

Conversations With...

RICHARD “RACEHORSE” HAYNES Lawyer

Interviewed by Ernesto Valdés

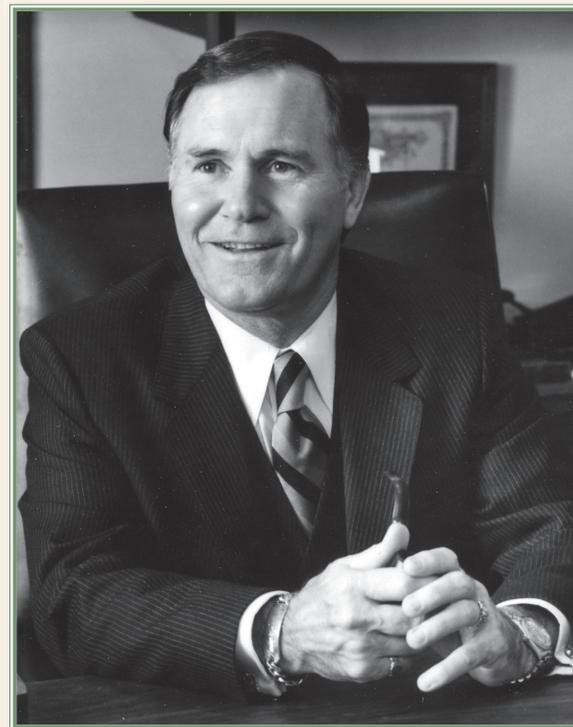
Introduction

Houston’s criminal trial lawyers are legendary, none more renown than Richard “Racehorse” Haynes, who, with the passing of Percy Foreman, may arguably now be the dean of the city’s cadre of criminal defense attorneys. He has received honors, accolades, and awards from many organizations that speak not only of the dedication and respect he has of the law but of the respect his profession has towards him – a rare recognition granted to a criminal trial lawyer. The books and movies about his famous cases describe his courtroom strategies, this interview, however, was conducted with an eye to discover the early events that fashioned the essence of the man. Mr. Haynes not only defended individuals like Dr. John Hill and Cullen Davis, and the late Percy Foreman, but in a historical-literary irony, he defended the rambunctious Prince Hamlet and the Bard himself for an alleged coggery he perpetrated in some of his writings.

ERNESTO VALDÉS HAS A B.A. FROM TRINITY UNIVERSITY, SAN ANTONIO, TEXAS, A D.J. FROM SOUTH TEXAS COLLEGE OF LAW, HOUSTON, TEXAS, AND IS WORKING TOWARDS A MASTER’S DEGREE IN PUBLIC HISTORY AT THE UNIVERSITY OF HOUSTON.

EU: Let’s start out with some personal stuff. Tell me where you were born.

RH: Right here in Houston, Harris County, Texas. When I was a kid, about two years old, my Dad was in construction. There wasn’t any work, it was right after the Depression, and I went down to San Antonio to live with my Grandmother. Bless her heart, she was from England and she was a Shakespeare expert. She’s only about four-foot, nine, but she could quote Shakespeare night and day, and she taught me how to read, write, and do arithmetic by the time I was four. She made a game out of it. She took a lazy Susan, put a paper cone over the top of it and cut a triangular apex in it and I remember she’d put spool, a needle, a couple of buttons, and spin it around and I’d tell her what I saw in it and I’d remember it. Then, she put letters in there and she’d put numbers in there. When it came time to go to school, she said, “Here’s where the school is, you just go over there and tell them you want to start in the third grade ‘cause you can do third grade work. If they object to it just tell them to give you a test and take a test, because you can do it.” So, I went over there, little twit kid, six-years old... almost six, I guess. I said, “Start me in the third grade.” “No, we can’t do that.” So I said, “Grandma said to give me



Richard “Racehorse” Haynes

a test.” So they handed me a test that started me in the third grade and they put my picture in the paper. Years later Grandma said, “Worse damn thing I coulda done for you, cause you fell in love with the concept of having your picture in the paper and you haven’t been worth a damn since!” I left there and came back here and started junior high. By that time, my Dad had some work and I came back to Houston and started junior high over at John Marshall and then left there and moved because my family had bought a little house out in the Heights, and I went to Hogg Junior High and then went over to Reagan [High School].

