

## JUDICIAL IMMUNITY

"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 lost." - Rankin v. Howard, (1980) 633 F.2d 844, cert. den. Zeller v. Rankin, 101 S.Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326;

- 5 "A judge must be acting within his jurisdiction as to subject matter and person, to be entitled to immunity from civil action for his acts." - Davis v. Burris, 51 Ariz. 220, 75 P.2d 689 (1938)

"There is a general rule that a ministerial officer who acts wrongfully, although in good faith, is nevertheless liable in a civil action and cannot claim the immunity of the sovereign". - Cooper v. O'Conner, 99 F.2d 133;

- 10 **GOV SOVEREIGNTY** - "...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 withheld." - Juliard v. Greeman, 110 U.S. 421 (1884)

- 15 "All law (rules and practices) which are repugnant to the Constitution are VOID. ... NO State (Jurisdiction) 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 unconstitutional." - Marbury v. Madison, 5 U.S. (2 Cranch) 137, 180 (1803)

- 20 "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 treason." - Cooper v. Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958)

- 25 "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 violence." - Ableman v. Booth, 21 Howard 506 (1859)

"no state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it". - Sawyer, 124 U.S. 200 (188); 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).

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"Where there is no jurisdiction, there can be no discretion, for discretion is incident to jurisdiction." - Piper v. Pearson, 2 Gray 120, cited in Bradley v. Fisher, 13 Wall. 335, 20 L.Ed. 646 (1872)

- 35 "A judge is not immune for tortious acts committed in a purely Administrative, non-judicial capacity." - Stump v. Sparkman, id., 435 U.S. 349

*“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 jurisdiction.” - U.S. Fidelity & Guaranty Co. (State use of), 217 Miss. 576, 64 So. 2d 697*

40 *"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 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 gives." - U.S. v. Lee,*  
45 *106 U.S. 196, 220 1 S. Ct. 240, 261, 27 L. Ed 171 (1882)*

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### TO RESISTS THE CONSTITUTION IS A CRIME

50 *“If then the courts are to regard the constitution; and the constitution is superior to any ordinary act of the legislature; the constitution, and not such ordinary act, must govern the case to which they both apply. Those then who resist the principle that the constitution is to be considered, in court, as a paramount law, are reduced to the necessity of maintaining that courts must close their eyes on the constitution, and see only the law. This doctrine would subvert the very foundation of all written constitutions. It would declare that an act,*  
55 *which, according to the principles and theory of our government, is entirely void, is yet, in practice, completely obligatory. It would declare, that if the legislature shall do what is expressly forbidden, such act, notwithstanding the express prohibition, is in reality effectual. It would be giving to the legislature a practical and real omnipotence with the same breath which professes to restrict their powers within narrow limits. It is prescribing limits, and declaring that those limits may be passed at pleasure... Thus, the*  
60 *particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void, and that courts, as well as other departments, are bound by that instrument... It is in these words: 'I do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich; and that I will faithfully and impartially discharge all the duties incumbent on me as according to the best of*  
65 *my abilities and understanding, agreeably to the constitution and laws of the United States.' Why does a judge swear to discharge his duties agreeably to the constitution of the United States, if that constitution forms no rule for his government? if it is closed upon him and cannot be inspected by him. If such be the real state of things, this is worse than solemn mockery. To prescribe, or to take this oath, becomes equally a crime.” - MARBURY v. MADISON, 5 U.S. 137 (1803) 5 U.S. 137 (Cranch) 1803*

70 **EVERY RIGHT, WHEN WITHHELD, MUST HAVE A REMEDY,  
AND EVERY INJURY ITS PROPER REDRESS**

*“In the third volume of his Commentaries, page 23, Blackstone states two cases in which a remedy is afforded by mere operation of law. 'In all other cases,' he says, 'it is a general and indisputable rule, that where there is a legal right, there is also a legal remedy by suit or action at law whenever that right is invaded.' And afterwards, page 109 of the same volume, he says, ...'for it is a settled and invariable principle in the law..., that every right, when withheld, must have a remedy, and every injury its proper redress.” - MARBURY v. MADISON, 5 U.S. 137 (1803) 5 U.S. 137 (Cranch) 1803*