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Alvin B. Rubin as a District Judge

*Wood Brown, III**

A man's great if he's everything they say he is.

Anonymous

Alvin Rubin served as a district judge from the time of his appointment by President Lyndon Johnson in 1966 until 1977 when President Jimmy Carter appointed him to the court of appeals. That is a period of eleven years from a point in time twenty-six years ago to a point in time fifteen years ago. This writer entered into the practice of law in 1961 and started trying cases full time roughly four years after that when the members of his firm came to the realization that he simply was not going to fit in the round hole into which they were trying to hammer him. As a result of that fortunate circumstance, I was privileged to spend the really formative years of my career partially in front of a man who truly fit within the old adage quoted above. I make this observation because most of the lawyers presently trying the type of cases we tried before Judge Rubin were not yet out of high school twenty-six years ago and roughly half of the lawyers practicing today came to the bar after he was elevated to the appellate bench. Most of the lawyers practicing today know of Judge Rubin's accomplishments on the court of appeals. Only a comparative few ever appeared before him as a district judge and experienced the exquisite pain such an appearance was capable of bringing.

When I was asked to write this paper, I suppressed the desire and inclination to tell war stories. I searched my memory and the memory of friends concerning Judge Rubin on the district bench. The prevailing recollection is that Judge Rubin was a taskmaster who forced the trial lawyers in front of him to be prepared for the work they were to perform whether they liked it or not. He did this with a combination of deadlines, extensive use of copy machines, and that subtle half-smile pressure that a good federal judge can exert, almost, it seems, without really intending to. It was more than that, however.

He was a tremendous intellect. He was a "quick learn," able to wrap his mind around a difficult problem, or obtuse subject matter in an incredibly short period of time. He had the uncanny ability to sort out convoluted facts, even those which were less than pellucid. There

are some judges you can out-think. There are other judges you think you can out-think, even though you cannot. With him, you never got even the slightest impression that you were out front. He had the intellectual horsepower to move from one complex problem to another almost at the turn of a page, combined with the managerial ability to get good lawyers with super egos to work together toward the completion of a case. His successful handling of cases like the *White Alder*, the *George Prince/Frosta*, the *Little Bob*, the *Ocean Express*, the *Belvoir*, and the *Jayne Mansfield*¹ wrongful death case were only a few examples of cases in which these talents were demonstrated.

Notwithstanding that he had more than his quota of "big cases," his docket was usually current, to the extent that, whether you wanted it or not, he could (and did) assign trial dates within four to six months of certification of issue joined. I can remember him saying in a pretrial conference (although I cannot find where this is written down in this form): "... Until it is filed, a lawsuit is the parties' business. Once it gets filed, it becomes the public's business, and the vindication of the public's interest rests in a fair resolution of the dispute in as expeditious a manner as is possible under all the circumstances." Once a case was fixed for trial, a continuance was extremely rare. When the day set for trial passed, with only a few exceptions, every case set for trial that day had been disposed of.

He was not thought of among the trial bar as a "people person." He did not exhibit a sense of humor. It was there,² it just didn't show very often, and he didn't use it to get a laugh at someone else's expense.

Finally, Judge Rubin had that most important quality of a great district judge. He never forgot that he also, at one time, had been a practicing lawyer.

We miss him.

1. There are no formal opinions from these cases for the point mentioned here. These cases are mentioned as examples of those which the trial bar will remember as difficult cases to handle which were resolved, in part, by the force of character of the district judge. There are, however, incidental opinions from some of these cases, e.g., the *White Alder* (United States v. The S/S Helena, 295 F. Supp. 610 (E.D. La. 1969)) and the *Frosta* (McKeithen v. The M/T Frosta, 435 F. Supp. 512 (E.D. La. 1977)), bearing on other points.

2. For an example of this, see the opinion in *Loose v. Offshore Navigation Inc.*, 670 F.2d 493 n.3 (5th Cir. 1982).