ALL PHOTOS COURTESY RICHARD “RACEHORSE” HAYNES

EU: And you married...

RH: A Jeff Davis girl, her name is Naomi. She was the Queen of Jeff Davis, the Sweetheart of Jeff Davis. She was Miss Everything over there, and so she's proved to be a real sweetheart. We've been married fifty seven years and she's been a sweetheart all these years.

EU: How many children did you all have?

RH: Four

EU: Did they go into law?

RH: One of them went into law, and the rest of them got honest jobs.

EU: So, after public schools, where did you go to college?

RH: I started out here at Rice, initially, but thanks to that man over there [pointing to a picture hanging on the wall], Albert Thomas (former Houston congressman), got me an appointment to the Naval Academy but I was too young and they wanted me to go to a prep-school called Phillips-Exeter, somewhere up on the east coast. I'd never heard of it. I looked it up and said, "Man, I don't want to go up there." So, I joined the Marine Corps and went over to the South Pacific during World War II. Wound up on Iwo [Jima] ... D-Day got a bullet in my fanny and came back. I was the company runner... I was a track guy... so I'd run from command post to command post.

When I came back, I won my first case. When we arrived in California from overseas, there were only three of us out of our squad that came back and one of them was an Indian boy from Oklahoma, from Okmulgee, Oklahoma. Of course, as you know, all Indian boys you call them "Chief." So when we came back to the States, we came back to Portland, Oregon, none of us had ever been to a bar before, y'know, so we stepped into one and ordered bourbon and coke, that's how sophisticated we were. The bartender said, "I ain't serving any damn Indians." Well, I'd been boxing champion y'know, so I said, "You're not talking to any damn Indians, buddy,



Haynes as a young boxer.

you're talking to a United States Marine. Now get the bourbon and cokes up on the bar!" He pulled out a slap-stick and slapped it on the bar and said, "I'm telling you, I'm not serving any damn Indians." I didn't realize it at the time, but it was against the state law for any bartender to serve alcohol to an Indian. Anyway, when he slapped the bar...there was some controversy about whether he went through the window of the bar before the jukebox or vice-versa, but we all went to jail.

The next morning the bartender was there and we were before the judge, all bandaged up, having gone through the glass window and everything. Bartender said his damages were \$454.00 - in 1945, and that was a lot of money. So someone said, "Race, go tell the judge what happened." So I got up and ran it down to the judge and he said, "Alright, gentlemen, case dismissed." And the bartender said, "Well judge, what about my damages?" And he looked over at him and said, "War is hell." So then we went up to talk to the judge because he'd called us up to the bench. Judge said he'd lost his son at Guadalcanal. So he understood.

Some fifteen years later, I was giving a lecture up in Oregon and up on the

dais was an old judge. And they'd introduced me as, "Racehorse," just as they'd introduced me as "Racehorse" in that court when I was there as a kid. He sent a note down there wanting to know if I'd been in Oregon in 1945, and it was that same judge.

EU: One of the things I need to ask you for the sake of posterity and this interview is how you got your nickname?

RH: Well, I was trying to play football in junior high. I was a running back and the hole [in the line] closed so I just ran parallel to the line of scrimmage and at right angle to the long axis of the field - I didn't advance the ball at all, I just ran sideways twice in a row and the coach said, "Dammit, what do think you are, a racehorse?" and it stuck. So when you think of the nicknames the kids get when they are young, it's a better nickname than some of the kids I know that got them way back when.

EU: What did you learn about yourself in the military?

RH: I keep thinking that for today's young people compulsory military service wouldn't be all bad. Give them two years of instruction, where



Haynes during a court recess at the Cullen Davis trial.

they have to follow the damn rules... Today's...every generation wants to do more for their kids than they had and so we, we indulge them. Our parents indulged us; we had more than they had. So today's kids, at least most of the kids that my kids went to school with...my kids went to silk-stocking private schools. Looking back on it, I'm not sure that was the right thing to do because I'm not sure that they really understand what its like to be from a family where Mom and Dad both have to work, y'know, just scratching to pay the bills.

