Harry Pregerson, one of the most liberal federal appeals court judges in the nation, dies at 94

Pregerson, who was suffering from respiratory ailments, died Saturday night at his Woodland Hills home surrounded by family, said Sharon Pregerson, his daughter-in-law.

A few nights earlier, with his health seriously failing, he turned to his wife, Bernardine, and expressed a regret.

"The hard thing is that I don’t have strength anymore to help people," recounted U.S. District Judge Dean Pregerson, Harry’s son.

“He was full of love,” Sharon Pregerson said. “He helped so many people. That was his mission. That’s why he got up every morning.”

Pregerson, born in Los Angeles on Oct. 13, 1923, was one of the most liberal federal appeals court judges in the nation.
He grew up in East Los Angeles, served as a Marine in World War II and suffered severe wounds in the Battle of Okinawa. He later graduated from UCLA and obtained his law degree from UC Berkeley.

Dubbed a “thug for the Lord” by one attorney, Pregerson was relentless in his efforts away from the bench to help the poor in Los Angeles.

He worked to establish several homeless shelters and volunteered at one each Thanksgiving.

Dr. Katie Rodan, Pregerson's daughter, said that she nicknamed her dad “the rescue machine” when she was a teenager.

“He wants to save everyone,” she said in a 2015 interview. “He wants to save the world.”

On the bench, Pregerson was often controversial. He stirred criticism when he refused to follow a 2003 U.S. Supreme Court ruling upholding California’s tough three-strikes sentencing law. Not long after the court’s decision, Pregerson dissented in rulings that upheld life sentences, some for relatively minor crimes. His dissents were seen by some critics as insubordination, but Pregerson was frank about putting his conscience first.

“My conscience is a product of the Ten Commandments, the Bill of Rights, the Boy Scout Oath and the Marine Corps Hymn,” the Carter appointee said during his Senate confirmation hearing. “If I had to follow my conscience or the law, I would follow my conscience.”

Pregerson also angered some when he issued an order in 1992 to put a hold on the execution of Robert Alton Harris, who was already strapped inside the gas chamber. The Supreme Court later overturned Pregerson's decision, and Harris was executed as planned.

Conservatives railed at him for overturning death sentences and accused him of activism. Some prosecutors said they dreaded appearing before him. Pregerson said he simply believed that many death row inmates had not been given fair trials.

“You read the record in these cases, and you see what happened and how defendants' rights are not observed,” he said.

Pregerson also was viewed by some as a federalist, a label most often worn by conservatives and libertarians.

He favored restraints on the power of the federal government and wrote a decision saying federal authorities lacked authority to interfere with state medical marijuana laws. The U.S. Supreme Court later overturned the decision.

“His was a jurisprudence that was really based on the recognition of the dignity of every person,” said UC Berkeley Law School Dean Erwin Chemerinsky.

“For him the law was much less about abstractions and much more about what it would mean in people's lives,” Chemerinsky said.

Pregerson took senior status in 2015 at the age of 92 after 36 years on the 9th Circuit. The move reduced his workload, but he made it reluctantly, at his wife's urging. “You know, at 92 you are not 82,” the judge said in an interview at the time. “You slow down a bit and need a little more rest.”

The injuries he suffered in the war also were hobbling him. He needed two ski poles to help him walk.

He told The Times he viewed the bench as a way to improve the lives of others.

“I looked upon being a judge as a chance to help as many people as I could through the law,” he said. “And it has given me that opportunity, no doubt about that.”
A public square, a freeway interchange and a child-care center in L.A. bear Pregerson’s name.

In response to a lawsuit when he was a lower court judge, Pregerson prevented construction of the 105 Freeway until construction jobs were set aside for women and minorities and a training program was in place to give them the needed skills.

The settlement he helped write also ensured that affordable housing was built for residents displaced by the project.

Civil rights lawyer Paul L. Hoffman, who teaches international human rights law at UC Irvine and Harvard University, called Pregerson “one of a kind.”

“He was so committed to social justice,” Hoffman said.

Christopher David Ruiz Cameron, a law professor at Southwestern Law School and a trustee of the Mexican American Bar Foundation, said Pregerson lived most of his life on the Westside and in the West Valley, “but his soul remained in the working-class Mexican American community of East L.A. where he grew up.”

“He never forgot his roots,” Cameron said. “He identified with the struggles of Chicanos and practically considered himself one of us.”

The son of Ukrainian Jewish immigrants, Pregerson made his home in Woodland Hills, where he and Bernardine raised their two children, Katie and Dean.

Two years before taking a reduced workload, the elder Pregerson lost his grandson, David, Dean’s son, in a hit-and-run. The elder Pregerson said the family would never get over it. He recalled that his father, a postal worker who fought in the trenches in World War I, told him life was a battlefield.

“You never know when you will get hit,” the judge said.

Pregerson remained close to his adult children and grandchildren throughout his life.

When Rodan was 12, her mother decided she was bored at home and wanted to go back to school full time to receive a graduate degree in microbiology. She expected the judge to assume the domestic duties, Rodan recalled.

“He was a typical 1960s man,” she said. “He came home late from work and expected to have the dinner on the table.”

Suddenly, he was taking her to ballet and running errands. But he couldn’t cook, and she said they ate dinner at restaurants. She called those years “a gift.”

“He told me, ‘When you grow up, be your own boss and make your own money. Don’t rely on a man to support you. You don’t know what life is going to deal you.’”

Rodan, a dermatologist, took his advice and started highly successful skin care companies.

Besides his wife and two children, Pregerson is survived by son-in-law Amnon Rodan, daughter-in-law Sharon, four grandchildren and two great-grandchildren.
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UPDATES:

4:35 p.m.: This article has been updated with comments from legal experts.

2:05 p.m.: This article has been updated with comments from a family member.

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