No: 21-6497

In the Supreme Court of the United States

HYE-YOUNG PARK—*Petitioner,*

v.

JUDGE COLIN STIRLING. BRUCE —*Respondent.*

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

This Case presents conflicts regarding what is considered as a judicial act and the availability of alternative remedies in the application of judicial immunity.

The Supreme Court held that (1) judicial immunity is meant to protect only a judicial act;[1] an act is "judicial" if it is "a function normally performed by a judge."[2] (2) Granting immunity to a judge's malicious or corrupt judicial acts is possible because review of the potential damages from the judicial acts are available on appeal.[3]

Stump v. Sparkman, 435 U.S. 349 (1978) is the leading modern case on the application of judicial immunity. It provides a test to determine whether an act is judicial. However, the *Stump* test has caused confusion among lower courts because it "explains neither the precise meaning of a judicial act, nor how to apply the majority's definition to a given act."[4] Further, unlike other Supreme Court cases (e.g., *Bradley, Pierson, & Forrester*), the majority opinion did not address the availability of alternative remedies in the application of judicial immunity.

Petitioner's Complaint against Defendant District Judge Colin S. Bruce arises out of her prior lawsuits over which he presided. In the prior lawsuits:

(1) Judge Bruce fabricated false statements which his rulings were then founded on, and denied Petitioner's motions to correct the false statements, considering them as collateral attacks on his verdict, violating FRAP 10(e);

(2) he then neither included Petitioner's motions and his orders over the motions [crucial documents] on the record, nor sent them to the Seventh Circuit, violating FRAP 10(a)(e) and Circuit Rule 10(b);

(3) his false statements along with his violation of Federal rules precluded Petitioner's chance to be heard on appeal because the Seventh Circuit affirmed the District judgment without considering the crucial documents as they stated, "we

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[1] *Bradley v. Fisher,* 80 U.S. (13 Wall.) 335, 347, 348, 349, 351, 354, 357 (1872).

[2] *Stump v. Sparkman,* 435 U.S. 349,362 (1978).

[3] *See Bradley v. Fisher,* 13 Wall. 335, 80 U. S. 354 (1872); *Pierson v. Ray,* 386 U.S. 547, 554 (1967); *Forrester v. White,* 484 U.S. 219, 226- 227 (1988).

[4] Joseph Romagnoli, *What Constitutes a Judicial Act for Purposes of Judicial Immunity?,* 53 FORDHAM L. REV. 1503, 1507 (1985).

cannot admit on appeal documents that were not made a part of the record in the district court." (Seventh Circuit Order p.9, ECF No. 74, Case No. 18-3017).

In other words, Judge Bruce's rulings based on his fabricated statements were not open to correction on appeal because he violated Federal rules.

Given the situation, the questions presented are:

(1) Whether a judge knowingly replacing facts with false statements is a judicial act, which is a function normally performed by a judge.

(2) Whether judicial immunity is available when a judge's acts led to a judicial result that precludes all resort to judicial remedies to a litigant.

This Case provides an excellent opportunity to review the problems inherent in the application of judicial immunity and their effect on the integrity of the judicial process.

PARTIES TO THE PROCEEDING

1. Petitioner is Hye-Young (Lisa) Park, who was Petitioner in the District Court and Appellant in the Seventh Circuit.

2. Respondent is Defendant District Judge Colin S. Bruce, who was Defendant in the District Court and Appellee in the Seventh Circuit. Respondent was not served in the Lower Courts; Respondent was not served with process and did not participate in the District Court and the Seventh Circuit.

DIRECTLY RELATED CASES

US Court of Appeals (7th Cir.)

Park v. Bruce, Nos. 21-1723 & 21-1846. (August 26, 2021)(affirmation of district court's final orders without briefing and warning of further action)

Illinois Central District Court (Urbana Division)

Park v. Bruce. No. 20-2150.
(March 25, 2021: Order of dismissal) (March 30, 2021, Judgement).
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PETITION FOR WRIT OF CERTIORARI

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OPINIONS BELOW[5]

US Court of Appeals (7th Cir.)

Hye-Young Park v. Colin S. Bruce, Nos. 21-1723 & 21-1846.

Appendix A: Order (August 26, 2021). (affirmation of district court's final orders without briefing and warning of further action)

Illinois Central District Court (Urbana Division)

Hye-Young Park v. Colin S. Bruce. No. 20-2150.

