



1995

Recent Developments: Parker v. State: Court of Appeals Reaffirms Commitment to Absolute Judicial Immunity for Judicial Acts

Julie Furst

Follow this and additional works at: <http://scholarworks.law.ubalt.edu/lf>



Part of the [Law Commons](#)

Recommended Citation

Furst, Julie (1995) "Recent Developments: Parker v. State: Court of Appeals Reaffirms Commitment to Absolute Judicial Immunity for Judicial Acts," *University of Baltimore Law Forum*: Vol. 25 : No. 3 , Article 14.

Available at: <http://scholarworks.law.ubalt.edu/lf/vol25/iss3/14>

This Article is brought to you for free and open access by ScholarWorks@University of Baltimore School of Law. It has been accepted for inclusion in University of Baltimore Law Forum by an authorized editor of ScholarWorks@University of Baltimore School of Law. For more information, please contact snolan@ubalt.edu.

Parker v. State:

**COURT OF
APPEALS
REAFFIRMS
COMMITMENT TO
ABSOLUTE
JUDICIAL IMMUNITY
FOR JUDICIAL
ACTS.**

In *Parker v. State*, 337 Md. 271, 653 A.2d 436 (1995), the Court of Appeals of Maryland held that a circuit court judge is entitled to absolute immunity from tort actions, both under the Maryland Tort Claims Act and 42 U.S.C. § 1983. In so holding, the court reaffirmed its commitment to absolute judicial immunity for judicial actions.

On April 14, 1988, Doris Parker was convicted in district court for driving in excess of the speed limit and was fined \$150. She appealed her conviction to the Circuit Court for Baltimore City. After failing to appear on the date set for appeal, the circuit court determined that she had waived her right to an appeal and entered judgment against her. By August 5, 1988, Parker had not paid the fine. On that date, Judge Roger W. Brown of the Circuit Court for Baltimore City issued a warrant for her arrest. The Baltimore County Police Department was unable to serve her with the warrant despite several attempts.

On May 31, 1989, Parker filed a motion with the circuit court to strike the dismissal and reinstate proceedings. Judge Brown granted the motion and quashed the earlier warrant for her arrest. An appeal de novo was held before another circuit court judge on September 22, 1989, at which Parker was acquitted of the speeding offense.

On December 7, 1989, however, the Sheriff of Balti-

more City appeared before Judge Brown and requested a second arrest warrant on the basis of her "continued" failure to pay the \$150 fine. Judge Brown issued the warrant without calling the clerk's office or reviewing the docket entries which reflected Parker's September 22, 1989, acquittal. Parker was later arrested at her home and detained at a Baltimore County police precinct until she paid the fine. Judge Brown ultimately quashed the arrest warrant on January 19, 1990.

Parker filed suit in the Circuit Court for Baltimore City against the State of Maryland under the Maryland Tort Claims Act, Code (1984, 1993 Repl. Vol., 1994 Cum. Supp.), §§ 12-101 through 12-110 of the State Government Article, alleging false imprisonment, false arrest and negligence on the part of Judge Brown. She also sued under the Civil Rights Act of 1871, 42 U.S.C. § 1983, for the erroneous issuance of the warrant. The court ultimately dismissed the action with prejudice.

Parker then appealed the circuit court's dismissal of her action to the Court of Special Appeals of Maryland. Parker argued that Judge Brown was not entitled to judicial immunity because he lacked subject matter jurisdiction over the case and personal jurisdiction over Parker when he issued the warrant. The court of special appeals rejected this argument and held Judge Brown absolutely

immune from suit. Additionally, the court held that judicial immunity attached if the judge had general subject matter jurisdiction regardless of whether or not he also had personal jurisdiction.

Parker then appealed to the Court of Appeals of Maryland, arguing that the judge could not be held immune from suit because he lacked jurisdiction to issue the warrant for her arrest. Concerned by the approach of both the petitioner and Court of Special Appeals to the issue of judicial immunity, the court granted the petition for a writ of certiorari.

The court began its analysis by focusing on Parker's state law claims under the Maryland Tort Claims Act. The court emphasized that the principle of absolute judicial immunity from civil liability has been a part of the common law for several centuries. *Parker*, 337 Md. at 277, 653 A.2d at 439. The court further noted that the Supreme Court recognized and adopted the principle of judicial immunity in *Bradley v. Fisher*, 68 U.S. (13 Wall.) 335 (1872), which has become the leading American case on the subject. *Parker*, 337 Md. at 280, 653 A.2d at 440. Furthermore, the court concluded that

the common law principle of absolute judicial immunity for judicial acts has been reaffirmed in Maryland. *Id.* at 284, 653 A.2d at 442. The court then distinguished between qualified immunity accorded to public officials and absolute immunity granted to judges. The court emphasized that absolute judicial immunity, unlike qualified immunity, applies regardless of the nature of the suit. *Id.* As justification for this greater level of immunity, the court emphasized the need to "... forestall endless collateral attacks on judgments through civil actions against the judges themselves." *Id.* at 287, 653 A.2d at 443. The court further suggested that alleged errors could be challenged through other mechanisms within the judicial system, including removal procedures and the appellate process. *Id.*

In rejecting Parker's argument that Judge Brown lacked jurisdiction to issue a warrant for her arrest, the court noted that the issuance of arrest warrants is specifically within the jurisdiction of the circuit judge. *Id.* at 287, 653 A.2d at 444. Thus, the court held that Judge Brown was entitled to absolute judicial immunity, and Parker's claims under the Maryland Torts Claims Act were

properly dismissed. *Id.*

The court then addressed Parker's federal law claim under the Civil Rights Act of 1871, 42 U.S.C. § 1983. Recognizing that section 1983 did not itself provide for immunities, the court stated that the Supreme Court "... has consistently applied the common law concept of absolute judicial immunity, in its traditional form, to cases arising under section 1983." *Id.* at 288, 653 A.2d at 445. Consequently, the court held that Judge Brown was also immune from suit under Parker's § 1983 claim against him. *Id.* at 290, 653 A.2d at 445. Accordingly, the court affirmed the judgment of the Court of Special Appeals of Maryland.

In *Parker v. State*, the Court of Appeals of Maryland held that a circuit court judge could not be held civilly liable, under either state or federal law, for performing a judicial act. Adhering to common law principles, the court reaffirmed the principle of absolute judicial immunity set forth by the Supreme Court over one hundred years ago. In so doing, the court maintained a longstanding principle necessary for detached and impartial decision making in disputes between adverse parties.

- Julie Furst