Maverick lawyer finds a Texas home

By Cheryl Coggins
American-Statesman Staff

When they talk about how things have changed over at the University of Texas, when they boast of a new tolerance and rave about the wondrous bounty of academic freedom, that's when his name comes up.

"And did you know they hired a professor over in the law school who defended Angela Davis and a bunch of other radicals? And not one person complained?" they'll ask. "That might not have happened a few years ago."

But then, Michael Tigar, he of the Angela Davis, Cesar Chavez, Chicago Seven connections, probably wouldn't have been interested in taking a job at the UT School of Law a few years ago.

HE WAS TOO busy playing a leading role in defending some other people in serious legal trouble. Different kinds of people. Say, a John B. Connally Jr. on charges he accepted an illegal gratuity, committed perjury and conspired to obstruct justice. Or perhaps he was tied up in the infamous Bobby Baker theft and tax evasion case, the little legal number Tigar cut his courtroom teeth on under the tutelage of renowned Washington lawyer Edward Bennett Williams.

Or perhaps Tigar was too wound up in the Abscam defense of former Congressman John Murphy, a client whose friendships with the late Anastasio Somoza and the shah of Iran didn't exactly make him the darling of the left. Some of those who regarded Tigar as a legal ramrod in the Movement were not amused. Outspoken liberal lawyer William Kunstler described Tigar's defense of Murphy as "a horror, just a horror."

"He's apologized for that," Tigar says of Kunstler's attack. Of course, Tigar, whose career has hugged almost every turn in the crooked road of social and legal change over the last 15 years, doesn't really seem to give a hoot what Kunstler, or anybody else, thinks of his selection of clients.

"IF A POLITICIAN I disagree with is charged with bribery, I don't have to believe either in bribery or in that politician's views," says Tigar as he leans back in his chair at the UT law school, props his beloved cowboy boots up on his desk and tries to explain one more time why he, the young man whose radical politics cost him a clerkship with Supreme Court Justice William Brennan, has mingled and even befriended those not exactly in tune with the cause.

"What I might believe is the way the case was made is an embarrassment to an enlightened system of justice. If the method by which a case is made endangers the principles I think are important, or if the prosecution's evidence ought to be challenged, subject to test, then the case is worth doing," he says.

That philosophy has guided Tigar, 44, through a law career heavily laced with First Amendment issues, to say nothing of notoriety and celebrity. And it's a career that has translated well from courtroom to classroom, colleagues at UT say.

"Words are not entirely adequate to describe Michael," says Mark Yudof, dean of the UT law school. "He's brilliant, a first-rate legal scholar and a fantastic classroom teacher. He had taught here one semester when his classes became significantly overenrolled.

"I THINK HE is unusual at the law school. Most of us have practiced, but most of us aren't litigators," says Yudof of the UT law faculty. "The length of his experience and depth of it is outstanding, and the list of his clients is really pretty extraordinary."

Extraordinary, certainly. But not necessarily traditional fodder for classroom discussion on a somewhat conservative campus in a very conservative state.

"I guess it's a sign of a mature, self-assured institution," Yudof says of Tigar's appointment at UT, where he started teaching last year. "But as dean, it's not my business to judge people's politics. They are judged by their performance and by their industriousness, and he passes with flying colors."

Passing with flying colors is the way Michael Tigar does things. After a rather razzle-dazzle performance in law school at the University of California at Berkeley, where he was ranked first in his class all three years and edited the *California Law Review*, Tigar in 1966 was offered a clerkship by Brennan. Something happened though, something Tigar doesn't discuss much, except to refer queries on the subject to Robert Pack's book, *Edward Bennett Williams for the Defense*.

"HE (TIGAR) HAD been promised a clerkship by Supreme Court Justice William Brennan, but Tigar's left-wing activism upset many conservatives and Brennan started to feel the heat," Pack wrote in his book.

"In the end, Brennan 'fired' Tigar one week before Tigar was to have started work at the court, which Justice William O. Douglas termed a 'scandalous' and 'shocking cave-in,' " according to the book.

"It's a long time ago," Tigar says now. "I have enormous respect for Justice Brennan and we have spent time together since then."

But if the case of the non-clerkship clerkship was a disappointment, Tigar didn't pause long in his career to lick his wounds. He went to work almost immediately in Washington for Williams & Connolly, one of the country's most prestigious law firms.

