Stump v. Sparkman (1978)

Editor's Note: The following article contains discussion of terms that, as of 2022, are no longer acceptable for describing people with disabilities. Terms such as "retarded" belong to the people who originally used them and do not reflect the views of the Embryo Project authors and editors.

On March 28, 1978, in Stump v. Sparkman, hereafter Stump, the United States Supreme Court held, in a five-to-three decision, that judges have absolute immunity from lawsuits involving any harm their judicial decisions cause. Linda Sparkman, who was unknowingly sterilized when she was fifteen years old in 1971, sued Harold Stump, the county circuit court judge who signed the petition to allow Sparkman's mother to have her sterilized. Sparkman's mother stated to Stump that she wanted her daughter sterilized because of Sparkman's alleged mental deficiencies and sexual promiscuity. Sparkman argued that Stump violated her Fourteenth Amendment rights to due process because nobody informed her about the nature of the procedure and because Stump did not perform typical court proceedings. Stump argued that, because he was acting within his role as a judge, the doctrine of judicial immunity prevented his liability from lawsuit. Stump strengthened the impunity with which judges can act, including acts found to be unconstitutional, regardless of any rights upon which such actions may infringe.

One of the fundamental arguments in Stump involves the doctrine of judicial immunity. The foundations of the doctrine of judicial immunity are associated with the 1871 case Bradley v. Fisher, hereafter Bradley. In Bradley, Joseph Bradley, serving as the attorney for an alleged co-conspirator to the assassination of US President Abraham Lincoln, insulted and threatened violence against George Fisher, one of the justices of the Supreme Court of the District of Columbia. In response, Fisher disbarred Bradley from practicing in the court. The US Supreme Court reversed the disbarment since the act was outside of Fisher's jurisdiction as a judge. Bradley then sued Fisher for damages, which the Supreme Court denied because, although Fisher did not have the authority to disbar Bradley, he was not liable for damages his actions caused when acting in his official capacity as a judge. A lack a liability protected judges from lawsuits when performing judicial acts, however Stump brought into question what counts as a judicial act.

Stump originates in the state of Indiana, where the American eugenics movement led to legalization and the use of compulsory sterilization on people with disabilities, the incarcerated, and the institutionalized. The eugenics movement consisted of scientists, policymakers, and social critics who believed that selective breeding of humans would improve society. Eugenicists advocated for and implemented polices that permitted the forced sterilization of people they deemed genetically inferior including racial and ethnic minorities, current and formerly incarcerated individuals, and people with disabilities. Indiana was the first state in the US to formally institute a law allowing for compulsory sterilization in 1907. Over the following decades, the Indiana state government amended the law due to constitutional challenges. In 1974, three years after Sparkman's sterilization, then-Indiana Governor Otis R. Bowen repealed all sterilization laws in the state. An estimated 2,000 people were forcibly sterilized in Indiana alone while the law was in place.

In 1971, Ora Spitler McFarlin, the mother of then-fifteen-year-old Sparkman, brought a petition to Stump for the tubal ligation of her daughter. At the time, Stump served as the elected judge of DeKalb County Circuit Court in Auburn, Indiana. McFarlin argued that the procedure was necessary since her daughter was, in McFarlin's words, "somewhat retarded" and had previously stayed overnight with men. Stump granted the petition the same day he received it, never notifying Sparkman about the petition or the procedure. Stump held no hearing, nor did he appoint guardian ad litem, which is a person appointed by a judge to represent the interests of a minor during a court

proceeding. Stump considered no evidence other than McFarlin's testimony of her daughter's intellectual disability and promiscuity and cited no law that gave him the authority to sign the petition.

McFarlin took her daughter for the sterilization procedure six days after Stump signed the petition. Both McFarlin and the hospital staff told Sparkman that she was having an appendectomy, a procedure to remove the appendix. Two years later, in 1973, Sparkman married and, finding she could not conceive a child, learned of her sterilization. Later that year, Sparkman brought a lawsuit in the US District Court for the Northern District of Indiana against McFarlin, McFarlin's lawyer, Stump, the doctors who performed the procedure, and the hospital, for damages. Her husband joined the lawsuit under claims of loss of potential fatherhood. Indiana-based lawyers represented both parties. George Fruechtenicht represented Stump, and Richard Finley represented Sparkman.

