

HISTORICAL COMMITTEE PRESENTS

NEW MEXICO'S MAN FOR ALL SEASONS

Judge Luis Armijo Of Las Vegas

by Judge John W. Pope

Photo courtesy of Christina Armijo



“What would you do, cut a great road through the law to get after the Devil? And when the last law was down and when the Devil turned round on you where would you hide the laws all being flat? This country is planted thick with laws, coast to coast, Man's laws not God's, and if you cut them down, do you really think you could stand upright in the winds that would blow then? I give the Devil the benefit of law for my own safety sake.” Sir Thomas More in *A Man for All Seasons*, a play by Robert Bolt.

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CATHOLIC JURIST

It was 1949, a time of great turmoil. The cold war had gone into a deep freeze. Men and women everywhere were being called upon to take sides. Pope Pius XII chose this time to stiffen the morale and resistance of his judicial parishioners behind the Iron Curtain. He stated

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with great force that when a state law conflicts with the church's teaching, a Catholic jurist need not enforce it.¹ This edict was intended primarily for the comfort of Eastern Europe. However, the Pope went further and said that it was impermissible for a jurist to grant a civil divorce in a marriage recognized valid by the church. This was a mirror image of the quandary that Sir Thomas More of England, the patron saint of jurists and lawyers, found himself. It must be remembered Sir Thomas refused to speak to the question of Henry the VIII's divorce from Catherine of Aragon on the pain of his soul when the sovereign was sought to compel More's obedience. Now, in the late Twentieth Century, the church was seeking to compel obedience from civil servants. This edict struck particularly intensely in the United States with its long history of separation

of church and state. According to all accounts, only one Catholic jurist spoke publicly concerning the edict. District Judge Luis Armijo of Las Vegas, New Mexico was quoted in *Time Magazine* as saying, "I may be Catholic but I'm a citizen of the United States first."² Judge Armijo was not adverse to staking out his position clearly and explicitly.

Judge Armijo was aware of the possible consequences of ignoring the Pontiff's pronouncement. The Pope was very detailed in his proscription. He first said that a judge could not avoid responsibility by placing the blame on the law or its authors. He then stated the judge could not have others do an "intrinsically immoral act." The judge could not act in a way which would suggest approval of the act. The judge could allow the act to run its course, if it would avoid a greater evil. Some theologians had argued previously that granting a civil divorce only had civil consequences and therefore did not affect or reflect on the religious principles of the judge.³ This was hard to argue from the plain meaning of Pope Pius's words. There was discussion of excommunication on one side, and of loss of office on the other. Judge Armijo's forthright statement may have helped to lay to rest some of the innate prejudices and concerns of society in general about how Catholics saw their duties to civil offices and the church. Judge Armijo's declaration can be seen in the same light, indeed as a forerunner to then Senator John F. Kennedy's declaration of the separation of his faith and civil duty in 1960 while running for president.

Judge Armijo was no stranger to controversy and was no stranger to taking stands at great personal risk. Luis Enrique Armijo was born on December 29, 1887 in Las Vegas, New Mexico. His father was a bookkeeper and school teacher in Las Vegas. Young Luis attended public school and New Mexico Normal School (now Highlands University) in Las Vegas. He finished his education at New Mexico Military Institute in Roswell in 1908. Moving back to Las Vegas, he read for the bar in the law offices of Elisha V. Long, a former Territorial Supreme Court justice. He worked and studied in Long's office until he was admitted to the bar in 1915. In 1920, he was elected to his first public office,

EARLY BEGINNINGS

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Photo courtesy of Christina Armijo

State of New Mexico v. Carl Magee - June 17, 1926 - Las Vegas, NM

Presiding Judge: Luis E. Armijo

Jurors: Tiburcio Tenorio, Domingo Trujillo, Chas. A. Bell, Nabor Saiz, H. H. Hone, Enrique Crespín, Pablo Chavez, Anistacio Ortiz, Ciriaco Atencio, Brigido Gallegos, John J. Ewing and Jose De La O

l to r: Judge Elisha V. Long (man with white long beard); Judge Fred Wilson, Judge Hannah, Jim Vaught, Milnor A. Rudolph (court intrepeter); man with cigar is Carl Magee, Assistant D.A. Robertson; and Chester A. Hunker, District Attorney.

district attorney for the Fourth Judicial District. At the beginning of his career, he was associated with Secundino Romero, a U.S. marshall and well known political patron in the northern counties.⁴