Within a month, young Tigar found himself working with Williams and other members of the legal team defending Lyndon Johnson's Senate aide Bobby Baker, whose legal woes were at the center of one of the country's hottest political scandals of the 1960s. Baker eventually went to prison for theft and

Michael Tigar feels at home at UT's law school, where Dean Ma

Staff Photo by Larry Kolvoord

Yudof says 'words are not entirely adequate to describe Michael.'

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tax evasion, but his bout with the legal system is far from over, Tigar says.

ABOUT A YEAR and a half ago, Tigar convinced a federal appeals court to order a judge to consider new evidence in the case against Baker. "Eighteen years after the fact, we're in federal court arguing about Bobby Baker," Tigar says. "People can't remember what he was convicted for, but they remember he was convicted for something and that hinders his ability to make a living."

During the next couple of years after the Baker case, Tigar found himself a leader in legal efforts around the country to defend Selective Service cases. He wrote a 400-page bible on defense techniques in such cases, served as editor-in-chief of a companion publication called the *Selective Service Law Reporter*, and started riding the circuit lecturing lawyers on how to handle draft cases.

"I thought the Vietnam War was wrong, and in addition, I thought the Selective Service was a disgrace," says Tigar, whose work battling the draft took him for the first time to the Supreme Court.

In his debut before the Supreme Court, Tigar argued against Selective Service practices under which students who protested against the war were put at the top of the list for induction and "sent off," Tigar says.

"THE COURT HELD that that was improper. And it held that that decision was retroactive. A couple of thousand people in various hotels were released," Tigar says.

Tigar is proud of the work that he thinks helped influence the decline in Selective Service convictions from 1968 to 1971. But he didn't just see his work reflected in statistics. He also witnessed a shift in the attitude toward the Selective Service on a more personal basis, particularly when he went to the 1971 defense of Cesar Chavez's son Fernando.

"Fernando was a conscientious objector. The draft board where he lived consisted of growers, who didn't think a lot of his father. We tried that case in Fresno (California), and the judge, who was a former FBI agent, had never acquitted a Selective Service case.

"Fernando testified about his father's commitment to non-violence. Cesar testified, and during their testimony, at least half the jurors were in tears. The judge took it away from the jury and issued a judgment for acquittal. In Fresno, Calif., that reflected that change in mood going on," Tigar says.

During the late 1960s, Tigar also found himself involved in several other cases that grabbed their share of headlines.

HE WAS ONE of the first lawyers involved in the 1969 trial of the Chicago Seven, a group of protesters charged with conspiring to cause riots at the 1968 Democratic convention in Chicago. Tigar, who wrote and argued the overwhelming majority of pretrial motions in that case, found himself at odds with Judge Julius Hoffman at one point. That little disagreement ended up in Tigar's arrest, as well as that of several other lawyers involved in the case. "We were in custody only 12 to 18 hours," Tigar says. "Judge Hoffman reversed his decision and apologized."

In the fall of 1969, Tigar was appointed to the law faculty at the University of California at Los Angeles. But the Tigar-UCLA union was far from blessed. For one thing, Ronald Reagan was governor, very involved in running the University of California System and very unimpressed with the bright new recruit on the law faculty.

Also on the UCLA faculty, in the philosophy department, was one Angela Davis, a black militant who also was not a Reagan favorite.

The governor usually showed up at meetings of the regents, and he made his goals for the university system pretty clear, Tigar says. ". . .every month at the regents' meeting, Ronald Reagan would have only three things he wanted to talk about — how many dirty magazines were being sold in the student union. . ., how to fire Angela Davis and how to fire me," Tigar says he was told by a friend who served as a UC regent.

WHEN DAVIS FOUND herself facing capital murder charges stemming from a 1970 kidnap attempt at the Marin County Courthouse in which a judge was killed, she called on Tigar to help with her defense. In 1972, she was acquitted on all charges of murder, kidnap and conspiracy related to the case.

Tigar and UCLA split up in 1971, and soon the young lawyer headed for France, where he worked two years writing *Law and the Rise of Capitalism*. Thus far the book, used in law classrooms throughout the world, has been translated into Portuguese, Spanish and Greek, and contracts have been signed to bring it out in German, French and Italian.

