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Justices could do well to heed a father's example

My dad passed away last month. He was fortunate to have lived a long life and made a peaceful exit. But he is missed by all who knew him.



ALAN GARFIELD

He was part of what Tom Brokaw calls the "greatest generation," those who persevered through the Great Depression, won the Good War and afterward turned America into the most prosperous nation in history. He certainly was a Depression-era child. His family took in boarders and his mother, who had grown up with a maid in Russia, was forced to work endless hours mopping floors and making beds. The baseball team he and his friends formed couldn't afford mitts for the

whole team so they agreed that only the catcher and first baseman would have mitts.

My father never ceased worrying about money. Until he stopped driving, he couldn't conceive of buying gasoline anywhere other than Costco where it was a few cents cheaper. But, with his children, he was generous to a fault.

He got us through college without any debt and insisted on always picking up the tab. We fondly remember going to dinner at Bob's Big Boy and asking him if we could upgrade from fries to onion rings. This child of the Depression would light up as he answered us with those three magical letters, "MNO" - money's no object.

He also fought in World War II. His neighbors told him that as an only child with elderly parents he might be able to stay home and work in a defense plant. But he felt the call to serve, and his parents supported him. Like other parents,

with feelings of both pride and trepidation, they hung a flag with a star in the window to indicate that someone from their household was serving in the armed forces.

He became a lead navigator of a squadron of B-24 Liberator bombers flying in Italy. He rarely spoke about his time in the war, yet there must have been some terrifying moments. My geography-loving dad preferred to talk about the plodding path his plane took to cross the Atlantic: first to Bangor, Maine, then on to Newfoundland, the Azores and Morocco.

He enjoyed the prosperous post-war years and derived tremendous satisfaction from his work as an accountant. He would remind clients who resented sending big checks to the IRS that their large tax bills were a sign of their good fortune in having high incomes. Progressive taxation, he said, allowed everyone to

pay his or her fair share.

So, yes, my dad qualifies for Brokaw's greatest generation. I, too, would count him among the "greatest," though for less grandiose reasons.

He was a loving and devoted spouse. He was an honest businessman and a reliable breadwinner. He was a rock solid foundation for his children. This was enough to put him into my Fathers' Hall of Fame.

In summing up his life, people inevitably said he was a "mensch," a good human being. He cared about others, was honest and fair, and had a quiet humility.

Usually for my Bench Press column, I write about a constitutional law case before the Supreme Court. I lay out each side's argument or explain why the justices will have to choose between competing values. I might question whether the justices should even decide the case.

Inevitably, I conclude that

the justices will have to use their discretion - what else explains why so many cases are decided by five justices interpreting the Constitution one way and four interpreting it another - and hope they use it wisely.

But today I'm thinking about how the justices could demonstrate this wisdom by following some of the same principles my dad did. Be humble. Recognize that many issues in a democracy are for the people and their representatives to decide, not nine unelected justices. Be empathetic. Care about those whose lives are affected by your decisions. Be honest and fair. Met out justice fairly and ensure that the reasoning behind your actions is transparent.

Why not, to borrow the name of a new toy, be a "mensch on a bench"?

Alan Garfield is a professor at Widener University School of Law.