

Manuel Real



September 1999

Court: U.S. District Court for the Central District of California
Born: Jan. 27, 1924
Appointed: 1966, by President Lyndon Johnson
Previous judicial position: None
Law degree: Loyola Law School

By [Paul Elias](#)

U.S. District Judge Manuel Real is a peach of a guy.

Seriously.

He's 75 years old, completely gray, and as regal and grandfatherly as they come. He's in pretty good shape, too. Trim, good looking, and he appears athletic.

"Gardening," he says modestly.

The 33-year veteran of the Los Angeles federal bench also has that President Clinton handshake, the two-handed one made famous in *Primary Colors*, the one that makes the recipient feel special. It's nice.

Hell, they've even named an elementary school after him. Dedicated it last year with the judge in attendance. It's out there in the dusty, Inland Empire town of Perris. Real's exceedingly proud of that school.

It's also endearing how he describes himself as a "San Pedro boy" who still lives in the neighborhood, just a mile from the home he grew up in with his Spanish immigrant parents.

So why does everybody hate Manny Real?

"Something happens to Real when he puts on that robe," says Victor Sherman, a Santa Monica criminal defense attorney. "I don't know what it is, but he's a tyrant. A bully. He thinks he's lord king of the courtroom."

Of course, Sherman's opinion is colored somewhat. Real once ordered him jailed for four days. That happened after Sherman did what many lawyers -- and even a few Ninth Circuit U.S. Court of Appeals judges -- have dreamed of doing: He gave the judge the middle finger.

"Victor's a hero for that," says L.A. criminal defense attorney Kenneth Kahn. "Pretty smart, too. He was able to recuse Real for a while after that."

The Ninth Circuit later reversed Sherman's jail sentence, which is nothing new for the judge. The Ninth Circuit reverses Real a lot. Five of the Ninth Circuit's eight published opinions stemming from Real cases last year were reversals, including one that was reassigned on remand.

In fact, if it weren't for his fellow L.A. federal jurist, A. Andrew Hauk (who exceeds Real's judicial tenure by four months), Real would be the most reversed district judge in the circuit. His cases, say two circuit judges, are definitely "red-flagged" - suggesting the court's research staff scrutinizes the record in his cases extra carefully -- and have been for many years.

"I think he gets reversed a lot because of his reputation," says one of the circuit judges, who talked about Real on

condition of anonymity. "But I don't think he's as bad as his reputation. Yes, he's rude to lawyers, and if I were still practicing I wouldn't want to appear before him. But he often gets the right results. The same can't be said for Andy Hauk."

Nonetheless, Real's rotten reputation endures, this circuit judge says. His fate was forever sealed 13 years ago with two cases involving the same issue, namely the circuit's power to take a case away from a trial judge.

This is where Real's notorious feud with police misconduct litigator Stephen Yagman began. During a contentious 1984 defamation trial, Real fined Yagman \$250,000 for his courtroom behavior. Yagman appealed, and the circuit reversed and ordered another judge to consider the sanction issue. "The fragile appearance of justice has taken a beating," Judge J. Blaine Anderson wrote in *In re Yagman*, 796 F.2d 1165. While not doubting Real's ability to act fairly, the court added, "It is time to conclude the matter as quickly and as painlessly as possible."

But Real refused to reassign the case, and instead sat on it pending the outcome of another appeal involving a similar issue. In that case, *U.S. v. Sears, Roebuck & Co.*, the circuit again ordered Real removed on remand after he twice refused to follow the circuit's instruction to dismiss it. After the U.S. Supreme Court refused to hear Real's personal petition for *certiorari*, he finally relinquished both cases. "I felt very strongly about those cases," Real says. "One of my heroes is Harry Truman, who faced a ton of criticism but always did what he felt was right."

To this day, Real remains defiant, unrepentant and even a little disdainful of the Ninth Circuit. "They can sit back and look for something I did wrong and make their calls. That's their job," he says. "But I'm in the courtroom and I call them like I see them."

And despite his track record -- or maybe because of it -- Real still ignores the Ninth Circuit when he thinks he's right.