Appendix B. Chief Judge Sara Darrow's Order (May 6, 2021) (denying motions to alter or amend Judgment)

Appendix C. Judge Darrow's Order (March 25, 2021) (dismissing the case)

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JURISDICTION

Cases from federal courts: The date on which the United States Court of Appeals decided Park's case was August 26, 2021. The jurisdiction of the Supreme Court is invoked under 28 U. S. C. § 1254(1).

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[5] Petitioner is unsure whether the orders in this section were reported or published.

[6] While Petitioner does not agree, she could not appeal the decision because of the Seventh Circuit's warning (sanctions) for further action from Petitioner. *See* the Statement of Case for details.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Doctrine of Judicial Immunity

The Lower Courts dismissed the directly related case under "28 U.S.C. § 1915(e)(2)(B) (iii) seeks monetary relief against a defendant who is immune from such relief" by applying the doctrine of judicial immunity.

Relevant landmark Supreme Court decisions on the doctrine held that (1) judicial immunity is meant to protect only a judicial act;[7] (2) an act is "judicial" if the act is "a function normally performed by a judge;"[8] (3) granting immunity to a judge's malicious or corrupt judicial acts is possible because review of the potential damages from the judicial acts are available on appeal;[9] "where a judicial officer acts in a manner that precludes all resort to appellate or other judicial remedies that otherwise would be available, the underlying assumption of the *Bradley* doctrine is inoperative."[10]

28 U.S.C. 1915(a)(3)

The District Court denied Petitioner's IFP Motion on appeal under 28 U.S.C. 1915(a)(3) An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith. The Appellate Court affirmed.

Bivens Action

Petitioner sued Respondent for damages under 28 U.S.C. § 1331 for the violation of Petitioner's constitutional rights under the First, Fifth, and Fourteenth Amendment to the United States Constitution. This Case was brought under 42 U.S.C.S § 1983 and *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971) as the *Antoine* Court states:

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[7] *Bradley v. Fisher,* 80 U.S. (13 Wall.) 335, 347, 348, 349, 351, 354, 357 (1872).

[8] *Stump v. Sparkman,* 435 U.S. 349,362 (1978).

[9] *See Bradley v. Fisher,* 13 Wall. 335, 80 U. S. 354 (1872); *Pierson v. Ray,* 386 U.S. 547, 554 (1967); *Forrester v. White,* 484 U.S. 219, 226- 227 (1988).

[10] *Stump v. Sparkman,* 435 U.S. 349, 370 n. 3/1 (1978) (Powell, J., dissenting). (Internal citation omitted). Justice Powell cites *Bradley v. Fisher,* 13 Wall. 335, 349 (1872) and *Pierson v. Ray,* 386 U.S. 547 (1967).

"For purposes of [judicial] immunity, we have not distinguished actions brought under 42 U.S.C. § 1983 against state officials from *Bivens* actions brought against federal officials." *Antoine v. Byers & Anderson, Inc.*, 508 U.S. 429, 433 n.5 (1993).

FRAP 10 and Circuit Rule 10

Petitioner's directly related case also involves FRAP 10(a) & (e) and Circuit Rule 10(b):

FRAP 10. The Record on Appeal.

FRAP 10(a) Composition of the Record on Appeal.

The following items constitute the record on appeal:
(1) the original papers and exhibits filed in the district court;
(2) the transcript of proceedings, if any; and
(3) a certified copy of the docket entries prepared by the district clerk.

FRAP 10(e) Correction or Modification of the Record "(2) If anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected, and a supplemental record may be certified and forwarded: (A) on stipulation of the parties;(B) by the district court before or after the record has been forwarded; or (C) by the court of appeals."

Circuit Rule 10(b) Correction or Modification of Record.

"A motion to correct or modify the record pursuant to Rule 10(e), Fed. R. App. P., or a motion to strike matter from the record on the ground that it is not properly a part thereof must be presented first to the district court. That court's order ruling on the motion must be included as part of the record and a notice of the order must be sent to the court of appeals."

STATEMENT OF THE CASE

I. Background.

1. Judge Bruce's Replacements and Violations led to Preclusion.

Petitioner Hye-Young (Lisa) **Park** filed her Complaint (20-2150, "**2020 Case**") against Judge Colin Bruce regarding his unlawful actions when he presided over the following prior lawsuits against the University of Illinois and its officials:

- *Park v. Hudson, et al.*, 15-2136 ("**2015 Case**")
- *Park v. Board of Trustees of the University, et al.*, 18-2090 ("**2018 Case**")
- *Park v. Abdullah-Span, et al.*, 19-2107 ("**2019 Case**").

