

Harper v. Merckle

638 F.2d 848 (5th Cir. 1981)

U.S. Court of Appeals for the Fifth Circuit

Issue: No immunity where no case is pending (non-judicial acts)

Holding on Judicial Immunity

A judge who had a man seized and jailed for 'contempt' during a personal dispute over the man's ex-wife's employment — when no case was pending before the judge — was NOT entitled to judicial immunity, because his acts were not 'judicial acts.'

Key Quotations (verbatim)

“[W]hen ... it further appears certain that no party has invoked the judicial machinery for any purpose at all, then the judge's actions do not amount to 'judicial acts.' These nonjudicial acts, to state the obvious, are not cloaked with judicial immunity from suit under § 1983.”

— Harper v. Merckle, 638 F.2d 848, 858–59 (5th Cir. 1981).

“We find, accordingly, that Judge Merckle should not be accorded absolute judicial immunity because his acts were not 'judicial acts.’”

— Harper v. Merckle, 638 F.2d 848, 859 (5th Cir. 1981).

Full opinion (authoritative source):

<https://www.courtlistener.com/opinion/386061/jack-r-harper-v-arden-mays-merckle/>

This case file states the court's holding on judicial immunity and reproduces verbatim, pin-cited excerpts for research and citation. It is a research summary, not the complete slip opinion; consult the linked source for the full text and to Shepardize/verify current status before relying on it in a filing.