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Federal judges have no grant of immunity from the Constitution

In a system of "equal justice under law" they must be liable to prosecution as defendants in a class action like anybody else

The judicial power of the United States is established by Article III of the U.S. Constitution. That article does not immunize judges for their judicial actions from prosecution under the laws of the United States, or those of any state for that matter. The sole protection that it affords judges is found in section 1, which provides that they "during their Continuance in Office shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished". (Authorities Cited:U.S. Constitution; all references are found at Judicial-Discipline-Reform.org) Neither the Legislative nor the Executive Branches can retaliate against judges by diminishing their salary; otherwise, Article III leaves judges as exposed to other sanctions for their official and personal acts as any government officer or private person is.

Indeed, that same Article III, section 1 specifically states that "The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour". To be meaningful, this necessarily implies that they 'can no longer hold their Offices' if they engage in 'bad Behaviour'. Given the fundamental principle of our democracy that government is by the rule of law, judges engage in 'bad Behaviour' when they, as members of the Third Branch of Government, violate such law.

As a matter of fact, Article II, section 4, of the Constitution sets forth types of 'Behaviour' that when engaged in by judges results in the obligation, not merely the possibility, that they "shall be removed from Office". They include not only "Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes", but also "Misdemeanors". This means that the offense need not threaten national security, involve corruption, or manifest itself outrageous evil or harmful to warrant removal from office, but rather it may entail such a relatively small deviation from legally accepted conduct as to be classified as a misdemeanor and still give cause for removal.

Removal from office is not the only consequence that judges risk for 'Bad Behaviour'. This follows also from Article II, section 4, for it provides the same consequence for "The President, the Vice President, and all civil Officers of the United States". Never has it been affirmed even by a reasonable judge, let alone by Congress or any top member of the Executive Branch, that citizens that are elected or nominated and confirmed, not to mention merely hired, as "civil Officers of the United States", receive a grant of immunity providing that if they, whether in their official or personal capacity, commit any act of "Treason, Bribery, or other high Crimes and Misdemeanors", no sanction shall be visited upon them graver than removal from office and no compensation shall be demanded of them for the benefit of those that they harmed. Hence, judges, like "all civil Officers", may not do whatever they want, however unlawfully injurious to the life, liberty, and property of others, and if they are caught, they simply move on to a different job.

Far from it, when judges engage in 'bad Behaviour', they expose themselves to any other punishment that the law imposes on any other lawbreaking person. This follows from the other fundamental principle that is the corollary to the one mentioned above, namely, nobody is above that law. This principle is expressed on the frieze below the pediment of the Supreme Court building by the inscription "Equal Justice Under Law". Consequently, judges that violate the law are liable to third parties as much as all the other "civil Officers" are. Stamping the label 'judicial act' on any of their unlawful actions neither limits their loss to that of their offices nor deprives any third party of any compensation for the harm inflicted upon them by such actions.

Since neither the Constitution nor Congress endows a federal judgeship with a blanket exemption from liability for lawbreaking, judges cannot fashion one from the bench for the benefit of their peers. That would in itself constitute a violation of the law, which provides at 28 U.S.C. §453 that "before performing the duties of office, [they shall] solemnly swear (or affirm) that [they] will **administer justice without respect to persons**, and **do equal right** to the poor and to the rich, and that [they] will faithfully and **impartially** discharge and perform all the duties incumbent upon [them] under the Constitution and the laws of the United States". (emphasis added)

Therefore, when judges are sued in court, whether by the district attorney or private persons, the sitting judges cannot simply dismiss their complaints in order to insulate their peers from any further legal action, just as during the proceedings before them they must not show bias in their favor by issuing rulings or decisions that are either unwarranted under the law or even motivated by the desire of securing a positive outcome for the defendant judges. By doing so, they would both breach their oath to administer equal justice "without respect to persons", abuse the power of their offices, and deny the plaintiffs due process under law. Nor are judges entitled to hold the prejudice that members of their judicial class 'can do no wrong' and thus, cannot be held accountable to anybody for what their actions, for that assumption contradicts the explicit statement of Article II, section 4, of the Constitution that judges, just like all other "civil Officers", are liable to "Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors".

"Crimes and Misdemeanors" are offenses against the people that the government prosecutes on their behalf. Yet, an indictment by the government does not prevent those individual members of the people proximately injured by the criminally accused from becoming plaintiffs in civil actions and bringing them directly against the accused named as defendants. What is more, neither filing their complaints nor litigating their causes of action depends on the government having secured a conviction. Indeed, the government's failure to establish the guilt of the accused upon application of the highest standard of legal responsibility of "guilty beyond a reasonable doubt", has no bearing on the plaintiffs' ability to obtain a judgment against the defendants upon application of the lower standard of 'clear and convincing proof', let alone the lowest standard applied in most civil actions, namely, 'by a preponderance of the evidence'.

When those individual members of the people "(1)…are so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to [them and], (3) the claims or defenses of the representative parties are typical of [their] claims or defenses" (FRCivP 23(a)), they may be certified as a class to maintain a class action. Rule 23 and the Class Action Fairness Act of 2005 (Pub.L. 109-2, Feb. 18, 2005, 119 Sta. 4; cf. 28 U.S.C. §1711 et seq.), do not prevent a group of people from forming a class to take legal action against a group of judges. Their provisions can neither constitutionally exclude nor as a matter of fact exclude judges from becoming a defendant class while exposing any other group of people to become such a class, for that would constitute unequal treatment under the law. The Racketeer Influenced and Corrupt Organizations Act (RICO, 18 U.S.C. §1961 et seq.), does not exclude judges from its scope either.

Whether a judge or panel of judges will apply the law "without respect to persons" or disregard it in order to take care of their own and themselves remains to be seen. One can only hope that, as in other groups of people, there are judges who value their personal integrity and that of their office enough to do, not what is expedient and predetermined to immunize their peers, but rather what is right and appears to be right, namely, to administer "equal justice under law".