

JUDICIAL IMMUNITY

by j_e_leaf, June 21, 2006, message #748 http://groups.yahoo.com/group/Lex_Rex-discuss

From time to time I see a discussion on "Rule of Law," after going to Black' Law Dictionary which did not clarify exactly what "Rule of Law" is exactly, of which I have my own ideas and may be wrong. I believe it is tied in with "fiduciary duty" which has a clearer definition at Black's.

Fiduciary duty. A duty to act for someone else's benefit, while subordinating one's personal interests to that of the other person. It is the highest standard of duty implied by law (e.g. trustee, guardian).

For instance there is this charge:

"There is also the charge of a damage to Plaintiff and every citizen of this State of the Union when the Judge deserted his fiduciary duty as guardian of the Constitutions and laws of the United States and of this State of the Union."

The Judge's fiduciary duty to his Oath of Office to support the Constitution creates the charge and the charge is derived and pinned to the Constitution of the United States of America at Article IV, section 2 that states:

"Sect. 2. This Constitution, and the laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

It is clear that the Judge is bound to the Constitution in its entirety.

The duty to the true rule of construction of the Constitution by the Judge of ALL of the Constitution of the United States of America is best expressed by the

Supreme Court in DOWNES v. BIDWELL, 182 U.S. 244 (1901) when the Court said:

" . . . In doing so it is conceded at once that the true rule of construction is not to consider one provision of the Constitution alone, but to contemplate all, and therefore to limit one conceded attribute by those qualifications which naturally result from the other powers granted by that instrument, so that the whole may be interpreted by the spirit which vivifies, and not by the letter which killeth. . . . Indeed, in view of the rule of construction which I have just conceded—that all powers conferred by the Constitution must be interpreted with reference to the nature of the government and be construed in harmony with related provisions of the Constitution." 182 U.S. 244 at 312.

It is entirely outside the judicial capacity of the Judge to pick and choose at his discretion those commands of the Constitution that killeth without also considering those rights, privileges, protections and Constitutional Rules that are guaranteed and secured for the protection of the States of the Union and their citizens therein.

Simply put, ALL the judges of ALL the States of the Union must consider ALL of the Constitution when determining the duties of ALL the States of the Union and ALL the citizens therein while also contemplating ALL the Constitutional RIGHTS, PRIVILEGES AND PROTECTIONS reserved to ALL the States of the Union and ALL of the citizens therein.

In the Judge's neglect of the very highest duty that he is bound to pursuant to the Constitution of the United States of America in not contemplating and being part of the ruling ALL of the Constitution of the United States of America he committed "Abuse of Discretion" bring rise to "Abuse of due process."

This very highest duty of any official of the State of the Union to the Rule of Law is reflected by Chief Justice Waite of the United States Supreme Court when he said:

“ . . . The rights of life and personal liberty are natural rights of man. "To secure these rights," says the Declaration of Independence, "governments are instituted among men, deriving their just powers from the consent of the governed." The very highest duty of the States, when they entered into the Union under the Constitution, was to protect all persons within their boundaries in the enjoyment of these "unalienable rights with which they were endowed by their Creator." Sovereignty, for this purpose, rests alone with the States.” U S v. CRUIKSHANK, 92 U.S. 542 (1875)

I believe this goes back to the roots of the fundamental law of this Nation and makes them accountable for their "abuse of discretion." Every citizen of any State of the Union should be able to go to the courts and receive the protection that the State Officials and Judges that are bound by oath to the Constitution. These Officials and especially the Judges are supposed to give the citizens this protection without the citizen being a Constitutional scholar. That is my opinion only.

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