I'll tell you how I learned about it. When I was in law school we would come downtown, me and Tom Sullivan, who later became a judge, and Bill Kemper, whose father was a very good lawyer here in town, and he would let us study in his law office at night. So we'd come downtown to study and we'd walk over in front of the Joy Theater at about the time the poor folks were catching the bus to go home, and I'd preach, then we'd take up a collection. Then we'd go over to the beer joint, beer was only about a

quarter, buy a couple of beers...Oh yeah...preaching against drinkin' and sinnin' and carryin' on the pleasures of the flesh. One night we were over there and one drunk was in back and he said, "Brother, can I ask you a question?" And I said, "Tom, get the hat goin' because I got a feelin' here. Finally I said, "Sure brother, what's you're question?" He said, "Did I know anything before I was born?" I thought to myself, "Oh God, I can't handle this one...No brother, I don't think ya did." Then I asked a stupid question, I said, "Why do you ask?" He said, "Because I think that's the way it's going to be when I'm gone too." Y'know, we were making three or four dollars in quarters, dimes, ...with that preaching...and this old guy said, "Why not go over there to the Loew's where people wear neckties. You could preach and make a little more money. So we went there a couple a nights and found out that the people with neckties don't give a damn. They don't care to hear about drinkin', sinnin', and pleasures of the flesh, and they don't want to contribute. They don't want to

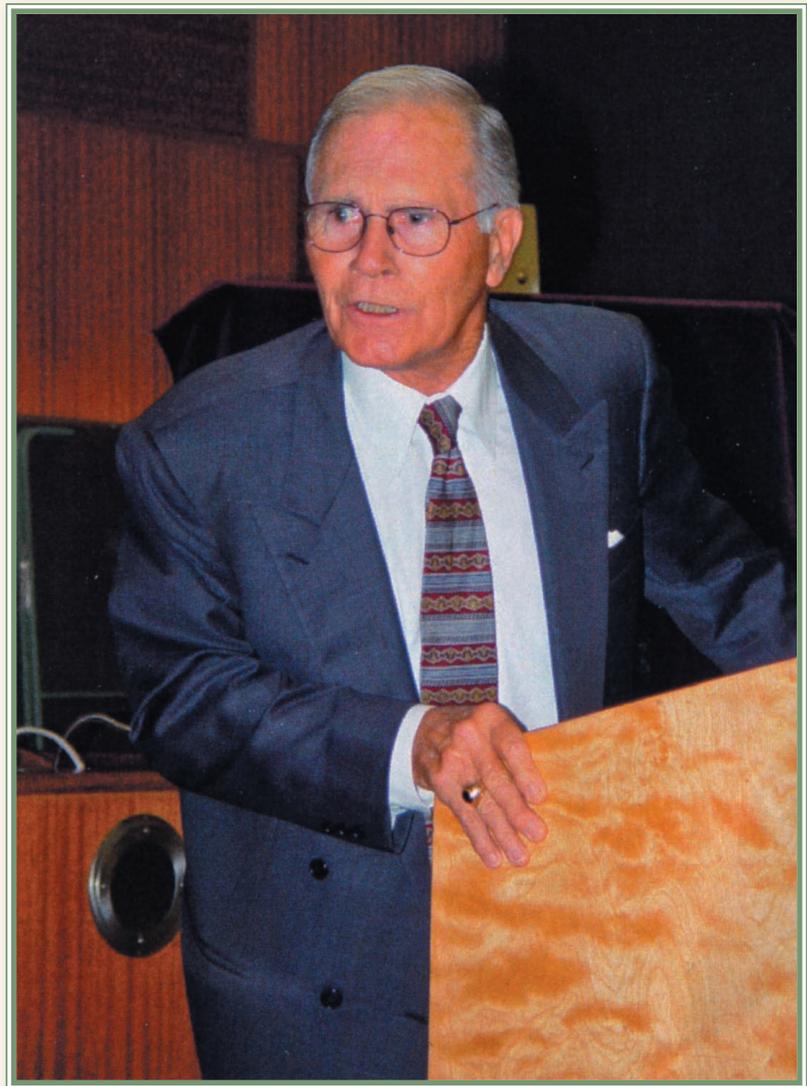
hear you bad-mouthin' their ways. That was another important lesson learned.

