

# The Texas Law Reporter

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## Thoughts & Remembrances on El día de los Muertos

David Schulman

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Hoy, en el Día de los Muertos, yo estoy pensando y hablando con mis difuntos queridos: mi tatara abuela, mis abuelos, mis abuelas, mis tías, mis tíos, mi padre, mis primos, mis amigos y mi hermano, Esteban.



When I first headed west, in the Fall of 1966, a friend in Wichita (Kansas) suggested we go out for tacos. “What’s a taco?”, I asked, having never before been exposed to foods other than the various ethnic foods with which I grew up. As bad as those tacos probably were, they were still my introduction to Mexican food.

Three years later, I moved to Las Vegas (Nevada), where I remained for nearly 15 years. I learned to speak Spanish at a rudimentary level, and enjoyed what I have now come to know as primarily “baja” Mexican food. It’s not “Tex-Mex” and it’s not “Norteño” food, those are very different. So, too, is the “Cultura Mexicana” in Nevada and Texas. The spoken Spanish is similar, but the cultures are different.



Thus, when I moved to Texas a little more than 30 years ago, I had never heard of “el día de los muertos.” Having grown up where I did, I was familiar with “All Saints Day” and “All Souls Day,” but I had never heard of this Mexican “Day of the Dead.” As my father and his family were Jewish, I had experienced the custom of “Yahrtzeit,” where my father said “Kaddish” (the mourner’s prayer) for his

departed ancestors (and friends) on the anniversary of their passing. I felt a similarity in the two holidays, and, over time, el día de los muertos has become part of my life.

I spent the first nine years of my life in New York State. As I have written previously, my earliest memories of living people commemorating the lives of dead people was a “Decoration Day” ceremony at Caldwell Cemetery, in Lake George Village. Those were dead people I had never met, however, and the ceremony meant considerably less to me then than it would have today.



When I was nine, we left the North and moved to the South. Well, at least south of the Mason-Dixon line, to Silver Spring (Maryland). One of the neighbors was a disabled WWII veteran named Brownie. I later realized that Brownie was a drunk -- one the first of many, many, such damaged combat veterans I have met in my life. I see them everyday.

Brownie and his friends would hang out at his house, and they let me hang out with them. Brownie taught me how to operate a movie projector and would occasionally give me some beer. My family rented for a year then purchased a house three blocks away. Brownie wasn't in my life for very long, dying sometime in 1959, but he was probably my first adult friend. He was also the first person with whom I was personally acquainted to depart. He was probably 40 years old. He was not the first memorable death in my life.

! My father's father, Charlie, died in 1960. He was 70 years old.

! My mother's grandmother, Katherine, died in 1961, at 87 years old.

! My father's mother, Ida, died in 1964. She was 74 years old.

! A number of my high school classmates died during our school years. Car wrecks, health problems and stupidity. The usual stuff.

! A friend and classmate named Kevin drown in 1965, while working as a lifeguard. He was 18 years old.

! Ralph, another classmate, died in Vietnam in December of 1966. He was 19 years old.





- ! Another classmate, Tom, a promising athlete who played baseball in the Baltimore Orioles system, was killed in a car wreck in 1967. He was probably 20 years old.
- ! After high school, I dated a young woman named Diane, whom I had first met when we were in the marching band together (she played drums), but she had upper respiratory problems of some kind and moved to Arizona on doctor's advice. She died in 1967, at 21 years of age.
- ! I played in several bands with a drummer named Bob. He was a chubby fellow with an infectious smile. He died of cancer in 1968, at 22 years old.
- ! In the five years after high school, when I worked in the east coast music scene, more than one musician friend died of drug overdoses.
- ! One of my biker friends, Clyde, died in a collision in 1972. He was 29 years old.
- ! The shop boss at the company where I worked died of a heart attack in 1975. He wasn't quite 55 years old.
- ! One day in 1977, I was feeling pretty puny while working at my friend Roy's bar. He told me I looked like I was going to die, so he convinced me to let him drive me home. When I returned to the bar that evening to get my car, I learned Roy had died of a heart attack that day. He was 64 years old.
- ! My uncle Tom, my primary supporter in Las Vegas, died of cancer in 1980, at 51 years old. Among many, he had a huge impact on my life and how I look at living and dying.
- ! My mother's father, Harold, died in 1982, at 79 years old.