Park alleged that in her prior lawsuits:

(1) Judge Bruce fabricated false statements, which his orders were then founded on.[11]

(2) Park filed motions to correct the false statements.[12] Defendants in response did not negate Park's evidence that proves the statements in the orders to be nonfactual; they only raised technical or procedural issues.[13]

(3) Judge Bruce denied Park's motions to correct the false statements by considering them as a "collateral attack"[14] on his verdict, violating FRAP 10(e).

In other words, he knowingly replaced facts with false statements ("**Replacements**"), then directed Park to address her issue on appeal.

(4) Park challenged the denial by stating, "it is **very important** for this [District] Court to correct its misstatements" & "it is this [District] Court's

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[11] *See* Complaint 8-28, ECF No. 1, Case No. 20-2150 for the false statements.

[12] *See* ECF Nos. 293, 293-1, 293-2, 294, 301, 303, 303-1, 308-1, 309, 309-1, 313, 314, 314-1, 320, 321, & 323), Case #15-2136 for the filings regarding the motions to correct the false statements.

[13] *See* ECF Nos. 297, 299, 302, Case No. 15-2136 for Defendants' Response.

[14] *See* Order 2, 7, 9, ECF No. 306, 15-2136 (internal citation omitted).

obligation to relay factual information to the Appellate Court [for their review]."[15] She continued to file motions to no avail as Judge Bruce continued to deny them.

(5) Judge Bruce did not include her motions and his rulings over them [crucial documents] on the record, violating Circuit Rule 10(b) & FRAP 10(a)(e) ("**Violations**").

(6) Park addressed Judge Bruce's false statements on appeal. However, the Seventh Circuit affirmed the District Court's judgment without considering *the crucial documents*, stating, "we cannot admit on appeal documents that were not made a part of the record in the district court."

Therefore, Judge Bruce's Replacements and Violations precluded Park's chance to be heard on appeal ("**Preclusion**").[16] Note that "Preclusion" should not be confused with "issue preclusion (Collateral Estoppel)."

II. Proceedings Below

1. District Court Proceedings

Judge Bruce recused himself from all pending cases involving Petitioner.

(1) May 29, 2020, Park filed her Complaint ("2020 Case") against Judge Bruce alleging he violated her rights under the First, Fifth, and Fourteenth Amendment to the US Constitution.[17] She also filed two other cases: *Park v. Board of Trustees of University of Illinois, et al.*, 20-2148 and *Park v. Stake, et al.*, 20-2149.

(2) June 4, Judge Bruce submitted an "Order of Recusal" pursuant to 28 U.S.C. § 455(a), where he disqualified himself from all pending cases involving Park including her 2015 Case as he stated:

> "The court hereby recuses itself from all pending cases involving Petitioner. Therefore, the court directs that the clerk transfer Case Nos. 15-2136, 20-2148, 20-2149, and 20-2150 to Chief Judge Darrow." (ECF. No. 6. p.5).

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[15] Motion 17, 5, ECF No. 308-1, Case No. 15-2136.

[16] Seventh Circuit Order ECF No. 74, p.9, Case No. 18-3017.

Judge Sue Myerscough also recused herself.

(3) June 8, the Cases were reassigned to Judge Sue Myerscough for further proceedings.

(4) October 28, Judge Myerscough recused herself. The cases were reassigned to Chief Judge Sara Darrow.

Magistrate Judge Long recommended dismissal of Petitioner's Complaint by applying judicial immunity.

(5) January 22, 2021, Magistrate Judge Eric Long entered Report and Recommendations ("R&R"), recommending Park's Complaints to be dismissed by applying judicial immunity.

(6) February 10, Park filed Objections to the R&R.

Chief Judge Darrow dismissed Petitioner's Complaints by applying judicial immunity.

(7) March 25, Chief Judge Darrow followed R&R and dismissed Park's Complaint granting judicial immunity to Judge Bruce (ECF. No. 15).

