



Judge Vasta and Judicial Immunity

Queensland v Mr Stradford (a pseudonym) [2025] HCA 3

Pre-learning activity

- When is a judicial officer liable for the consequences of their actions?
- Do judges have immunity? And if so to what extent?
- Should judges in all courts have the same level of immunity?

Introduction

This case brief explores the imprisonment of man, given the pseudonym Mr Stradford, in 2018 as a result of a judicial error by His Honour Judge Vatsa. It will also examine questions surrounding when a judicial officer is liable for the consequences of their actions, what is judicial immunity and the extent to which it applies.

Facts of The Case

In August 2018, Mr Stradford was ordered by Judge Vasta of the Federal Circuit and Family Court (FCFC) of Australia, to disclose gambling account statements for a family court proceeding. The proceedings were adjourned and then heard briefly by another judge before returning to Judge Vasta in December 2018. Judge Vasta, wrongly believing the other Judge held Stradford in contempt, sentenced him to six months in gaol for being in contempt of court.

During Stradford's time in gaol, he had an incredibly distressing time where he witnessed and was subjected to, acts of violence and experienced suicidal thoughts. Judge Vasta sentenced Stradford as he believed Stradford had deliberately disobeyed the courts orders to provide the financial statements. Six days later, Stradford appealed the decision where Judge Vasta conceded he had erred and ordered Stradford's immediate release.

Appeal & Civil Case

In February 2019, the Full Court of the Family Court (now the FCFC) overturned the sentence and Stradford sued Judge Vasta for false imprisonment in

a civil case. In August 2023, Federal Court Justice Michael Wigney held that Judge Vasta's actions as a judicial officer were not protected by immunity from a civil suit as he "acted without, or in excess of his jurisdiction". To come to this decision, hundreds of years of common law decisions were examined to determine the scope of judicial immunity available to Judges in 'Inferior courts.'

Wigney J awarded just over \$300,000 in compensation including \$50,000 in exemplary damages to "deter any repetition of such a thoroughly unacceptable abuse of judicial power". In his judgment, Wigney J referred to the case in harsh terms, calling it a "gross miscarriage of justice" and stating that Judge Vasta "made a number of fundamental and egregious errors and effectively prejudged the outcome".

High Court Judgement

Upon this verdict, Judge Vasta appealed to the High Court of Australia ('HCA'). Judge Vasta raised two key points of contention. The first being, whether Judge Vasta's order to imprison Mr Stradford was valid even though it was affected by judicial error. The High Court held Judge Vasta's order to be invalid. The second contention point sought clarification as to what is the scope of immunity for judges in inferior courts, such as Judge Vasta from civil suits.

The High Court held in its majority judgement that all judges "are immune from civil suit arising out of acts done in the exercise, or purported exercise, of their judicial function or capacity". Put simply, Judges are immune from being sued if they were exercising their judicial function when erring. As such, the High Court allowed the appeal, set aside the primary judge's decision with the payment of compensation and dismissed Mr Stradford's proceedings.

Analysis from a Rule of Law Perspective

The High Court of Australia's Analysis provides a helpful discussion about the relevant laws applicable in this case. Where this case notes includes a quote preceded by a number in a square bracket [], this is a direct quote from the judgement.



1. Immunity and Judicial Independence

Under the Australian Constitution, Judges can be removed for serious misconduct through the process outlined in s72(ii). It requires the Governor General to address both houses of parliament, seeking to remove the judge on the grounds of “proved misbehaviour” or “incapacity”. However, there is no provision for minor issues of misconduct.

[12] “Under the common law, judges of Australian courts .. are immune from civil suit arising out of acts done in the exercise, or purported exercise, of their judicial function or capacity.”

The rationale for judicial immunity from civil liability is multi-faceted. Firstly, it protects and gives freedom to Judges, enabling them to exercise authority without fear of harassment. Secondly, it enhances public confidence. By removing the prospect of being sued, Judges do not have their decision-making process affected subconsciously. Thirdly, it exists to achieve finality in determining a decision from disputes. A decisions finality could be undermined if a disappointed party attacks the Judge’s decision by bringing proceedings against them. Finally, immunity does not eliminate accountability. As Judges work in public, must give reasons for decisions and are subject to public appellate reviews they are held accountable.

Judicial immunity protects Judges from personal liability for their actions performed as part of their judicial functions. It exists to ensure Judges are able to ‘decide matters before them based on the facts provided and their understanding of the law, without the threat of being personally sued’ or being externally influenced.

However, it is important to note if Judges commit offences such as taking bribes, or when not acting in their judicial capacity, they can still be charged.

