty to develop the first regular space law curriculum in U.S. legal education.<sup>5</sup> This work eventually led Dr. Gorove to create what is now the internationally renowned UM Center for Air and Space Law.<sup>6</sup> Professor Robertson's inquisitiveness led him to muse aloud in Admiralty class that space law might adapt many of the concepts of the law of the sea. He even said that perhaps his final exam question in our Admiralty class that spring should consist of one short prompt: apply the law of Admiralty to outer space. He didn't, but we lived in fear and trepidation for the entire fifteen weeks.

Robertson's love of literature and his dry sense of humor led him to utilize quotes by famous politicians and authors to great effect. Some of his favorites were:

"It's a damn poor mind that can think of only one way to spell a word." - Andrew Jackson

"A foolish consistency is the hobgoblin of little minds." - Ralph Waldo Emerson (He'd deploy that one if someone called him on an apparent inconsistency.)<sup>7</sup>

He also came up with a few of his own that have been used by his students for generations since:

"You only want a jury if you need a mischievous result for your client." - James L. Robertson<sup>8</sup>

Robertson continued to teach at the law school part time for many years after being appointed to the Mississippi Supreme Court by Governor William Winter in January of 1983.

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<sup>5</sup> See Stephen Gorove, CTR. FOR AIR & SPACE L., <https://airandspacelaw.olemiss.edu/team/resources/stephen-gorove/> [<https://perma.cc/7BE8-56K7>] (last visited Mar. 31, 2025).

<sup>6</sup> *Id.*

<sup>7</sup> Flora L. (Tammy) Thompson, email to author (Feb. 13, 2024) (on file with author).

<sup>8</sup> *Id.*

## MISSISSIPPI SUPREME COURT JUSTICE (AND POET)

On the bench, he was known as a prolific and erudite writer, literary qualities perhaps learned from his formal education as an historian, his service as Editor-in-Chief of the *Daily Mississippian*, and his years as a productive legal scholar while on the faculty of the law school. According to the Mississippi Administrative Office of the Courts, Justice Robertson authored 579 majority opinions, 124 concurring opinions, and 85 dissents.<sup>9</sup>

The Administrative Office of the Courts' tribute to Justice Robertson noted one of his most literary opinions, *Dycus v. Sillers*,<sup>10</sup> or "the blue hole case,"<sup>11</sup> which was a dispute about the rights to a small body of water in Bolivar County, Mississippi.<sup>12</sup> In his published opinion, he references many of Mississippi's, and the nation's, brightest literary lights – including Willie Morris, Eudora Welty, Walker Percy, William Faulkner, Larry Brown, Ellen Douglas, Barry Hannah, John Grisham – for six full pages as he described the importance of fishing holes.<sup>13</sup>

This is a case about a fishin' hole. It lies in western Bolivar County near the River, and at birth was named Beulah Crevasse, though many have long called it the Merigold Blue Hole. . . . This is also a case about a people, the waters they fish, and a unique culture and lore. These form an ambiguous but real part of our life whose pulse is preserved in the product of our poets from the famous to the obscure.<sup>14</sup>

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<sup>9</sup> Former Mississippi Supreme Court Justice James Robertson died Dec. 10, *supra* note 4.

<sup>10</sup> *See generally* *Dycus v. Sillers*, 557 So. 2d 486 (Miss. 1990).

<sup>11</sup> Former Mississippi Supreme Court Justice James Robertson died Dec. 10, *supra*, note 4.

<sup>12</sup> *Dycus*, 557 So. 2d at 487.

<sup>13</sup> *Id.* at 487-93.

<sup>14</sup> *Id.* at 487.

As he eventually turned to the legal aspects of the case, he explained why he took the time to explore these literary allusions:

We are informed by these thoughts, knowing that law is about life, that law is not an end but a means to the end of a society in which all should want to live, with its paradox and ambiguity, its irony and contrariety even that the law has wrought. We proceed to our institutional responsibility: the right interpretation and application of our law regarding rights to these waters.<sup>15</sup>

A more apt and succinct explanation of the purpose of the law is difficult to imagine. Following his service on the Mississippi Supreme Court, Justice Robertson returned to an illustrious career in the practice of law for 25 years with Wise, Carter, Child & Caraway in Jackson, Mississippi.

#### THE LAWYER AS HERO

Justice Robertson's role as a full-time faculty member and scholar was brief, but it had a lasting impact. He was an engaging classroom teacher and a widely published and admired scholar. We knew he cared about us – about our education and our professional careers.

Perhaps his advice with the most enduring impact on a generation of lawyers was his "last day of class" advice that he expanded in 1983 for publication in the *Mississippi Law Journal*, *The Lawyer as Hero*.<sup>16</sup>

In this essay, Professor Robertson offered an exacting examination of the obligations and privileges of lawyers that, if accepted, will result in the lawyer becoming one of society's heroes. Robertson challenged us to reconsider perceptions of the legal profession while recognizing the indispensable role lawyers play in upholding the foundations of democracy and the rule of law.

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<sup>15</sup> *Id.* at 493.

<sup>16</sup> See generally James L. Robertson, *The Lawyer as Hero*, 53 MISS. L.J. 431 (1983).

Robertson understood the notion of hero as being comprised of four components:

- Striving against significant adversity: “There are substantial obstacles in the path toward achievement of his goals, and yet he does not waver or grow timid.”<sup>17</sup>
- Self-sacrifice and self-discipline: “The hero puts others ahead of himself. . . . He is selfless, even when confronted with the needs of others who are selfish. He accepts his role to serve others not only to the point of personal inconvenience but even to the point of great personal loss.”<sup>18</sup>
- Striving toward noble ends: Striving “against great adversity . . . without more, . . . may not be called heroic. . . . The hero pursues those ends identified by reference to the most fundamental values and beliefs of society.”<sup>19</sup>
- Pursuit of noble ends must come under scrutiny: “Noble ends do not justify ignoble means. The hero must bring to his task honesty, integrity, wisdom, fair dealings and good judgment.”<sup>20</sup>

Robertson taught us that a lawyer’s role as representative, advocate, and counselor is confronted with all the challenges and requirements of the hero. He sheds light on the noble pursuits and inherent virtues of legal professionals. But he also recognizes that because of the lawyer’s status and privileges, “he will inevitably become one of society’s heroes, or one of its villains. I fear there is no in-between.”<sup>21</sup>

Professor Robertson taught us well both in the classroom and by his example. His essay on the role of the lawyer as hero is as inspiring today as it was when first articulated forty years ago. And it is the high standard by which Jimmy Robertson measured himself.

In my book of heroes, he succeeded.

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<sup>17</sup> *Id.* at 445.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*