(8) April 12, Park filed her Motion to Alter or Amend a Judgment (ECF No.17) where she stated that Judge Bruce's Replacements (knowingly replacing facts with false statements) is "neither the kinds of acts normally performed by a judge, nor normally expected by the parties from a judge."[18]

Citing Justice Powell, a dissent in *Stump*, Park further stated that his **Replacements** combined with his **Violations** led to **Preclusion**. Judge Bruce acted "in a manner that precludes all resort to appellate or other judicial remedies that otherwise would be available, [therefore] the underlying assumption of the Bradley doctrine is inoperative."[19] Thus, judicial immunity does not apply.

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[18] Motion 5, ECF No. 17, Case No. 20-2150.

[19] Motion 6, ECF No. 17, Case No. 20-2150, quoting *Stump v. Sparkman,* 435 U.S. 349, 370 n. 3/1 (1978) (Powell, J., dissenting). (Internal citation omitted). *See* also *Bradley v. Fisher*, 13 Wall. 335, 349 (1872).

(9) May 6, Judge Darrow denied Park's Motion to Alter Judgement; the order stated,

> "the allegedly false statements were included in Judge Bruce's written orders. Therefore, her claims are based on the orders Judge Bruce issued" and "issuing an order involves the exercise of discretion and is the kind of act regularly performed by judges and expected by the parties, so Judge Bruce's orders were judicial acts."[20]

Regarding Preclusion which led to the unavailability of alternative remedies, she held:

> "This is a new argument that was not raised in Petitioner's objections to the Report and Recommendation. A motion to reconsider is not the time to raise an argument that could have been raised prior to judgement. *Miller,* 683 F.3d at 813."[21]

She continued that, nevertheless, "[Park] is relying on a statement from a dissenting opinion [in *Stump*]; this is not part of the judicial immunity analysis this Court must apply."[22]

Regarding the IFP Motion, she stated:

> "the Court granted Petitioner in forma pauperis status. (...) However, by applying judicial immunity, the Court doubts that Petitioner's appeal is taken in good faith" and ruled, "Petitioner may file a statement of her grounds for appeal within fourteen days. (ECF No.25, p.9).

(10) May 17, Park repeatedly explained in her Statement for her Ground for Appeal (ECF No.33) that she had no chance to be heard on appeal, therefore, judicial immunity does not apply.

Park also claimed in her Complaint and her Objections that **Preclusion** was raised **prior to** the District Court's order & judgement (ECF Nos. 15 & 16):

> (a) Park "submitted numerous filings [post-trial motions] to correct the false statements claimed by the [District] Court" and stated that Judge

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[20] Order 6, ECF No. 25, Case No. 20-2150, internal citation omitted.

[21] *Miller v. Safeco Ins. Co. of Am.*, 683 F.3d 805, 813 (7th Cir. 2012), emphasis added.

[22] Case 20-2150, Order, 8, ECF No. 25.

Bruce nevertheless "dismissed her filings as 'collateral attacks on the verdict.'" Objs. 3-4, ECF No. 13, Case No. 20-2150.

(b) Judge Bruce "neither included Park's post-trial motions and this Court's orders over her motions on the record, nor sent them to the Seventh Circuit, violating" Circuit Rule 10(b) and FRAP 10(a)(e), which precluded all resort to the judicial system because on appeal, the Seventh Circuit stated it "'cannot admit on appeal documents that were not made a part of the record in the district court.' (Seventh Circuit Order #74, p.9, 18-3017). Therefore, Park has lost an opportunity to be heard meaningfully." Compl. 29, ECF No. 1, Case No. 20-2150. *See* also *id.* at 28-33 for details.

Park further claimed, "Justice Powell [a dissent] cites the prior Supreme Court cases such as *Bradley v. Fisher, 13 Wall.* 335, 349 (1872) and *Pierson v. Ray,* 386 U.S. 547 (1967)." Statement of Ground, 1, ECF No. 33, Case No. 20-2150.

Chief Judge Darrow did not respond to the critical issues raised by Petitioner.

(11) May 18, the District Court certified under 28 U.S.C. 1915(a)(3) that Park's appeal is not taken in good faith and denied her Motion for Leave to Proceed in Forma Pauperis on Appeal; it simply stated that Park's claims are clearly barred by judicial immunity without addressing the critical issues regarding Preclusion:

(a) Preclusion raised **before** Judge Darrow's order on May 25, 2021.

(b) Justice Powell [a dissent] cited the prior Supreme Court cases.

Text order after the Seventh Circuit's final Order.

