

JUDICIAL IMMUNITY IS A FICTION

Zeller v. Rankin, “When a judge knows that he lacks jurisdiction, or acts in the face of clearly valid statutes expressly depriving him of jurisdiction, judicial immunity is lost¹.”

Stump v. Sparkman, “A judge is not immune for tortious² acts committed in a purely Administrative, non-judicial capacity³.”

Juliard v. Greeman, “There is no such thing as a power of inherent sovereignty in the government of the United States. It is a government of delegated powers, supreme within its prescribed sphere, but powerless outside of it. In this country sovereignty resides in the people, and Congress can exercise no power which they have not, by their Constitution, entrusted to it; all else is withheld⁴.”

Cooper v. O’Conner, “There is a general rule that a ministerial officer who acts wrongfully, although in good faith, is never-the-less liable in a civil action and cannot claim the immunity of the sovereign⁵.”

Piper v. Pearson, “Where there is no jurisdiction, there can be no discretion, for discretion is incident to jurisdiction⁶.”

Davis v. Burris, “A judge must be acting within his jurisdiction as to subject matter and person, to be entitled to immunity from civil action for his acts⁷.”

U.S. Fidelity & Guaranty Co., “When a judicial officer acts entirely without jurisdiction or without compliance with jurisdiction requisites he may be held civilly liable for abuse of process even though his act involved a decision made in good faith, that he had jurisdiction⁸.”

Ableman v. Booth, “No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence⁹.”

U.S. v. Lee, “No man in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law and are bound to obey it... It is the only supreme power in our system of government, and every man who, by accepting office participates in its functions, is

¹ Zeller v. Rankin, 101 S.Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326

² TORTIOUS. Wrongful; of the nature of a tort. TORT (from Lat. torquere, to twist, tortus, twisted, wrested aside). A private or civil wrong or injury.

³ Stump v. Sparkman, id., 435 U.S. 349

⁴ Juliard v. Greeman, 110 U.S. 421 (1884)

⁵ Cooper v. O’Conner, 99 F.2d 133;

⁶ Piper v. Pearson, 2 Gray 120, cited in Bradley v. Fisher, 13 Wall. 335, 20 L.Ed. 646 (1872)

⁷ Davis v. Burris, 51 Ariz. 220, 75 P.2d 689 (1938)

⁸ U.S. Fidelity & Guaranty Co. (State use of), 217 Miss. 576, 64 So. 2d 697

⁹ Ableman v. Booth, 21 Howard 506 (1859)

only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes on the exercise of the authority which it gives¹⁰."

Marbury v. Madison, *"All law (rules and practices) which are repugnant to the Constitution are VOID. ... NO State shall make or enforce any law which shall abridge the rights, privileges, or immunities of citizens of the United States nor deprive any citizens of life, liberty, or property, without due process of law, ... or equal protection under the law", this renders judicial immunity unconstitutional¹¹."*

Cooper v. Aaron, *"Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason¹²."*

U.S. v. Will, *"no state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it¹³."*

¹⁰ U.S. v. Lee, 106 U.S. 196, 220 1 S. Ct. 240, 261, 27 L. Ed 171 (1882)

¹¹ Marbury v. Madison, 5 U.S. (2 Cranch) 137, 180 (1803)

¹² Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958)

¹³ Sawyer, 124 U.S. 200 (1888); U.S. v. Will, 449 U.S. 200, 216, 101 S. Ct. 471, 66 L. Ed. 2d 392, 406 (1980); Cohens v. Virginia, 19 U.S. (6 Wheat) 264, 404, 5 L. Ed 257 (1821)