THE MAGEE SAGA

Judge Armijo's repudiation of and repudiation by the Romero faction of the Republican Party is a story that includes most of the legal luminaries in New Mexico during the first part of this century. Judge David Leahy was the district judge for the Fourth Judicial District dur-

ing the early 1920s. He was a close ally of Secundino Romero in the Republican Party. So close that when Carl Magee, the owner of the *Albuquerque State Tribune*, called San Miguel County "Sec Romero's Empire" and his political organization, "a copper riveted machine," Judge Leahy and Romero both took offense. Magee also had lots of derogatory things to say and lots of ink to say it with about the college and the mental institution in Las Vegas. This bothered the two; however, since Magee avoided the Fourth District, there wasn't much they could do. Magee fell into the waiting hands of the "copper riveted machine" when he attacked the chief justice of the Supreme Court and his clerk. Chief Justice Parker and his clerk, Jose Sena, were accused of being, at the least, indifferent with court funds. Judge Leahy had a criminal warrant for libel drafted. O. O. Askren, a Las Vegas attorney and former attorney general, is reputed to have drafted it on behalf of the judge.⁵ Magee was arrested and dragooned to Las Vegas even before the object of his attack, Justice Parker, had read the alleged libel. District Attorney Armijo played little part in the original trial beyond helping to choose the jury. He didn't need to; there was more than enough legal

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talent on both sides of the table. For the state, besides Armijo and Askren, there were former Supreme Court Justice Clarence Roberts and C. W. G. Ward, a former district attorney. For the defense, a former colleague of Justice Roberts, former Supreme Court Justice Hanna headed the team which also included Fred Wilson, a future attorney general; George Hunker, the state chair of the Democratic Party; M. E. Noble, a future Supreme Court justice; and Dennis Chavez, future U.S. senator. Ironically, Parker, Hanna, and Roberts were three of the first five Supreme Court justices after Statehood.

One interesting sidelight to the judicial circus created in Las Vegas was the sight of one former Supreme Court justice, Roberts, trying to get another former justice, Hanna, disbarred. After being found guilty of libel and several contempt of court charges, all of which were pardoned by Governor James Hinkle, Magee still was not finished with San Miguel County.⁶

While District Attorney Armijo was not active in the trials of Carl Magee, he and Sheriff Lorenzo Delgado, who was also part of Secundino Romero's machine, were rumored to be protecting Magee from harm's way. One commentator has suggested that the direct intervention of the sheriff was all that saved Magee's life during one of his contempt trials. This change in sympathies by Armijo and

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Delgado got them tossed out of Romero's machine and the San Miguel Republican Party. In 1924, Armijo ran for district judge against Judge Leahy, Delgado ran for reelection for sheriff on a Democratic-Republican fusion ticket, and they both won. This effectively destroyed the Romero machine in San Miguel County. During the election, Romero tried to get both Armijo and Delgado indicted on federal election law violations; these efforts failed and got Romero indicted. The irony is that the newly elected Judge Armijo had just about decided to move to El Paso and open a law office.⁷

The final tragic episode of the Magee, Leahy, and Armijo saga came in 1925. On the evening of August 9, 1925, Carl Magee was sitting in the lobby of the Meadows Hotel in Las Vegas when the former District Judge Leahy entered the hotel. Leahy, upon learning of Magee's presence, immediately set upon Magee. Leahy was a former amateur boxer and former Rough Rider. He was pummeling Magee so thoroughly, Magee was convinced he would be killed. He drew a gun from his pocket and fired at Leahy. Several bullets struck Leahy in the arm. Unfortunately, several shots struck and killed a good Samaritan who was attempting to intervene on Magee's behalf. Magee, originally charged with murder, was tried for manslaughter. Judge Armijo heard the case. Former Judge Leahy was the chief prosecution witness. With Leahy's obvious animus to Magee and Leahy's admittance during testimony that he had provoked the fight, Judge Armijo directed a verdict against the state, and the jury complied. Interestingly, the jury sent back a note to the judge with the verdict indicating that they felt that the judge had done the right thing. In later years, Judge Armijo said that this was his most interesting case.⁸

ASCENSION TO THE BENCH

Judge Armijo's ascension to the bench in 1925 made him the first Hispanic judge to win office since Statehood in 1912. Judge Armijo served two terms from 1924 to 1936, but was defeated by Irwin Moise as the Democrats swept San Miguel County for the first time. Of course, it was part of the Roosevelt landslide, which changed party alignments across the country. From 1936 to 1942, Judge Armijo maintained a private prac-

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tice in Las Vegas. In 1942, the judge regained the bench from Judge Moise and served until his death in 1965. Judge Moise later went on to serve on the Supreme Court of New Mexico. Judge Armijo was, for many years, the only Republican district judge in the state.