(12) July 30 & August 2, Park file motions to correct the record.

(13) October 28, 2021, TEXT ORDER entered by Chief Judge Darrow:

"Plaintiff's 37 39 motions to correct or modify the record under Seventh Circuit Rule 10(b) and Federal Rule of Appellate Procedure 10(e)(2)(B) are MOOT in light of the Seventh Circuit's 41 summary affirmance of the Court's 15 25 orders in this case. Plaintiff's 40 motion to forward her 37 39 motions to correct or modify the record and the Court's ruling on those motions is GRANTED IN PART and DENIED IN PART.

The Court reads Seventh Circuit Rule 10(b) to require only that the Court give the Seventh Circuit notice of its ruling on the motions to correct or modify the record. Thus, the Court DIRECTS the Clerk to send the Seventh Circuit a copy of this order."[23]

2. Proceedings on Appeal

The Seventh Circuit affirmed and warned Petitioner of sanctions for further litigations.

(14) August 26, 2021, the Seventh Circuit summarily affirmed the final orders of the district court and warned Park that "further frivolous litigation may lead to sanctions."

REASONS FOR GRANTING THE PETITION

The Supreme Court should grant this petition for the following reasons:

I. This Case will provide definitive guidance for the lower courts on what is considered as a judicial act.

II. The Lower Courts disregarded the Supreme Court in the application of judicial immunity.

III. This Case will uphold uniformity in the application of judicial immunity for the greater public good nationwide.

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[23] The District Court interprets that Circuit Rule 10(b) requires only the order to be sent to the Seventh Circuit.

Park interprets that Circuit Rule 10(b) requires the District Court to include both the motions and the order to be sent to the Seventh Circuit. Regardless, it appears to Park's knowledge that the District Court neither sent its motions nor its order to the Seventh Circuit.

However, she could not appeal the decision because the Seventh Circuit warned Park (sanctions) for further action; the Seventh Circuit clerks also advised Park not to file anything else related to the case after its final order.

I. This Case will provide definitive guidance for the lower courts on what is considered as a judicial act.

The challenged act in Stump

Determining whether an act is judicial is critical in the application of judicial immunity because it applies only when the act in question is judicial.[24]

Stump v. Sparkman, 435 U.S. 349 (1978) is the leading modern case on the application of judicial immunity which provides a test to determine whether an act is judicial. However, "the *Stump* test has caused confusion among the lower courts because of its broad and ambiguous nature."[25] It "explains neither the precise meaning of a judicial act, nor how to apply the majority's definition to a given act [.]"[26]

Stump involved an Indiana judge who was sued by a young woman who had been sterilized as a minor without her knowledge, at the request of her mother who had secured a court order from the defendant judge.

Judge Harold Stump approved the petition of a mother to have her "somewhat retarded" minor daughter sterilized to "prevent unfortunate circumstances." *Id.* at 351. A doctor thereafter performed a sterilization procedure. Upon learning the sterilization after marriage, the daughter filed a civil suit against Judge Stump under 42 US Code § 1983, seeking damages for the alleged violation of her constitutional rights. The district court granted Judge Stump immunity, but the Seventh Circuit reversed and held that Judge Stump had failed "to comply with elementary principles of procedural due process" and was thus not immune from damages liability. *Id.* at 355.[27]

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[24] *Stump v. Sparkman,* 435 U.S. at 356-57 (1978). *See Stump v. Sparkman,* 435 U.S. 349, 361 (1978); Joseph Romagnoli, *What Constitutes a Judicial Act for Purposes of Judicial Immunity?,*

[53] FORDHAM L. REV. 1503 (1985).
Available at: https://ir.lawnet.fordham.edu/flr/vol53/iss6/10

[25] *What Constitutes a Judicial Act for Purposes of Judicial Immunity*?, 53 Fordham L. Rev. 1504.

[26] Joseph Romagnoli, *What Constitutes a Judicial Act for Purposes of Judicial Immunity?*, 53 FORDHAM L. REV. 1503, 1507 (1985). *See* also Timothy M. Stengel, *Absolute Judicial Immunity Makes Absolutely No Sense: An Argument for an Exception to Judicial Immunity*, 84 TEMP. L. REV. 1071, 1078 (2012).

[27] Quoting *Sparkman v. McFarlin,* 552 F.2d 172, 176 (7th Cir. 1977).