Sparkman's lawsuit was first brought to trial judge Jesse Eschbach, in the district court in 1973. Sparkman argued that approving McFarlin's petition was beyond the scope of Stump's judicial authority, thus he was liable for damages. Eschbach dismissed Sparkman's claims since Stump was immune from lawsuit due to the precedent of Bradley. In 1977, Sparkman appealed to the Seventh Circuit Court of Appeals, which reversed the district court in a unanimous decision. In their decision, the circuit court judges wrote that judges only have immunity within their jurisdiction. While Indiana law allowed for the sterilization of institutionalized persons, Sparkman's case did not fall under that statute as she was not institutionalized. However, even if she was, she was not granted any hearing or court proceedings as required by the law. Stump appealed the circuit court's decision, and the US Supreme Court agreed to hear the case.

Arguments before the Supreme Court began in 1978. Arguing for Stump, Fruechtenicht framed the issue before the court as one of judicial immunity rather than the constitutionality of Stump's actions against Sparkman's due process or reproductive rights. During questioning by the justices, Fruechtenicht admitted that Stump's "general jurisdiction" did not encompass all issue areas, there was no law at the time that permitted a parent to consent to their child's sterilization, and that Stump did not actually file any petition with the court.

In contrast, Sparkman's lawyer, Finley, argued that the order signed by Stump did not constitute a judicial act since it lacked any case filing or preceding. While McFarlin brought the sterilization petition to Stump, neither filed any documentation with the courthouse nor did Stump provide opportunity for any testimony as required for due process. Thus, Stump was not protected from suit under judicial immunity since he failed to perform basic judicial proceeding in his decision to approve the petition. During questioning, the Supreme Court justices asked why, if the petition was not a judicial act, did McFarlin consult the judge at all. Finley responded by saying that the doctors wanted the protection that a judge's signature would give them. Justice Warren Burger asked if the doctors were seeking a judicial act, and Finley argued that the order could not be classified as a judicial act without a case being filed. Thus, Finley argued that since Stump's actions did not meet the criteria of a judicial act, he was not immune from liability.

In a split five-to-three decision, the US Supreme Court reversed the circuit court decision and sided with Stump on 28 March 1978. Justice Byron White authored the decision, joined by Justices Warren Burger, John Stevens, Harry Blackmun, and William Rehnquist. In the majority opinion, the court established a two-prong test to determine whether a judge was protected under judicial immunity. First, a judge must have jurisdiction over the subject matter within the case. Second, the judge must be working in their judicial capacity. White writes that, even though Stump made an error in signing the petition, they believed that Indiana's law on general jurisdiction covered sterilization and that he did so in a judicial capacity regardless of a lack of court filings.

In the dissenting opinion written by Justice Potter Stewart and joined by Justices Lewis Powell and Thurgood Marshall, the Justices argued that, by signing off on a sterilization procedure, Stump went far beyond any action that could be construed as a judicial act and, thus, was not protected under judicial immunity. After White summarized the majority's opinion before the courtroom, Stewart read the dissenting opinion, a rare occurrence at the time, covering nearly the entire opinion in his speech. Stewart argued that the majority relied on false reasoning and a judge is not free to inflict damages simply by saying he is acting in a judicial capacity. Justice William J. Brennan, Jr. did not participate in the case.

Following the Stump decision, many legal scholars were critical of the decision, saying that the courts invented judicial immunity without any constitutional basis. Some scholars, like J. Randolph Block, argued that Stump called into question the Supreme Court's integrity. Additionally, Sparkman never received any monetary compensation for the forced sterilization procedure she endured. She later changed her name to Jamie Renae Coleman, and published a book about her early life. In her book, she explains how her family referred to her as "retarded" throughout her upbringing, allowing for her mother to use Sparkman's alleged intellectual disability to convince Stump to sign the sterilization petition. Stump continued his term as judge after the case and was re-elected for another six-year term during the next election.

Stump was a case about reproductive rights, disability rights, and women's rights. However, the decision by the Supreme Court narrowly focused on the protections afforded to judges who act to abridge the civil rights of an individual. In his dissent, Stewart wrote that Stump's actions were unlike anything done by a judge in Indiana judicial history. However, that was not the case as Indiana was one of the leading states involved in the eugenics movement that sought to remove undesirable characteristics in humans through selective breeding practices, including forced sterilization. The Indiana legislature passed their first compulsory eugenic sterilization law in 1907, and sterilization laws remained in the state statutes until 1974, three years after Sparkman's sterilization. In the process of prioritizing arguments regarding the qualifications of judicial immunity, the Court relegated questions of the rights of eugenics victims to a subordinate position to judges' protection from lawsuits.

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