

Ashelman v. Pope

793 F.2d 1072 (9th Cir. 1986) (en banc)

U.S. Court of Appeals for the Ninth Circuit (en banc)

Issue: Conspiracy allegations do not pierce immunity

Holding on Judicial Immunity

Sitting en banc, the court held that a judge and prosecutor are absolutely immune even against allegations that they conspired to predetermine the outcome of a case; a conspiracy or bribe does not pierce immunity if the underlying acts are judicial. The court expressly rejected the contrary approach of Rankin v. Howard.

Key Quotations (verbatim)

“[A] conspiracy between judge and prosecutor to predetermine the outcome of a judicial proceeding, while clearly improper, nevertheless does not pierce the immunity extended to judges and prosecutors.”

— Ashelman v. Pope, 793 F.2d 1072, 1078 (9th Cir. 1986) (en banc).

“[A]llegations that a conspiracy produced a certain decision should no more pierce the actor's immunity than allegations of bad faith, personal interest or outright malevolence.”

— Ashelman v. Pope, 793 F.2d 1072, 1078 (9th Cir. 1986) (en banc) (citation omitted).

Full opinion (authoritative source): <https://www.courtlistener.com/opinion/471857/kenneth-o-ashelman-v-hon-gary-pope-judge-division-i-mohave-county/>

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