The Supreme Court reversed the Seventh Circuit's orders. Respondent argued that Judge Stump did not act in his judicial capacity because the petition was approved by him without a hearing or a docket number.

Stump's Court rejected the argument by stating formality is not necessarily indicative of a judicial act.[28] Rather, it articulated "the factors determining whether an act by a judge is a 'judicial' one relate to":

(1) "the nature of the act itself, i.e., whether it is a function normally performed by a judge," and

(2) "the expectations of the parties, i.e., whether they dealt with the judge in his judicial capacity." [29]

Stump's Court considered that the challenged conduct was "Judge Stump's approval of the petition for sterilization" requested by the mother, and considered it a judicial act protected by judicial immunity because it is common for state judges to approve "petitions relating to the affairs of minors."[30] Therefore, it ruled that this approval was an act normally performed by a judge, and to the expectations of the parties (the mother) in his judicial capacity.

However, *Stump's* Court is a divided court; the question of what is considered a "judicial act" is raised among Justices in the application of the two-factor test. The dissent[31] maintained that it is not clear "whether the Court means that a judge normally is asked to approve a mother's decision to have her child given surgical treatment generally, or that a judge normally is asked to approve a mother's wish to have her daughter sterilized" and pinpointed that, in any event, judges are not "normally asked to approve parents' decisions either with respect to surgical treatment in general or with respect to sterilizations in particular." *Id.* at 364 n.11(1978). The dissent continued, "there is no reason to believe that such an act has ever been performed by *any* other Indiana judge, either before or since." *Id.* at 367.

Nevertheless, *Stump's* Court found "the fact that the issue before the judge is a controversial one is all the more reason that he should be able to act without fear of suit."[32] Therefore, it ordered that Judge Stump was "immune

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[28] *See Stump v. Sparkman,* 435 U. S. 360-361
[29] *Id.* at 362
[30] *Id.*
[31] *Stump* was a five-to-three decision. Justice Brennan did not participate in the decision.
[32] *Id.* at 364, emphasis added.

from damages liability even if his approval of the petition was in error."[33]

In sum, *Stump's* court granted immunity to Judge Stump for granting the mother's petition of the sterilization because (1) Indiana state judges normally approve petitions relating to the affairs of minors; and (2) the issue before Judge Stump was controversial.

Since then, the definition of a judicial act began to be called into question by other cases, causing confusion among lower courts in the application of the *Stump* test because "it explains neither the precise meaning of a judicial act, nor how to apply the majority's definition to a given act."[34] This instant case is no exception as there is disagreement in the interpretation of the *Stump* test regarding the challenged act, judicial function, and judicial capacity.

The challenged act in Park

Park argued that her claims against Judge Bruce were based on his Replacements (knowingly replacing facts with false statements), which is the challenged act in question.

However, the District Court equated Judge Bruce's Replacements to the routine function of placing an order.[35] It argued that Park's claims were "based solely on the orders he issued" because "the allegedly false statements were included in Judge Bruce's written orders. Therefore, her claims are based on the orders Judge Bruce issued."[36] It then applied the *Stump* test and held Judge Bruce to be protected by judicial immunity because "issuing an order involves the exercise of discretion and is the kind of act regularly performed by judges and expected by the parties so Judge Bruce's orders were judicial acts."[37]

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[33] *Id.* at 349.

[34] Joseph Romagnoli, *What Constitutes a Judicial Act for Purposes of Judicial Immunity?*, 53 FORDHAM L. REV. 1507 (1985).

[35] Note that the Seventh Circuit summarily affirmed the final orders of the District Court. Therefore, Petitioner refers to the orders of the District Court.

[36] Case 20-2150, Order 5, 6, ECF No. 25.

[37] *See* Case 20-2150, Order 6, ECF No. 25.

Park clarified again that:

(1) the challenged act is Judge Bruce knowingly replacing facts with false statements;

(2) the challenged act is neither the false statements in the orders nor the orders he issued;

(3) the false statements in the orders are the outcomes of the challenged act.

A judge in his capacity may make mistakes as a human-being in describing facts and applying them to law. However, his judicial capacity does not empower him to knowingly replace facts with false statements at his discretion; Judge Bruce's Replacements is not a function normally performed by a judge and is not an expectation of the parties.

Therefore, this case will provide clear and specific guidance on what is considered a judicial act in the application of the *Stump* test for lower courts.

