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Lael S. DeMuth

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## LUIS D. ROVIRA

LAEL S. DEMUTH\*

Born in San Juan, Puerto Rico, in 1923, Justice Luis Rovira grew up in and went to school in the New York City-Northern New Jersey area. When he graduated from high school, the world was embroiled in World War II. In 1943, after only six months at the University of Colorado, he was called to active duty and served in the infantry in the European theater of operations from 1944 to 1945. He quickly rose from buck private to lieutenant. In 1951, he transferred his reserve status to the Air Force, and in 1975 retired as a major in the Judge Advocate General Corps of the Air Force.

After the war, Justice Rovira returned to the University of Colorado, distinguishing himself in scholarly achievements and as student body president during 1947-1948. Upon graduation from the University of Colorado Law School in 1950, he entered the practice of law in Denver with Harry C. Davis, a Dickensian figure who believed in the rigors of hard work and low pay for his fledgling apprentice.

Following his association with Mr. Davis, Justice Rovira was a sole practitioner for about a year and a half. He was then asked to join the firm of Akolt, Campbell, Turnquist and Shepherd, then one of the largest law firms in Denver. At the time, the firm had an unusual policy of allowing associates to handle cases on "the outside" and retain fees from that work as long as work for the firm itself was performed as required. Perhaps this policy was adopted because monthly salaries were in the \$200 - \$300 range, but the practical benefit was experience with a variety of cases and problems.

These experiences were further enhanced when Federal District Judge Jean Breitenstein appointed Justice Rovira to join as defense counsel in the Smith Act-Communist conspiracy trial which began in late 1954. Although this was pro bono work, newspaper headlines of the day proclaimed that the "Reds" were getting \$100,000 worth of legal talent. At the time of trial, the United States Attorney was the future Justice Donald E. Kelley. When Justice Kelley retired from the Colorado Supreme Court, it was Justice Rovira who was appointed to the vacancy. For many years following that trial, lawyers for the defense, the prosecution, and Judge Breitenstein held reunions during Law Week.

By 1959, Justice Rovira was a partner in his firm and had developed an expertise in the complicated and detailed field of public utilities regulation, representing, among others, Mountain Bell. Earlier, he gained

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\* University of Colorado (B.A., 1952); University of Colorado (J.D., 1955); Partner, DeMuth & Kemp (formerly Rovira, DeMuth & Eiberger).

experience in oil and gas law and can still recall numerous hours of wading through voluminous abstracts to render oil and gas opinions.

Justice Rovira has been the recipient of many honors and awards from his profession and his community. A few may be mentioned: President of the Denver Bar Association (1970-1971); University of Colorado Alumni Recognition Award (1963); Organized Labor's Outstanding Citizen Award (Denver Area Labor Federation, AFL-CIO) (1976); Chairman, Colorado State Health Facilities Council (1964-1976); Governor's Committee on Mental Health and Mental Retardation (1967-1970); State Health Planning Agency (1967-1969); President's Committee on Mental Retardation (1971); and, Chairman of the County Court Judicial Nominating Commission for Denver (1970-1971).

In 1976, Justice Rovira was appointed to the Denver District Court bench. By the time Governor Lamm appointed him to the Colorado Supreme Court in 1979, Justice Rovira had developed a reputation as a fair, considerate, knowledgeable and scholarly jurist. Since his arrival on the high court, he has also been perceived by some to be conservative. A brief discussion of his opinions in two constitutional areas ought to dispel such easy labeling.

His perceived conservatism no doubt comes from his lone dissent in the widely publicized *People v. Quintero*.<sup>1</sup> The case involved the so-called exclusionary rule relating to illegally obtained evidence. Fidel Quintero had been seen peering into a house across the street from a woman living in southeast Denver. She saw him again about a half-hour later, sitting at the bus stop in front of her own house. He had a partially concealed television set under his shirt. She called the police who arrested him and seized the television set and other stolen items. The Colorado Supreme Court suppressed the evidence and remanded the case for retrial. The case, along with two others involving the exclusionary rule was accepted by the United States Supreme Court for review, but before the court could hear it, the defendant died.

In his dissent, Justice Rovira asked, "What would reasonable people believe under the circumstances?" and concluded that, "making the arrest in such circumstances is precisely what the community expects the police officer to do." Consistent with this view, Rovira also dissented in a more recent pronouncement of the Colorado Supreme Court involving the exclusionary rule, *People v. Oates*.<sup>2</sup>

If his views in exclusionary rule cases suffice to categorize Rovira as conservative, what of his opinions in first amendment cases? Speaking for the court in *Diversified Mortgage v. Denver Post*,<sup>3</sup> he defended and upheld the constitutionally-protected rights of the defendant. When he believed the court was eroding the broad protections of the first amendment, he dissented in *Kuhn v. Tribune Republican*.<sup>4</sup> He wrote:

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1. 657 P.2d 948 (Colo. 1983).

2. 698 P.2d 811 (Colo. 1985).

3. 653 P.2d 1103 (Colo. 1982).

4. 637 P.2d 315 (Colo. 1981).

The test of whether the publisher acted with actual malice should not be applied mechanistically or grudgingly, but in a manner which recognizes that vigorous public debate and scrutiny of public officials is an end to be desired. Application of the test should recognize the paramount public interest in a free flow of information to the citizens concerning public officials. . . . Freedom of expression must be given the wide latitude it needs to survive regardless of the truth, popularity, or social utility of the statements made.<sup>5</sup>

To Justice Rovira, the judicial process represents the highest means of order in our society. The application of the law to the facts at hand is for him a question of the practical result, the application of the orderly process of law, and the protections and precedents of our Constitution and judicial pronouncements. That philosophy is neither conservative nor liberal; it is in the highest tradition of our American legal system.

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5. *Id.* at 323 (Rovira, J., dissenting) (citations omitted).