JUDGE ARMILJO DEMONSTRATES INDEPENDENCE

Judge Armijo was involved in many controversial matters during his terms of office. One of the most vexing in a state with few district judges was that of disqualification of judges. Judge Armijo was not one to suffer disqualification lightly. In a series of cases, Judge Armijo had writs of prohibition issued against him concerning disqualification in special proceeding. In *State ex. rel. Hannah v. Armijo*, 38 N.M. 280 (1933), the question was one of disqualification of judges in removal proceedings against local school board members. In *State ex. rel. Simpson v. Armijo*, 38 N.M. 73 (1934), the question was one of disqualification of a judge in a constructive contempt proceeding. In *State ex. rel. Romero v. Armijo*, 41 N.M. 40 (1936), the question was one of disqualification of a judge in a proceeding for recount of votes. The Supreme Court, in *State ex. rel. Simpson*, supra, clearly delivered its understanding by stating: "If the enactment of this law is the declaration of a policy that our courts

must be freed from suspicion of unfairness and is grounded upon the truism 'that every citizen is entitled to a fair and impartial trial, and this right is sacred and constitutional, *State ex. re. Hannnah v. Armijo*, supra,' such right is as sacred to a litigant in a special proceeding or one cited for contempt as it is to a litigant in a tort or contract action." Except for his problem with disqualifications, Judge Armijo was seldom reversed.

Judge Armijo participated in a number of New Mexico Supreme Court cases by designation. One of the most fascinating was *Montoya v. Bolack*, 70 N.M. 196 (1962). Tom Bolack, a lieutenant governor candidate, challenged Joseph Montoya's 279 vote victory. The ballots being challenged were on the Navajo Reservation. If the Navajo ballots were invalidated, Bolack would have a 342 vote victory. He challenged the Navajo vote on the grounds that the Indians who resided in the interior boundaries of the reservation were not residents of New Mexico for purposes of state elections. Justice Carmody, writing for the court, argued that the state disclaims "proprietary" rather than "governmental interest" in Indian land. Carmody further stated, "From all of the above, it is obvious that the Navajo Indian Reservation is not a completely separate entity existing outside of the political and governmental jurisdiction of the State of New Mexico. The state has some

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(and, we might say, considerable) jurisdiction, and there is not and never has been what might be termed "exclusive federal authority." The court then ruled that the Indians should be allowed to vote. Several aspects of this case give pause. One is that as late as 1962, there were still arguments about Indian voting. The other is the language of this decision in light of the later Indian jurisdiction cases. Judge Armijo joined Justice Carmody in the decision with Justice Chavez. Justice Noble specially concurred.

A Civilized COURT

The pace of law and the courts in Judge Armijo's day were much more civilized. The court could be more individualized and individualistic. For example, Judge Armijo was his own probation officer. He would have his probationers come in on a periodic schedule and discuss their progress. I am certain that this was thoroughly effective, if not time consuming. It has been said during trials, particularly quiet title actions when numerous old timers would testify as to fences and boundaries, that the cadence of the trial could be interrupted to renew

acquaintanceships and exchange news. This was done by the attorneys, witnesses and the judge.

ARMIJO LEGACY

Judge Armijo died in 1965 at his home in Las Vegas. He was 77 years old and was still serving on the bench at the time of his death. All told, he served 35 years on the Fourth Judicial District bench and four years as district attorney. The Armijo family of Las Vegas has left quite a legacy to the legal community. Judge Armijo's brother, Jose Armijo, was a lawyer in Las Vegas, serving as district attorney and state representative. His son, Roberto, is an attorney in Las Vegas. Roberto Armijo's two sons, Roberto C. and John, are attorneys in Albuquerque. A great-niece, Patricia Pollifax of El Paso, Texas, is an attorney. His granddaughter, Christina Armijo, followed in her illustrious grandfather's footsteps and is presently New Mexico Court of Appeals Judge Christina Armijo. Judge Luis Armijo also had a son, Carlos, who died on the Bataan Death March. Judge Armijo's gift to New Mexico and the law was like Sir Thomas More's; he husbanded the law and allowed it to grow straight and strong, so that we all can stand upright. ■

1. *Time Magazine*, "Which Law?" Nov. 21, 1949, pg. 46, 47.

2. *Ibid.*

3. *Ibid.*

4. Milton C. Nahm, *Las Vegas and Uncle Joe: The New Mexico I Remember* (Norman, 1964), p. 160.

5. Nahm, *Las Vegas*, p. 208.

6. Susan Ann Roberts, "The Political Trials of Carl Magee," *New Mexico Historical Review* L:4 1975, pp. 296, 297.

7. Nahm, *Las Vegas*, p. 208.

8. *Ibid.*



John Pope is a district judge, Thirteenth Judicial District, Division 1, Valencia, Cibola, and Sandoval Counties. Pope serves as adjunct professor at the University of New Mexico School of Law, and instructor at the University of New Mexico Valencia Campus teaching political science, criminal justice, and business law. A member of the Historical Committee and Bench and Bar Relations Committee of the State Bar of New Mexico, he is also a member of the board of directors of New Mexico Northern Legal Aid, and the steering committee of the Institute of Social Research, University of New Mexico. Judge Pope received the 1996 State Bar Outstanding Judicial Service Award.

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