91 years old

Alfred Theodore Goodwin (born June 29, 1923) is a senior judge on the United States Court of Appeals for the Ninth Circuit. He was chief judge of that court in 1988-91.

He has worked steadily since he has been on the federal bench, and continues to this day to write opinions. Some recent opinions that he authored are:

January 23, 2015 CHRISTINA MCCLELLAN, *Plaintiff-Appellant*, v. I-FLOW CORPORATION, a Delawarecorporation; DJO, L.L.C., a Delaware corporation; DJO et al. Case No. . 11-35109

August 13, 2014 UNITED STATES OF AMERICA, *Plaintiff-Appellee*, v. SANTIAGO CONTRERAS OROZCO, *Defendant-Appellant* No. 13-30199D.C. No.2:11-cr-00150-FVS-1

April 29, 2014 JOSHUA ROBERT BROWN *Plaintiff-Appellant*, v. OREGON DEPARTMENT OF CORRECTIONS; et al No. 11-35628D.C. No.3:10-cv-00003-BR
Some of his more noteworthy cases on constitutional law are discussed on following pages.

His History and Honors -- From Oregon State Bar Bulletin — NOVEMBER 2013

The University of Oregon School of Law honored longtime Oregon judge **Alfred "Ted" Goodwin** with the school's John E. Jaqua Distinguished Alumnus Award at an awards dinner Sept. 27. Earlier in the day, the school dedicated the Hon. Alfred "Ted" Goodwin Display, a custom-built case that will house memorabilia of his illustrious career including magazine articles, photographs, diplomas, awards and his cherished Harney County sagebrush gavel. Goodwin, who earned both his undergraduate and law degrees from the university (1947 and 1951, respectively), is well known for his impartiality and pragmatism as a judge. As a former newspaper reporter, he developed a matter-of-fact writing style that has served him well in his legal and judicial career. After active duty in the U.S. Army during World War II, Goodwin entered law school as a beneficiary of the G.I. Bill. He worked for four years with a Eugene law firm before being appointed to the Oregon Circuit Court by Gov. Paul Patterson. In 1960, Gov. Mark Hatfield appointed Goodwin to the Oregon Supreme Court, and later that year he was

elected to a full six-year term. President Richard Nixon nominated Goodwin to the U.S. District Court of Oregon. In 1971, he was elevated to the U.S. Court of Appeals for the 9th Circuit. He was chief judge from 1988 through 1991. He became a senior judge in 1992 and continues to hear cases throughout the circuit.

Professional career

Goodwin was a private practice attorney in the State of Oregon from 1951 to 1955 before serving as an Oregon Circuit Court Judge from 1955 to 1960. Goodwin served in the United States Army Reserves as a Lieutenant Colonel in the Judge Advocate General Corps from 1960 to 1969. Additionally, Goodwin was a Justice of the Oregon Supreme Court from 1960 to 1969.[1]

Judicial career

District of Oregon

Goodwin was nominated to the United States District Court for the District of Oregon by President Richard M. Nixon on September 22, 1969 to a seat vacated by John Francis Kilkenny. Goodwin was confirmed by the U.S. Senate on December 10, 1969 and received commission on December 11, 1969. Goodwin left the District of Oregon on December 17, 1971 due to his appointment to the Ninth Circuit Court of Appeals.[1] Goodwin was succeeded in this position by Otto Skopil.

Ninth Circuit Court of Appeals

Goodwin was nominated to the United States Court of Appeals for the Ninth Circuit by President Richard M. Nixon on November 3, 1971. Goodwin was confirmed by the U.S. Senate on November 23, 1971 and received commission on November 30, 1971. Goodwin served as the Chief Judge of the Court from 1988 to 1991 before assuming senior status on January 31, 1991.

Image of the Hon. Alfred T. (Ted) Goodwin from
http://bojack.org/2003/06/happy_birthday_judge_goodwin.html

Justice Goodwin and the Constitution

2002 – Decision (He would be 79 in 2 days)

By EVELYN NIEVES Published: June 27, 2002

SAN FRANCISCO, June 26— A federal appeals court here declared today that the Pledge of Allegiance is unconstitutional because the phrase "one nation under God" violates the separation of church and state. In a decision that drew protest across the political spectrum, a three-member panel of the United States Court of Appeals for the Ninth Circuit ruled that the pledge, as it exists in federal law, could not be recited in schools because it violates the First Amendment's prohibition against a state endorsement of religion. In addition, the ruling, which will certainly be appealed, turned on the phrase "under God" which Congress added in 1954 to one of the most hallowed patriotic traditions in the nation. From a constitutional standpoint, those two words, Judge Alfred T. Goodwin wrote in the 2-to-1 decision, were just as objectionable as a statement that "we are a nation 'under Jesus,' a nation 'under Vishnu,' a nation 'under Zeus,' or a nation 'under no god,' because none of these professions can be neutral with respect to religion." [Excerpts, Page A20.] If it stands, the decision by the nation's most liberal appellate court would take effect in several months, banning the pledge from being recited in schools in the nine Western states under the court's jurisdiction: Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington.