II. The Lower Courts disregarded the Supreme Court in the application of judicial immunity.

When a lower court blatantly ignores a previous Supreme Court ruling, the Supreme Court may grant a petition to hear a case to correct or simply overrule the lower court's rulings for the integrity of the judiciary and of the judicial process.

*The challenged **acts** in Park*

The challenged **acts** in *Park* are as follows:

Judge Bruce fabricated false statements and utilized them to rule against Park. He then denied Park's motions to correct the false statements by considering them as collateral attacks on his verdict although no party was able to refute Park pointing out the false statements. His false statements were then not open to correction on appeal because he neither included her motions (to correct his false statements) nor his rulings over them on the record, violating Federal rules.

Quoting Justice Lewis Powell in *Stump,* Park argues that judicial immunity is not available to Judge Bruce. The challenged acts (Judge Bruce's Replacements and Violations) led to a judicial result which precluded Park's chance to be heard on appeal (Preclusion) because the Seventh Circuit refused to consider the documents that were not on the record and affirmed Judge Bruce's rulings.

The District Court holds that this argument is new; "a motion to reconsider to raise an argument that could have been raised prior to judgment. *Miller,* 683 F.3d at 813."[38] To the contrary, Park explains that she raised Preclusion in her Complaint & Objections before the judgment.[39]

The District Court then creates another argument that, regardless, "Petitioner is relying on a statement from a dissenting opinion [in *Stump*]; this is not part of the judicial immunity analysis this Court must apply. *King v. McCree,* 573 F. App'x 430, 442-43 (6th Cir. 2014)."[40]

In response, Park states that the dissenting opinion drew on previous Supreme Court rulings. In *Bradley, Pierson, & Forrester,* the Supreme Court argued:

> "Against the consequences of their erroneous or irregular action, from whatever motives proceeding, the law has provided for private parties numerous remedies, and to those remedies they must, in such cases, resort." *Bradley v. Fisher,* 13 Wall. 335, 80 U. S. 354 (1872).
>
> "[A judge's] errors may be corrected on appeal, but he should not have to fear that unsatisfied litigants may hound him with litigation charging malice or corruption. Imposing such a burden on judges would contribute not to principled and fearless decision-making but to intimidation." *Pierson v. Ray,* 386 U.S. 547, 554 (1967).
>
> The potential damages done by malicious or corrupt judicial acts "are open to correction through ordinary mechanisms of review, which are largely free of the harmful side effects inevitably associated with exposing judges to personal liability." *Forrester v. White,* 484 U.S. 219, 227 (1988).

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[38] Case 20-2150, Order, 6, ECF No. 25.

[39] *See* Case 20-2150, Compl. 29, ECF No. 1; Objs. 3-4, ECF No. 13. *See* Petitioner's Statement of her Ground for Appeal, 2-4, ECF No. 33 for details.

[40] Case 20-2150, Order, 8, ECF No. 25

In sum, the Supreme Court acknowledged that although judicial immunity may cause some harm from judicial acts to go uncompensated, the grant of immunity is justified by the presence of alternative reviews.

Following *Bradley & Pierson,* Justice Lewis Powell in *Stump* argues that the Bradley immunity is not available when no alternative remedy is available:

> "Underlying the Bradley immunity (...) is the notion that private rights can be sacrificed in some degree to the achievement of the greater public good deriving from a completely independent judiciary, because there exist alternative forums and methods for vindicating those rights. But where a judicial officer acts in a manner that precludes all resort to appellate or other judicial remedies that otherwise would be available, the underlying assumption of the Bradley doctrine is inoperative." [41]

The difference in nature between Stump and Park

The majority opinion in *Stump* did not comment on the possibility of correcting judicial error on appeal because, unlike previous Supreme Court cases and the instant Case, "[t]here were no litigants [in *Stump*]. There was and could be no appeal. And there was not even the pretext of principled decision making."[42]

Stump's Court justified judicial immunity because "the fact that the issue before the judge is a controversial one is all the more reason that he should be able to act without fear of suit."[43] To the contrary, it is not controversial to decide whether judges should (1) replace facts with false statements for their judicial review and (2) violate Circuit Rule 10(b) & FRAP 10(a)(e), which preclude a litigant's chance to be heard on appeal.