After I got back I went to UH. I was in the reserves and Korea [Korean War] started and a thing came out in the paper and said, if you had a good grade average you could go down to New Orleans and take a test, and you can get a commission. So, I thought that'd be cool, so I went down there and they gave me a uniform allowance in cash. Well, I was a nice boy, and had never been in New Orleans, I had some cash...I didn't buy a whole lot of uniforms. So when I went to the [Army reserve] meetings out here on OST, I never had the uniform. So the old man was saying, "I oughta ship your butt over to Korea." Then that deal came out where you could get into the ROTC and you'd get paid a few bucks a month. When you graduated, you'd get a commission, then you had to go do three years. So I got into that and stayed until my last year. Then I went off to the Army and jumped out of airplanes for about \$100 more a month as a lieutenant.

I got out of there in 1956. I went over to one of the big firms, but then Sullivan and I started an office, Sullivan and Haynes. We had been friends in undergraduate, in fact, I was president of the student body one year, and he was the president of the student body the next year when we were in undergraduates. In law school we were friends, buddies, so we started the firm Sullivan and Haynes, and we got Rex Green, he was a UH man, a fellow named Bill Crouch, and Ken Pacetti, he was a South Texas [Law School] boy. When I was in law school, I got a job at the county court house in the law library as an assistant putting supplements in the back of law books. So I started a little business – the lawyers would be up in court and they'd have a legal question then they'd ask the court for a break to go down and check the law library. They'd call me and I'd try to look it up for them, and they'd give me a couple of dollars and I'd try to find the case for them. Also, the probate court was close by so I could sneak out of the law library and go and listen to the probate lawyers. Either way, civil or criminal just so it was a jury trial that's what I wanted to do.

Tom and I represented some insurance companies, initially, doing subrogation work...that was boring. A criminal case came along and I just kind of got hooked into those and I started doing DWI's. In a ten-year period, I saw in an article, I never kept count, but according to the article, I tried 163 of them and only two of them were convicted in jury trials. I was charging big bucks in those days because the big firms, who had men of means with DWI's, would hire me.

I also did a lot of "Smith & Wesson divorces" over the years that were not too difficult - where the wife shoots the husband. But DWI's became a specialty. They didn't have breathalyzers in those days, and they used the urine analysis and the blood analysis. So, we'd get into how they took the blood and back in those days you didn't have the Mother's Against Drunk Drivers, you didn't have the DWI Task Force, you had just



Haynes speaking at a conference.



From Left to right, Richard "Racehorse" Haynes, Judge Kenneth M. Hoyt and attorney Joe Jamail.

regular police officers who were making busts coming down there trying to testify. It wasn't all that difficult and if you picked a jury of people who would drink socially, they could recognize how it could be misunderstood as being an intoxicated driver. Obviously, you don't want to get some drunk on the street every night, but at the same time, the charges were totally subjective based on the standpoint of the officer whether you're intoxicated or not. Further, if your attitude was not good, or you're color's not right, or y'know if you're driving a big car and you're coming from the fancy country club or bar, that could get the police officer ticked off at you, so it wasn't all that hard.

EU: Did you ever consider another career besides law?

RH: Medicine. My high school teacher kept telling me I ought to go to med school. I went out there one summer at the medical complex and I didn't like the feeling – I needed to get into a profession where if you screwed up you could appeal. Over there, you screw up you can't appeal.

EU: What was it that directed you towards law?

RH: Well, they gave us those tests that kept telling me I ought to go into engineering. Well, I didn't want to do that. That's not good, I wanted to be some place where you can help people, and in the law you can help people. I've always preached and practiced that you ought to...when you go to a court... you ought to go over and make friends with the bailiff. Introduce yourself and respect his position. Make friends with the court reporter because she is going to be invaluable to you in terms of the record she makes. Make friends with the court clerk, don't treat them like rubbish, you're not above them...they are officers of the court, and respect the jury. I used to like watching trials, I'd watch Percy [Foreman] try cases and then I worked with him briefly when I got out of school for a little bit. Then I represented him when he got in trouble...Yeah, he never had a driver's license. I used to castigate him for that,

I'd say, "Percy, you get your name in the paper a lot and they print it up that you don't have a driver's license. What are the kids going to think? They're going to think its OK not to have a driver's license and if they're going to drive they need a driver's license. So c'mon, knock that off."