1.1 Questions

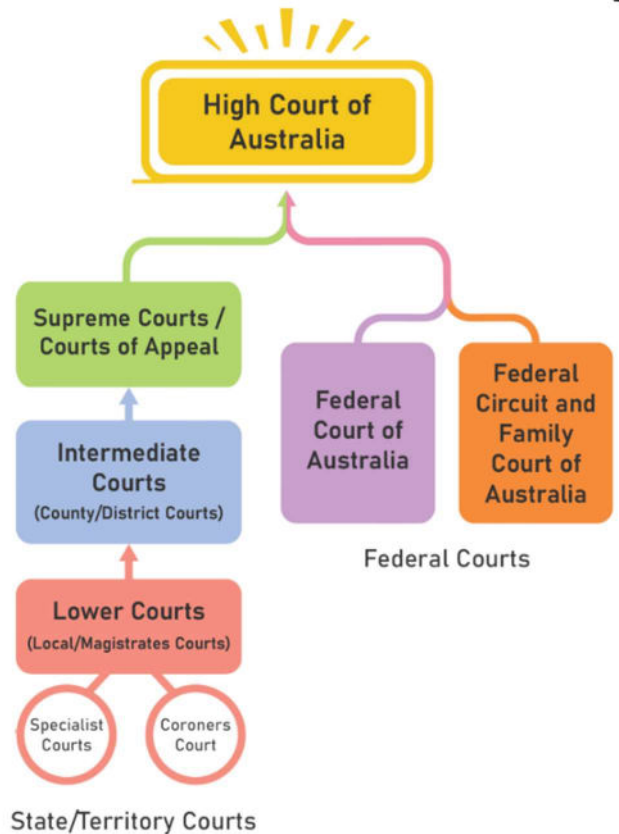
- Should Judges be held responsible for errors they make?
- If a judge was personally liable for a wrong decision, how might that impact the way they make decisions? How would this impact their impartiality and independence when making decisions that may disappoint people? How you think that judicial immunity assists judges in making decisions?
- How does judicial immunity enhance public confidentiality in the judiciary?

- In most cases, if a person is disappointed with a decision of a judge they can appeal to a higher court. If, however, a person could sue a judge as a way of attacking their decision, how would that undermine the legal system?
- How does open justice provide judicial accountability?
- Do you think Judge Vasta took advantage of his judicial immunity? Why do you think that?

2. Integrated Court System

The primary Judge’s decision was tightly constrained by precedent. As a result, they were unable to abolish the common law distinction between inferior and superior court Judges when it comes to judicial immunity. Thus, when this matter came in front of the HCA, it was the first occasion they been required to address the scope of judicial immunity of a judge from an inferior court. The HCA used this case as an opportunity to clarify their position and extended judicial immunity to all Judges when performing judicial duties, regardless of the court they come from.

Australian Court Hierarchy



<https://www.ruleoflaw.org.au/wp-content/uploads/Australian-Court-Hierarchy.pdf>



2.1 The Federal Court

The Federal Court sits on equal standing with the supreme courts of other states and territories and the Federal Circuit and Family Court of Australia (FCFC). The only court above it is the High Court of Australia, its appellate court.

It was created by the Federal Court of Australia Act 1976 (Cth) and has jurisdiction to almost all civil matters and various summary and indictable corporate criminal matters arising under Australia federal law. This can include bankruptcy, consumer protection, defamation, human rights and anti-discrimination, etc.

2.2 Questions

- What was the basis of the argument that judges of ‘inferior courts’ should not have immunity?
- Can there be different grades of justice based upon the federal court that is exercising its judicial power? Refer paragraph [226] of HCA judgment.
- Could the primary judge of the lower court have made a judgement in contradiction to previous decision made by the High Court? Refer paragraph [229] of HCA judgment.
- How does judicial immunity enhance public confidentiality in the judiciary?

3. What are some possible law reforms?

Within the HCA’s judgement a possible law reform was suggested at [4] to address the situation where victims of unjust treatment by Judicial officer have no means to obtain compensation through the courts.

The majority of Justices suggested that there may need to be a legislative scheme created to make an “ex gratia” (act of grace) payment to compensate the victim.

3.1 Questions

- If judges are immune from civil action, a victim of unjust treatment by a judicial officer may be left with no means of receiving financial compensation through the courts. How could a legislative scheme provide compensation without affecting the impartiality and independence of the judiciary?

The Law Reform Commission has said in response to Judge Vasta’s case: “The majority of Australia’s states and territories have an independent statutory mechanism to receive, manage and investigate complaints about judicial officers, and at the federal level the Australian Government is in the process of establishing of a Federal Judicial Commission. The Law Council has long supported this initiative as one that can fairly and punctually address complaints directed to the federal judiciary in an independent and structured manner.” (Note the status of establishing a Judicial Federal Commission is nothing more than a discussion paper about the possible establishment of a commission!)

- Would a Federal Judicial Commission provide an avenue to resolve disputes/complaints about judiciary?
- What are the benefits and disadvantages of a Federal Judicial Commission? See article ‘Do Courts need a complaints department?’
- Could the primary judge of the lower court have made a judgement in contradiction to previous decision made by the High Court?
- How does judicial immunity enhance public confidentiality in the judiciary?

Conclusion

The case of Judge Vasta brings light to importance of judicial Immunity and demonstrates the real life impact of it on both a Judge and a party. It also addresses Judicial independence, the importance of public confidence in their impartiality and reminds of the importance of Australia’s integrated legal system.

Readings

High Court Judgement

<https://eresources.hcourt.gov.au/showCase/2025/HCA/3>

Law Council Media Statement on the Matter of Vasta <https://lawcouncil.au/media/media-statements/judicial-immunity>

‘Do courts need a complaints department?’ — (2001) 21 Aust Bar Rev 11 The Hon Justice Drummond

‘Three steps to address declining trust in courts’ 28/02/2025 The Australian, Chris Merritt <https://ruleoflawaustralia.com.au/commentary/three-steps-to-address-declining-trust-in-courts/>