Therefore, the Lower Courts blatantly ignored previous Supreme Court rulings in *Bradley, Pierson, Forrester & Stump*; hence, granting this petition is crucial to uniformity in the application of judicial immunity.

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[41] *Stump v. Sparkman,* 435 U.S. 349, 370 n. 3/1 (1978) (Powell, J., dissenting). (Internal citation omitted). Justice Powell cites *Bradley v. Fisher,* 13 Wall. 335, 349 (1872) and *Pierson v. Ray,* 386 U.S. 547 (1967), emphasis added.

[42] *Stump v. Sparkman,* 435 U.S. 349 at 369 (Stewart, J., dissenting).

[43] *Id.* at 364 emphasis added.

III. This Case will uphold uniformity in the application of judicial immunity for the greater public good nationwide.

This petition is not for disputing the validity of the doctrine, but for guiding lower courts in the application of judicial immunity.

The purpose of judicial immunity

The Supreme Court held:

(1) Judicial immunity is "a general principle of the highest importance to the proper administration of justice"[44] to prevent "continual attacks upon judges who may be sincere in their conduct[.]"[45]

(2) It is "not for the protection or benefit of a malicious or corrupt judge, but for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence and without fear of consequences."[46]

(3) It is not applicable when no alternative remedy is available as in *Bradley, Pierson, & Forrester.*

Clear guidance on the proper application of the Stump test to determine a judicial act

While the importance and necessity of the doctrine of judicial immunity is well established, "the extent to which the doctrine should shield judges from suits for damages is unclear"[47] as in *Stump*. The *Stump* test has caused confusion among lower courts because it "explains neither the precise meaning of a judicial act, nor how to apply the majority's definition to a given act."[48] This vagueness has led to controversy in the interpretation of a judicial act as presented in this case. Therefore, more detailed guidance is needed.

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[44] *Bradley v. Fisher*, 80 U.S. 335, 347 (1872).
[45] *Floyd v. Barker* 77 Eng. Rep. 1305, (Star Chamber 1607).
[46] *Scott v. Stansfield,* L.R. 3 Ex. 220, 223 (1868), quoted in *Bradley v. Fisher,* supra, 349, note, at 350.
[47] *What Constitutes a Judicial Act for Purposes of Judicial Immunity*?, 53 Fordham L. Rev. 1504(1985). Footnote omitted.
[48] *Id.* at 1503, 1507 *See* also Timothy M. Stengel, *Absolute Judicial Immunity Makes Absolutely No Sense: An Argument for an Exception to Judicial Immunity*, 84 TEMP. L. REV. 1071, 1078 (2012).

Clear guidance on the proper application of judicial immunity for the lower courts

Park argues that granting judicial immunity to Judge Bruce constitutes manifest injustice; the District Court claims it "cannot change the law to benefit Petitioner" and that "allowing judicial immunity in these circumstances [involving Preclusion caused by Judge Bruce's Replacements and Violations] serves the public purpose of the doctrine; a judge should be free to write orders based on his assessment of the evidence without fear of personal liability."[49]

Park replied that it does not need to change the law; according to the Supreme Court, judicial immunity is not available when a judge's acts led to a judicial result that precludes all resort to judicial remedies that would otherwise be available to a litigant.

Further, she argued that granting judicial immunity to Judge Bruce threatens the very essence of judicial functions which it is intended to protect; protecting Judge Bruce for his challenged acts (Replacements and Violations) contradicts the purpose of the doctrine and goes against the greater public good. A judge should not be free to act in such a manner without fear of personal liability.

Achieving the purpose of judicial immunity

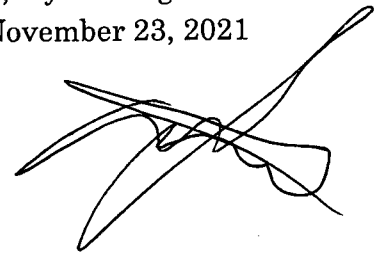
This Case presents an excellent opportunity to review the problems inherent in the application of judicial immunity and their effect on the integrity of the judicial process.

By resolving the recurring issue of judicial immunity, this Court will protect both judicial functions and litigants from improper use of judicial immunity, improving our judiciary for the greater public good nationwide.

CONCLUSION

For the foregoing reasons, the Court should grant the petition.

Respectfully submitted,
Petitioner, Hye-Young Park
Date: November 23, 2021



[49] Order 7-8, ECF No. 25, Case No. 20-2150.