Although he continued to do some legal work while writing and researching his book, Tigar the scholar gave way to Tigar the full-time practitioner when he returned to the United States in 1974 and went back to work for Williams and Connolly. At the time, former Treasury Secretary John Connally was under investigation for reportedly accepting $10,000 in illegal gratuities from the Associated Milk Producers Inc. as a "thank you" for his recommendation that the Nixon administration raise federal milk price supports. After he was indicted, Connally turned to Ed Williams to represent him, and Williams recruited Tigar to help him with the case.

EVEN NOW WHEN Tigar talks of the Connally case, he seems to step in front of that Washington jury that eventually acquitted Connally on charges that he accepted the illegal gratuity.

"He never took the money. There was no credible evidence that Connally had done anything to go out of his way to do anything to help the milk producers.

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He had maintained his view of price supports for agriculture products because he felt it was an important thing to do," Tigar will say in his "can you believe the government would do such a thing?" voice.

While proud of his work for Connally, Tigar didn't exactly abandon his "boycott lettuce" mentality for more establishment causes. In fact, he remembers getting a call for his next case while still at Connally's ranch near Floresville after the former Texas governor's acquittal. Tigar was needed in Denver to represent a young man charged with blowing up power towers.

"We got the U.S. Court of Appeals to rule the Sabotage Law was unconstitutional on that one," Tigar says.

IN 1978, Tigar and Washington colleague Sam Buffone established a law firm that set out to provide one-third of its legal services free. Tigar says the substantial pro bono work allowed the firm to take on complex cases that require considerable time, effort and skill and explore complicated legal issues, but generally don't attract a lot of volunteer work.

"Michael had a political commitment as well as a personal commitment. We shared the sense that that was what being a lawyer is all about. It's a craft as well as a source of income, and we felt an obligation to the community and profession," says former partner Buffone.

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Among the pro bono clients Tigar & Buffone handled was the wife of Chilean diplomat Orlando Letelier, who was killed in a bomb blast in Washington in 1976 that was linked to the Chilean government. Tigar won the case — and set a precedent for obtaining remedies against foreign governments — but he's still trying to wrangle the $2.9 million award from the Republic of Chile.

But there were also paying clients at Tigar & Buffone, clients

such as the chief executive officer of Tesoro Petroleum and corporations such Tenneco and Pennzoil.

"IT WAS a tribute to Michael that he could represent a major corporation at the same time he was representing some unknown radical and they both could respect him," Buffone says.

Tigar found his way to the UT campus when he decided he was weary of the 150,000 miles of travel every year his law practice demanded and was interested in returning to teaching and scholarly research and writing. He and his wife, lawyer Amanda Birrell, also had decided they were tired of the commute that took them more than an hour to get from their Virginia farm to their Washington office.

Austin, along with several other cities, was acceptable to the couple because it offered a good law school, a decent climate and professional opportunities for Birrell. The UT law school also has what Tigar considers to be the best law library in the United States.

AND, ACCORDING to friends, Michael Tigar has had a thing for Texas for several years. "He really has always liked Texas. He did a lot of work down there. First he discovered cowboy boots and then he discovered Texas," says friend and author Sharon Curtin, who lives in Washington, D.C.

But it was Austin itself that really wowed Tigar when he came down to interview at UT. "When I came down to visit in January 1983, the temperature was 65 or 70 degrees, the sky was blue and it was great. I called Amanda and told her, 'I don't know about this. This is a beautiful town,' " Tigar says.

UT made Tigar a good offer, including appointment to the Raybourne Thompson Centennial Professorship. Tigar accepted, and says he's happy with his decision.

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> *Michael Tigar*

"Texas is not a backwater place. The level of intellectual challenge and excitement, the kinds of problems there are and the fun of sorting them out is great or greater here than anywhere else," he says.

AND ALTHOUGH he doesn't appear to wear his politics on his sleeve — "I'm for what I'm for and I'm agin what I'm agin," he'll say when pressed about his political philosophy these days — he has every confidence that UT won't bother him regardless of what he's for or against.

"At Texas, everyone knows there's a tradition of political interference. As I understand it, the present administration, the people who are now on the board (of regents) have a commitment to academic freedom," he says.

"If you don't have that, people won't come and if they do, they won't stay," he says.