But 'ole Percy, before he died, about two or three years before he died, I guess, he called me one morning at about 10:00. He said, "Hoss, what are you doin'?" And I answered, "I'm workin'." He said "C'mon over here to the club (The Inns of Court, a private club for attorneys and judges). I met him over there and he was already drinking. I chewed him out, I said, "Percy, you're not supposed to be drinkin' " because he was diabetic. He said, "I know, but I worked on the weekend and you know how lonely it is to be up in your office on Sunday and Saturdays." And I said, "Yeah, I know." He said, "Most of my friends have gone and I've never had any interest in life except practicing law, drinking and chasing women and now, y'know, I'm too old to chase women and the doctors don't want me to drink and I just want to make sure you had some interest in life outside the law, do ya?" And I say, "Oh, yea, I have a boat, I like to play golf, I like to go boating. I've got some interests in life that's outside...I've kids...race motorcycles." Bless his heart. He didn't have any interests outside the law except what he just told me. When we had his funeral we had a closed casket with a picture of him on top the casket with that old gray fedora that he used to wear sittin' on top of the picture. I got to say a few words, and Dick De Guerin said a few and Mike De Guerin said a few words. We kissed the old man goodbye.

I remember one time he had called me one morning and said, "What are you doin'?" and I said, "I'm going in here to try a little case." He said, "Naw, naw, run in there and get a reset, you're going with me to Dallas, I'm going to make you famous." I said, "How's that?" He said, "I'm going to interview Jack Ruby, (this was the man who

assassinated Lee Harvey Oswald who in turn, had assassinated President John F. Kennedy) he wants to talk to me." "All right," so I went up to Dallas with him and he went in to talk to Ruby. I didn't get to go in. When he came back, I said, "Are you going to take the case." Percy could have tried that case as good as anybody on planet Earth. He said, "No." And I said, "Why not?" He said, "He doesn't understand that the tail doesn't wag the dog." And that's all he told me. "The tail doesn't wag the dog."

EU: Did you ever want to be judge?

RH: I was a judge temporarily. They appointed me over there in the county court to sit on the county criminal court at law for a couple of three weeks or so.

EU: How did that go?

RH: It was interesting, but I found that a lot of appointed lawyers by the court were entering plea agreements with the prosecution without ever having talked to the client and so I'd make them go talk to the client. I'd ask them, "Have you talked to the client and has the client fully understood what the ramifications of this plea. Put it in writing, read the statute, the penal provisions that apply to this case? Go back and read them." And some of the guys that get appointed, I thought they'd simply get the case continued two or three times and that way they'd have four or five of them on the docket each day and they'd collect some money. That didn't suit me too well.

EU: Which of your cases is your favorite, which one do you really like?

RH: Well, the case I really like, nobody has read about. It was a black man accused of stealing from a construction site, a felony. It turns out that the white guys he was working with were doing the stealing, they just framed him. So I went down and tried the case vigorously and he prevailed. That night they had a little party for me out in the ghetto, in a little ole shotgun house. Had some barbeque and the little kids had taken a paper and written, (they couldn't spell "lawyer") "God bless



Haynes receiving awards with other colleagues.



lawyer Hoss.” And I left there feeling I’d done some good, y’know. That was more satisfying than the big bucks fees I’ve got defending some of the big cases. That’s the satisfaction when you help somebody. In fact, going through all this paper work trying to get organized since we’ve [recently] moved, I found countless letters from people just saying thanks, “You’re in our prayers; Thank You; God Bless You.” You can’t beat that, money is one thing, fame and fortune is another, they are two different things but when you got people thanking you for trying to help them, boy, that’s the ultimate payoff for thanks and they really mean it.

Another of my favorite stories is when I represented a fella accused of stealing from the bank he worked at and he had me satisfied and convinced that he was just innocent. He was a nice old man, we put on our case, I’d worked hard on it. When the jury came out, I looked at the first person coming out of the jury room and I said to my client, “It looked like this jury has returned a verdict in your favor and if that is true, the judge reads the verdict and if ‘not guilty’ he dismisses the jury. Then I want you to stand up and thank the jury.” And so the judge read it, “We the jury, find the defendant not guilty.” The judge said, “Alright ladies and gentlemen

you are excused.” My client stood up and said, “Thank you ladies and gentlemen...and I’ll never do it again.”