2009 Decision (He was 88 years old)

Hotel rooms are a frequent and important subject of Fourth Amendment litigation (particularly for meth, motels, and Montana). Thankfully, this week Judge Goodwin (left) gives us an important decision that emphasizes the privacy expectations of hotel guests. *See United States v. Young*,__ F.3d __, No. 07-10541, 2009 WL 2020126 (9th Cir. July 14, 2009), decision available here.

Facts: Young was given the wrong room key when he rented a Hilton hotel room. *Id.* at *1. The tenant of that other room later called and complained about stolen items. *Id.* Realizing the mistake, hotel security entered and searched Young's correct room while he was gone. *Id.* Hotel security found a backpack, within which were checks (belonging to other folks) and a handgun. *Id.* They also found the card sleeve for the key to the other hotel room, but none of the stolen stuff. *Id.* They left the gun. The Hilton "electronically locked-out" Young and flagged a cop, who intercepted and interviewed Young in the lobby. *Id.* (This interview revealed Young had been to prison). The cop handcuffed Young to a bench and called his sergeant, who told the cop that the hotel room could not be searched without a warrant. *Id.* So, the cop had hotel security enter the room, open the backpack, and show the cop (in the hall) the gun – who then seized it

"in plain view." *Id.* Young was charged with § 922(g)(1).

Northern District of California District Judge Jeffrey S. White suppressed the gun.

Issue(s): 'The Government brings this appeal, arguing that Young did not have a reasonable expectation of privacy in the room because hotel staff had evicted him prior to the warrantless search. Alternatively, the Government argues that the search should not be found unlawful because it did not exceed the scope of the private search by the hotel staff that had occurred earlier. Finally, the Government posits that even if Young retained an expectation of privacy in the room and the police search was unlawful, reversal is necessary here because the firearm falls under the inevitable discovery exception." *Id.* at *1.

Held: "[B]ecause the hotel did not actually evict Young, he maintained a reasonable expectation of privacy in his hotel room. We therefore AFFIRM the district court's order granting the motion to suppress." *Id.* at *1.

Of Note: One wacky theory offered by the government to salvage this search was from the Supreme Court's decision in *Jacobsen.* Recall that *Jacobsen* was a private search of a FedEx package that revealed drugs; the Court endorsed the authorities' subsequent search because one doesn't have a privacy interest in a FedEx'ed box containing only drugs. *Id.* at *8. Like *Jacobsen*, the government argued, the private hotel security here could search the backpack and then show it to the cops. *Id.* at *9.

The majority doesn't buy it (and even dissenting Judge Ikuta steers clear). Judge Goodwin distinguishes *Jacobsen* with a "very restricted application," because in the *Young* case the suspect had all sorts of other privacy interests – in the backpack, and in the hotel room itself. *Id.* at *9. This flat rejection of the government's novel *Jacobsen* approach is an important Fourth Amendment holding for the Ninth.

How to Use: Besides the *Jacobsen* discussion mentioned above, *Young* has two more important Fourth Amendment components. First, the Court spends a great deal of time explaining the privacy expectations of a hotel tenant – expectations similar to a "lessee of an apartment." *Id.* at *4. Just because a hotel calls the police, or a hotel guest is arrested, that reasonable expectation of privacy is not destroyed. *Id.* By demanding clear evidence of eviction from a hotel, Judge Goodwin offers some welcome Fourth protection to hotel guests.

Equally welcome is the dialogue between Judge Goodwin and dissenting Judge Ikuta on inevitable discovery. Judges Goodwin and Kleinfeld reject the government's "circular logic" – dryly observing that the only reason the discovery of the firearm was "inevitable" was because the officer "took a short cut, even light of the instruction from his sergeant that a search of the room was impermissible." *Id.* at *10. This opinion offers much good, practical language to rebuff the government's attempt to seek refuge in "inevitable discovery" when a cop is too lazy to get a warrant.