



United States Courts for the Ninth Circuit

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Obituary

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Ninth Circuit Court of Appeals Mourns Passing of Judge Andrew Kleinfeld

Judges and staff of the U.S. Court of Appeals for the Ninth Circuit are mourning the loss of a distinguished jurist, Senior Circuit Judge Andrew Jay Kleinfeld, who died Friday, November 7, after a long illness. Born on June 12, 1945, he was 80 years old.

“Judge Andy Kleinfeld’s service on the federal judiciary—first as a district court judge and later on the Ninth Circuit Court of Appeals—spanned nearly four decades. He was a respected and beloved colleague, and we will miss his reliable solstice reports, gentle reminders of the unique perspective he brought from Alaska, our northernmost state,” said Chief Judge Mary H. Murguia.

Judge Kleinfeld began his judicial career in 1971, serving as a part-time magistrate judge for the U.S. District Court in the District of Alaska for four years. Nominated by President Ronald Reagan in 1986, Judge Kleinfeld was confirmed by the U.S. Senate as a district judge for the District of Alaska, where he remained in that position until he was appointed as a U.S. circuit judge for the Ninth Circuit Court of Appeals in 1991 by President George H.W. Bush. Although his chambers were in Fairbanks, Alaska, he also heard cases in Anchorage, Nome and Ketchikan. Born in the Bronx, Judge Kleinfeld grew up in the Washington, D.C., suburbs and was formally educated at Wesleyan University where he earned his Bachelor of Arts in 1966. During college, he considered a life in politics but ultimately chose law and earned his Juris Doctor from Harvard Law School in 1969. After law school, Judge Kleinfeld clerked for Justice Jay A. Rabinowitz, Alaska Supreme Court, and found Alaska was his new frontier and remained there throughout his career.

Judge Kleinfeld was well known in the Tanana Valley Bar Association (TVBA) to never miss a meeting unless traveling. Bobbie L. Allen, current TVBA secretary, shared, “About two weeks before his passing, one of our members visited him before coming to lunch. During their conversation, Judge Kleinfeld was asked, ‘If you had to start your career all over again, what

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would you change?’ To which Judge Kleinfeld responded, ‘Nothing, I would do it all over exactly the same.’” “The TVBA is grateful to Judge Kleinfeld for his years of service, and diehard commitment to our community to the very end,” Allen concluded.

Arguably, the most well-known decision that Judge Kleinfeld wrote was for the Exxon Valdez case, but when asked by Howard Bashman in Above the Law’s “How appealing 20 questions” article about his most memorable decision he was quoted as saying, “An especially important opinion for me was a short dissent I wrote in our court’s “right to die” case, Compassion in Dying, which was later reversed by the Supreme Court.” Another well- publicized case is Frederick v. Morse. In this free speech case, also known as the “Bong Hits 4 Jesus” case, Judge Kleinfeld wrote the opinion for the unanimous panel reversing a district court decision and ruled that the student’s speech was permitted because the student had not caused a disturbance.

“From my first days on the court, Judge Kleinfeld was a great friend and mentor. He was a superb judge. His curiosity, skepticism, and exceptional intelligence led him to delve deeply into the record of each case to ensure he reached the right result. He crafted each opinion with the greatest care and precision. I will always remember him for his unparalleled friendliness and humor, which will be greatly missed,” said Senior Circuit Judge Sandra S. Ikuta.

Senior Circuit Judge Carlos T. Bea shared, “Years ago, the Kleinfelds invited us to their home for a meal. They lived in a house that resembled a log cabin, in the midst of a forest outside Fairbanks. Near the back door was shelf with a large pistol on it. It may have been a .44 Magnum. I asked Andy why he had such a piece. ‘Out here, when you go for a walk, you may meet a hungry Grizzly bear. I don’t want to be his snack.’ This was typical no-nonsense Andy Kleinfeld. We all miss him and his wife Judy.”

Senior Circuit Judge Richard C. Tallman remembered his friend and colleague as a thoughtful and pragmatic jurist. “Judge Kleinfeld was an outspoken advocate for respecting individual liberties against government intrusion. He had deep respect for his fellow Alaskans in their never-ending struggle to wrest state control from federal oversight of Alaska lands and resources, reminding his colleagues on the court that the subsistence needs of both Native and non-Native

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inhabitants of our Last Frontier required a nuanced understanding of the rich history and cultural traditions of our fellow citizens living at the top of the world.” Judge Tallman concluded by saying, “I will miss his colorful commentary and the deep insight that he provided us all on the Ninth Circuit in resolving our cases.”

Circuit Judge Johnnie B. Rawlinson shared her favorite memory of Judge Kleinfeld is when they sat in Las Vegas and visited the Mob Museum. “Judge Kleinfeld showed up dressed in a pinstriped suit and matching fedora. We will always remember that day with a smile and a nod to Judge Kleinfeld’s joyful adoption of the spirit of the museum. He will be missed.”

Predeceased by his wife, Judith, Judge Kleinfeld is survived by his children, Daniel, Rachel and Joshua.

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