Another trial I had down there was when the government had embraced one of those “vatos” and forgave him of all his crimes so he’d come testify for the prosecution on my client. So in the closing argument, I’m up before the jury and I said, “Ladies and gentlemen of the jury. The government has embraced this man...forgave him of his crimes...and he is sitting in the back of this courtroom...he’s sitting right back there smirkin’ like a jackass eatin’ cactus because he’s got a deal with the government.” We looked back there and then it happened, this guy, with the blessing of all, shot me the finger...gave me the bird! And I thought, “What would a real lawyer do with an opportunity like this.” A real lawyer would say [and I did], “Ladies and gentlemen, did you see that? This man has so little regard for solemnity of the oath you took as jurors that he’d

make that obscene gesture towards you! Pitiful! Pitiful! Pitiful! I pity him. Shame on him! Shame! Shame! Shame!” I had decided to get the judge in on it too, so I turned around and said, “...and disrespect for the court, obviously, since he made that obscene gesture to this court.” Well then, the court wanted to hear from him.

So, we had a hearing afterwards out of the presence of the jury. This guy got on the stand and testified, yeah he’d put his finger up but he was picking his nose, that’s what he was doing, he said. And Randy Shafer was my co-counsel, Randy was a brilliant young lawyer, he leaned over to me and said, “Ask him what he did with the booger?” And I said, “Randy, what a question! What if he said, ‘I put it under the seat.? What are we going to do....go back and look under the seat?’” Anyway, the jury acquitted.

EU: Do you see poor folks getting more help than they did twenty or thirty years ago?

RH: I try to do 10% pro bono, but I can't afford to do them out of town. The practice of law is so expensive to maintain, to get the people to work, to pay the rent, get the computers, get the equipment...it costs a lot of money. It's amazing how many good lawyers out there aren't making any money, and there's a lot of them.

I was invited to give a speech at a banquet where they had some kids there from UT Law School who had won some national contest, y'know, moot court, best briefs, and all that sort of stuff. And I noticed that those contests were sponsored primarily by big law firms - they put up the money to get the thing going, which without that money as financial help they couldn't go to it. But what it does is it gives the big law firms access to the number one students in the law schools around the country and so they hire the best and the brightest and they pay the most money. And the best and the brightest wind up representing the corporate citizen so

mediocrity goes in and represents the citizen and so the citizens aren't given the same kind of quality of legal representation as the corporate citizen, which I don't think is totally right. I don't blame the corporate citizen for hiring the best lawyers, they can afford it, and I don't blame the lawyers for accepting the high fees, but I told those kids up there in my speech when I accepted my honor, "Give some time to doing some pro bono work. Take your skills to help the poor, downtrodden and oppressed." Some of them have done it - I get cards and letters from them, cards from them thanking me.

I think it's always been the same... the rich and powerful, and the influential, they can afford to hire a good lawyer. The poor, downtrodden, and oppressed they appoint lawyers, and sometimes they get pretty good lawyers that are appointed. The federal public defender here has got some cracker-jack lawyers over there that really care about the clients, they really care about the cases and they expend the maximum effort. It's the middle class, the poor guy that's paying for his house, and trying

to pay for his kid's education, and the outboard motor boat, the car...he's the guy that can't afford anything, it's the middle class that gets stepped on now.

EU: How do you want to be remembered?

RH: I will tell you is this, I've done so many eulogies over the years for people who have gone away, that I decided that I was going to do my own eulogy. So, a few years ago, regardless, if I've been drinking or not drinking, I would get on the video tape at home and I'd mention the people I'd run into that day, and I'd say nice things about them and so forth. In my last will and testament I provided that we were going to have it [memorial service] out at the domed stadium [Astrodome], and I was going to have a bar and a band, and then do the video tape as my eulogy. And if you like what I say about you in my eulogy, you can buy that part of the program for about ninety bucks, and the Widow Haynes will have a few bucks to live off of. ★



Relaxing and golfing at St. Kitts