

Whitney R. Harris (1912-2010), Nuremberg Prosecutor

*John Q. Barrett**

Copyright © 2010 by John Q. Barrett.
All rights reserved.

On April 21, 2010, Whitney Robson Harris died, age 97, died at his home in St. Louis, Missouri. He was the last surviving prosecutor who appeared in a speaking role—a “podium prosecutor”—before the International Military Tribunal (IMT) at Nuremberg during the 1945-46 trial of the principal surviving Nazi war criminals.¹

At Nuremberg, Lieutenant Commander (United States Navy Reserve) and U.S. Trial Counsel Harris was primarily responsible for the prosecutions of defendant Ernst Kaltenbrunner, former Chief of the *Reichssicherheitshauptamt* (RSHA, or Reich Main Security Office), and defendant organizations the RSHA, the *Gestapo* and the *Sicherheitsdienst* (SD, or Security Service). Whitney Harris also was a principal, trusted aide to U.S. chief prosecutor Justice Robert H. Jackson and assisted him throughout the trial, including during his cross-examination of defendant Hermann Goering.

Whitney Harris, a Seattle native, was a graduate of the University of Washington and the University of California at Berkeley Boalt Hall School of Law. As a young lawyer, he was in private practice with a law firm in Los Angeles. Following Japan’s attack on Pearl Harbor, he enlisted

* Professor of Law, St. John’s University School of Law, New York City, and Elizabeth S. Lenna Fellow, Robert H. Jackson Center, Jamestown, New York (www.roberthjackson.org). An earlier version of this text was posted to my Jackson Email List on April 22, 2010.

For an archive of selected Jackson List posts, many of which have document images attached, visit www.stjohns.edu/academics/graduate/law/faculty/profiles/Barrett/JacksonList.sju.

To subscribe to the Jackson List, which does not display recipient identities or distribute their email addresses, send a note to barrettj@stjohns.edu.

¹ Lt. Cmdr. Harris presented the *Kaltenbrunner* case on January 2-3, 1946. See IV TRIAL OF THE MAJOR WAR CRIMINALS BEFORE THE INTERNATIONAL MILITARY TRIBUNAL, NUREMBERG, 14 NOVEMBER 1945 - 1 OCTOBER 1946 (“The Blue Series”) at 288-311. In the final month of the trial, Harris cross-examined Gestapo witnesses Karl Rudolf Werner Best and Karl Heinz Hoffmann, see *id.*, vol. XX at 141-154 & 182) and presented a few additional exhibits, see *id.*, vol. XX at 262 & 562 & vol. XXI at 300. These transcripts are available on line through The Avalon Project at Yale Law School. See http://avalon.law.yale.edu/subject_menus/imt.asp. I thank Prof. William A. Schabas for gathering and publishing these citations. See <http://humanrightsdoctorate.blogspot.com/2010/04/whitney-harris-at-nuremberg.html>.

in the Navy. In spring 1945, he was recruited to the Office of Strategic Services (OSS), where his assignments included work relating to war crimes. In London that summer, he assisted Justice Jackson's staff informally. He soon was recruited to join the staff and became one of its most important members at Nuremberg.

Following Nuremberg, Whitney Harris served successively as Chief of Legal Advice for the U.S. occupation military government in Berlin, as a law professor at Southern Methodist University, as director of the Hoover Commission on the Organization of the Executive Branch of the Government of the United States, Legal Services & Procedure, as the first Executive Director of the American Bar Association, and as general solicitor at Southwestern Bell Telephone Company in St. Louis. He authored *Tyranny on Trial*, a monumental account of the Nuremberg case and evidence.² He also became a generous philanthropist, including at Washington University in St. Louis, and a leader and conscience in his community.

In recent years, Whitney Harris devoted his energies primarily to speaking, writing, teaching and embodying the past, the progress and the hopeful future of international law and justice. He was a strong supporter of modern international tribunals, including the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, and the International Criminal Court. As Whitney knew best and explained powerfully, each of those tribunals, and the world progress they can embody and assist, grew from and builds upon the principles and achievements of Nuremberg. (On YouTube, you can view films that record Whitney Harris's presence, his eloquence and his teachings on these topics.)

At Nuremberg, Justice Jackson told that IMT during his opening argument that "[t]he real complaining party at your bar is Civilization." Whitney Harris is survived by his beloved wife Anna, by devoted family members, by many students, by legions of friends and admirers, and by his former client, Civilization. He represented it zealously and beautifully, and he left with confidence that it is in good hands.

² See WHITNEY R. HARRIS, *TYRANNY ON TRIAL: THE TRIAL OF THE MAJOR GERMAN WAR CRIMINALS AT THE END OF WORLD WAR II AT NUREMBERG, GERMANY, 1945-1946* (1954; reissued 1995; revised edition 1999) (with Foreword by Robert G. Storey and Introduction by Robert H. Jackson).