In *United National Insurance Co. v. R&D Latex*, the Ninth Circuit in 1996 reversed Real's summary judgment for the plaintiffs and remanded it to him. But Real once again granted the plaintiffs summary judgment. Last year, in an opinion by Senior Judge Betty Fletcher which referred to Real by name -- a break with tradition and protocol -- the circuit ordered the judge off the case.

"Judge Real has twice granted summary judgment to United National and Aetna and has failed to articulate his reasons for exercising discretionary jurisdiction," wrote Fletcher. "In light of the history of this litigation, we conclude that if this case were before him for a third time he would have substantial difficulty in putting his previously expressed views out of his mind."

An unfazed Real had little to say about the case and Fletcher's opinion. "Real doesn't give a shit what the Ninth Circuit thinks," says an attorney who frequently appears before him. "I'll give him that."

In Real's chambers sits a bust of Peirson Hall, the chief district judge in Los Angeles when Real went to work as an assistant U.S. attorney in 1952. Hall was Real's mentor. "He did what he thought was right in spite of any potential dangers and in spite of any criticism," Real says.

Real tells this story to show where his judicial demeanor comes from:

A federal jury indicted two men for mailing pornography to each other. AUSA Real was assigned the case.

"These guys were mailing slides of Busty Brown" -- a famous 1950s stripper -- "and all it was was bare boobs. But this was the 1950s and it was against the law," Real recalls.

One defendant pleaded guilty while the other went to trial before Hall without a jury. Hall acquitted the guy. The other defendant promptly asked the judge to set aside his guilty plea, which Hall agreed to do despite Real's arguments.

In a fit of pique, Real demanded a jury trial instead of a bench trial before Hall. "Fine," Hall answered. "Mr. Clerk, call a jury for 10 o'clock tonight." When a flabbergasted Real replied that he needed more than a few hours to prepare for trial, Hall dismissed the case "for lack of prosecution."

"Of course, he was right," Real says. "And that's where I learned how to be a judge."

While he's got plenty of detractors, Real's supporters are hardly in short supply. "He's old school," chuckles Beverly Hills attorney Bruce Hochman, a friend for 46 years. "He emulates the training he received. That's how the judges were back then. Everything by the numbers. You think Judge Real's a tyrant? You should have seen Judge [Charles] Carr."

Hochman, who has been influential in Democratic politics for five decades, met Real when they worked together in the U.S. attorney's office. Several years later, Hochman used his connections to Pierre Salinger, John F. Kennedy's onetime press secretary who served briefly as a California U.S. senator, to get Real appointed U.S. attorney for Los Angeles in 1964. Two years later, Real was appointed to the eight-judge district court bench.

Today, the Central District of California numbers 27 judges. And there've been other changes, including the advent of mandatory minimum prison sentences dictated by Congress. Real doesn't see these developments as positive. "The bench has changed dramatically in 33 years," he says. "I think for the worse."

Nevertheless, Real vows to remain an active judge until he dies. Indeed, he shows no signs of slowing down.

Earlier this month, for instance, Real went ballistic when plaintiffs attorney Robert Swift made a seemingly modest request. Swift represents Filipinos in a class action against deceased dictator Ferdinand Marcos' estate. The plaintiffs, who claimed to have been tortured or to have lost relatives during the Marcos regime, recently agreed to settle their class action for \$150 million.

The settlement, of course, requires Real's signature. At a hearing to consider the deal, Swift asked that a paragraph be deleted. The paragraph stated that Imelda Marcos, the dictator's wife, and her children have "never been charged civilly or criminally with a human rights violation anywhere in the world."

Real hit the roof. "That clause doesn't mean anything to Mrs. Marcos," he shouted. "It doesn't mean anything to members of the class! Let's stop all of this nonsense, pure nonsense." Real also warned Swift that the lawyer could "wind up with zero" if he insisted on the deletion.

Swift declined to comment on the episode, referring to Real's having issued a gag order in the Marcos case. But seasoned L.A. lawyers say Real's treatment of Swift is nothing new -- tame, in fact, by the judge's standards. "He's not anybody's favorite judge," says a criminal defense attorney, speaking anonymously.

Says yet another criminal defense lawyer: "Off the bench he is one of the most considerate, kindest persons I know. Then he takes the bench and he becomes rude, intolerant and abusive. He's a very complicated guy."