I became a citizen of Texas in 1984, the same year I began my legal studies at Texas Tech. That December, my brother, Stephen, was killed in a car wreck, at age 32 years.

Since then, I've lost aunts, uncles, cousins and friends too numerous to mention, most recently, my youngest uncle, Harold ("Butch"), who was but 71 year old.

Although the tradition of el día de los muertos is to visit the departed ones' graves with gifts and tokens, my departed dear ones are buried from New York to San Diego; from Portland to Miami. I cannot afford to travel that much. Beyond that, my loved ones are not just in those tombs, they are in my heart and in my mind.



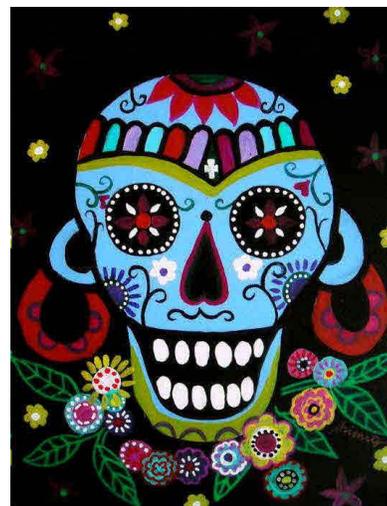
I wrote the initial passage, above, on Saturday, November 1st. Today, on November 2nd, All Souls Day, I will gather with a large group of friends to celebrate the life of my friend, Art. He left us, voluntarily, at the end of August. Many will remember him as the proprietor of Artz Rib House here in Austin, a place the Austin Chronicle called "a ramshackle barbecue temple and live music venue."



Art and I were both bass players -- he a little more accomplished than I. We shared similar non-converging career paths which led us to Austin, and we operated a food trailer in East Austin for a while a few years ago.

Forty-two of us each have a small container with part of his ashes. We'll celebrate his life today, and spread his ashes around the world over the next year or two. I'm not sure where Madgie and I will take Art's ashes, and I explained that to him when we spoke yesterday. I did promise him, however, that it will be somewhere neither of us have been before.

So why have I written this piece, you might ask, which clearly has nothing to do with our legal profession. The answer is that I have written it because it does have nothing to do with what we do, and, yet, it has everything to do with what we do. If you don't understand that, I probably cannot explain it to you. I will only say that life is a giant cycle of events. The names change. The sites

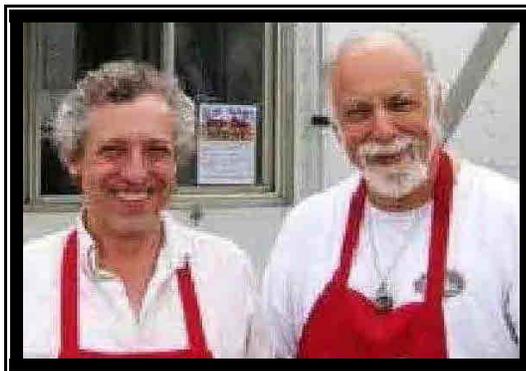


change. The result is the same -- ashes to ashes. We come from dust; we return to dust. Keep that in mind.

It was through my friendship with Brownie that I understood the reality of death. It was through el día de los muertos that I came to realize that the death of a friend or loved one does not equate to finality.



As I told two friends yesterday, I've never really been on-board with the religious beliefs of my friends and family. Nevertheless, I know that my departed dear ones do have eternal life in my mind. As long as I live or my mind is ravaged by Alzheimer's, I will remember them . . . and I will think of them and visit them on el día de los muertos.



David A. Schulman, one of the founders of TIBA, has been a co-author of this report for many years. He was a member of the Court of Criminal Appeals' staff in 1991-1993, and has been lead counsel in hundreds of direct appeals and habeas corpus proceedings. David reviews every published criminal case from the Court of Criminal Appeals and every Court of Appeals on a daily basis. He has been Board Certified in Criminal Law since 1991 and was one of the first attorneys to become Board Certified in both Criminal Law and Criminal Appellate law. See his website at [www.davidschulman.com](http://www.davidschulman.com).