



NEWS RELEASE

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Court of Appeals Mourns Passing of Senior Circuit Judge Warren J. Ferguson

SAN FRANCISCO – Senior Circuit Judge Warren J. Ferguson, a highly respected member of the United States Court of Appeals for the Ninth Circuit who also served for many years as judge on federal and state trial courts in Southern California, died Wednesday, June 25, at St. Jude Medical Center in Fullerton after a sudden illness. He was 87.

Judge Ferguson’s career in the law spans 59 years. In addition to almost 42 years on the federal bench, he presided in California state courts for seven years, served as city attorney for seven cities in Orange and Los Angeles counties, and pursued a private practice. He also was a renowned teacher affiliated with law programs across the country.

“We are deeply saddened by Judge Ferguson’s death. He was an exceptional judge, lawyer and educator, and a treasured colleague,” said Ninth Circuit Chief Judge Alex Kozinski.

Nominated by President Carter, Judge Ferguson was appointed to the Ninth Circuit Court of Appeals on November 27, 1979. He served as an active judge of the court until taking senior status on July 31, 1986. He continued to hear cases and serve the court in other capacities for a number of years. He was the 11th most senior judge on the court in years of service.

Before coming to the court of appeals, Judge Ferguson served as one of the original judges of the U.S. District Court for the Central District of California in Los Angeles, which was established by Congress in 1966. Nominated by President Johnson, he received his judicial commission on November 3, 1966, filling one of three new judgeships created for the new district court.

On the state bench, Judge Ferguson served as a judge of the Anaheim-Fullerton Municipal Court, 1959 to 1961, and the Superior Court in Santa Ana, 1961 to 1966. During his tenure, he was the presiding judge of the juvenile court and the Appellate Department of the Superior Court.

As a federal trial judge, Judge Ferguson presided over numerous noteworthy cases. In a 1971 case, *USA v. Smith*, he held that electronic surveillance without warrant of defendant accused of unlawful possession of firearms was not constitutionally proper even though the Attorney General had expressly authorized it in the interest of national security. Judge Ferguson also presided over what became known as the “Betamax” trial, *Universal City Studios v. Sony Corp.*, ruling in 1979 that the manufacturers of video recorders were not contributorily liable for copyright infringements by users of home video recorders attached to their televisions. He was vindicated by the Supreme Court in 1984.

Born in the tiny, high desert town of Eureka, Nevada, Judge Ferguson attended elementary and high school in a class of 10 students. He enrolled in the University of Nevada at Reno, graduating in 1942 with a B.A. degree. He served in the Army during World War II, achieving the rank of master sergeant and earning a Bronze Star medal for service in North Africa and Italy. After moving to Los Angeles in 1946, he attended the University of Southern California School of Law on the G.I. bill, receiving his LL.B. in 1949.

Settling in Fullerton, Judge Ferguson went into private practice during which he assisted in the incorporation of Buena Park and became its first city attorney. He went on to serve as city attorney for the cities of Placentia, Baldwin Park, Santa Fe Springs, La Puente, Rosemead and Walnut.

Judge Ferguson shared his legal acumen in numerous ways. He was an associate professor of psychiatry (law) at the USC School of Medicine, an adjunct professor of law at Loyola Law School, and a regular lecturer at the Federal Judicial Center and for the Practicing Law Institute. He also was a member of the faculties for the University of Iowa Evidence Seminar, the New York Law Journal Evidence Seminar, the Orange County Bar Association Seminar, and the American Bar Association’s National Institute of Appellate Advocacy and its Special Committee for the Study of Discovery Abuse.

Judge Ferguson received Doctor of Law degrees from the Western State University College of Law and the San Fernando Valley College of Law, and has been recognized by the Northeastern University College of Law, USC, the California Assembly, and the Orange County Bar Association and Legal Aid Society. At the USC School of Law, friends and colleagues have established an annual award in his name for the best essay on social justice.

Judge Ferguson is survived by a son, Peter Ferguson, and daughter, Faye Ferguson, and four grandchildren. He was preceded in death by his wife of many years, Laura Keyes Ferguson, and two other children, Jack Ferguson, a soldier killed in the Vietnam War, and Teresa Ferguson.

The family is planning a private memorial service at Fort Rosecrans in San Diego.

The Ninth Circuit Court of Appeals hears appeals of cases decided by federal trial courts in nine western states and two Pacific Island jurisdictions. The court regularly hears cases in San Francisco, Pasadena, Portland and Seattle, and also travels periodically to other cities within the circuit to hold court.

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