Real says he is aware of his dual personality. But he also offers some reasons for it. "For a judge there are two lives," he says. "We are about very serious business. We are dealing with people's lives and money. Life on the bench is totally different for me than off the bench."

Among those in the ranks of Real's supporters are former clerks, who express fierce loyalty for their old boss. "I can tell you he was an unbelievably great guy to work for," says Loyola Law School professor Daniel Selmi, who clerked for the judge in 1975-76. "I think he's a wonderful man. He's totally honest and full of character."

A more recent clerk, L.A. Assistant U.S. Attorney Jeffrey Friedman, offers similar praise. "He is obviously someone who has a strong sense of who he is as a person and as a judge," says Friedman, who worked for Real from 1995 to 1996. "But there is freedom of thought, and he gives you your own place to advance your own beliefs."

One of Real's traditions is to rely on his clerks to serve as chauffeurs. Three former clerks interviewed for this story say the "carpool" -- as they called it -- turned out to be the greatest experience of their clerkship. "It ended up being a huge benefit," recalls Daniel Weiss, now at O'Melveny & Myers in L.A. "That's two hours a day with a one-on-one with a federal judge. We'd talk about cases before the court, upcoming trials or the headlines of the day. It was unbelievable."

Real, for his part, returns his former clerks' loyalties with his own affections. Hanging on the walls of his cavernous chambers at the downtown L.A. Federal Building are framed photographs of nearly every clerk who's ever worked for him. His office also features a giant American flag on a stand, along with Abraham Lincoln memorabilia. In addition, there's artwork from his six grandchildren whom, it's clear, he dotes on.

That oversized flag, meanwhile, conjures up //images from one of Real's most notorious courtroom dramas -- the one that featured a torrent of epithets and a run-in with *Hustler* magazine publisher Larry Flynt.

Flynt had been arrested in 1983 for desecrating the flag after he was ordered to appear in another L.A. federal courtroom in the John DeLorean cocaine case. Having been directed by U.S. District Judge Consuelo Marshall to turn over a videotape at issue in the DeLorean trial, Flynt showed up in court wearing the Stars and Stripes as a diaper. He was sent to Real after being charged with contempt for calling Marshall a "whore."

Appearing before Real, Flynt spat at the judge, which prompted Real to order him gagged. Later, after Real had the gag removed, Flynt let loose with a torrent of obscenities. Real then sentenced Flynt to serve six months in a psychiatric prison.

"Motherfucker, is that the best you can do?" Flynt taunted Real.

"No. I'm making that 12 months," replied the judge.

"Listen, motherfucker, is that the best you can do?" repeated Flynt.

At that point, an agitated Real stormed off the bench, but not before sentencing the defendant to 15 months.

Although the exchange occurred 16 years ago, Real's colorful contretemps with Flynt was reprised in a scene in the recent movie *The People vs. Larry Flynt*. Real says he didn't see the movie and doesn't intend to.

"Larry Flynt," Real says with a smile, shaking his head. "He was something else."

Perhaps it's too bad that Real has turned out to be most famous for his role in the Flynt case. They named the school out in Perris after he handled a case in which the poor, mostly Latino Val Verde School District tried to fend off two other school districts that were trying to incorporate some of the more affluent local schools into their own districts.

And even the criminal defense attorneys who hate Real -- and hate is most certainly not too strong a word -- give him credit for occasionally seeing fit to give a deserving defendant a break. "I've seen him do remarkable things in getting around the mandatory minimums to give somebody a second chance," says one defense attorney. "That good stuff is certainly in the minority, but it's still there."

Asked what he considers his proudest accomplishment on the bench, Real doesn't hesitate to answer. That would be his 1970 order to desegregate the Pasadena school system. His ruling marked the first time that a school district outside the South had been ordered to integrate, and it sparked a decade-long battle for control of the school board. The city's schools were either overwhelmingly white or overwhelmingly black and Hispanic, and the white schools got the most funding. The school board had resisted integrating until Real stepped in.

That case, says Real, gave him the confidence to do things his way regardless of what others thought. His role in desegregating Pasadena's schools also reinforced the sense of judicial power that he has continued to wield roughly, but also consistently, from his protected perch on the bench.

"It solidified for me," he says, "what it meant to have lifetime tenure."