

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

United States v. MacGregor

No. 20-1787, 20-1794, United States Court of Appeals for the First Circuit (February 28, 2022)

SUMMARY

The First Circuit dismissed as premature the interlocutory appeals of a state judge and courtroom deputy charged with obstructing federal immigration enforcement. The court held that the collateral order doctrine did not confer jurisdiction because the claimed defenses—common-law judicial immunity, Tenth Amendment anti-commandeering, and federalism/due process—did not constitute explicit statutory or constitutional rights not to be tried, and the denial of a motion to dismiss for failure to state an offense is reviewable after final judgment. The appeals were dismissed without reaching the merits.

CASE DETAILS

COURT	United States Court of Appeals for the First Circuit
WRITING FOR THE COURT	Kayatta; Lynch; Thompson
JURISDICTION	Federal
DECIDED	February 28, 2022
DOCKET	20-1787, 20-1794
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeals from the United States District Court for the District of Massachusetts from the denial of motions to dismiss indictments.
PRECEDENTIAL VALUE	Published
PARTIES	Shelley M. Richmond Joseph and Wesley MacGregor v. United States

TOPICS

- appellate procedure
- appellate jurisdiction
- criminal procedure
- tenth amendment
- federalism

PRACTICE AREAS

- Criminal Law
- Appellate Procedure

QUESTIONS PRESENTED

1. Whether the denial of Judge Joseph's claim of absolute judicial immunity is immediately appealable under the collateral order doctrine.
2. Whether the denial of the defendants' Tenth Amendment anti-commandeering claim is immediately appealable.
3. Whether the denial of the defendants' federalism/due process claim is immediately appealable.
4. Whether the denial of the motion to dismiss for failure to state an offense is immediately appealable.

HOLDINGS

1. The denial is not immediately appealable because judicial immunity does not provide an explicit statutory or constitutional guarantee against trial, as required by *Midland Asphalt*.
2. The denial is not immediately appealable because the Tenth Amendment does not confer an explicit right not to be tried, and the claim is not completely separate from the merits.
3. The denial is not immediately appealable because there is no explicit guarantee against trial, and any due process violation can be vindicated on final appeal.
4. The denial is not immediately appealable because such orders are not collateral and can be reviewed after final judgment.

KEY QUOTATIONS

“Adherence to this rule of finality has been particularly stringent in criminal prosecutions because ‘the delays and disruptions attendant upon intermediate appeal,’ which the rule is designed to avoid, ‘are especially inimical to the effective and fair administration of the criminal law.’” (6)

“The collateral order doctrine is a narrow exception, which the Supreme Court ‘ha[s] interpreted . . . with the utmost strictness’ in criminal cases.” (6)

“must (1) ‘conclusively determine the disputed question,’ (2) ‘resolve an important issue completely separate from the merits of the action,’ and (3) ‘be effectively unreviewable on appeal from a final judgment.’” (6-7)

“rests upon an explicit statutory or constitutional guarantee that trial will not occur” (8)

“an order denying a motion to dismiss an indictment for failure to state an offense . . . may be reviewed effectively, and, if necessary, corrected if and when a final judgment results.” (15)

FACTUAL BACKGROUND

On April 2, 2018, Judge Joseph presided over the arraignment of an undocumented immigrant (A.S.) who had a prior deportation. ICE issued a detainer. Judge Joseph allegedly directed the clerk to tell an ICE officer to leave the courtroom, and then concocted a ruse to allow A.S. to exit through a rear sally-port to evade ICE. Deputy MacGregor used his access card to let A.S. out the back door. A.S. was apprehended two weeks later.

PROCEDURAL HISTORY

The defendants moved to dismiss the indictment on grounds of judicial immunity, Tenth Amendment anti-commandeering, federalism, due process, and failure to state an offense. The district court denied the motions.

The defendants appealed before trial.

DISPOSITION

dismissed

CASES CITED

- DiBella v. United States, 369 U.S. 121 (1962)
- Abney v. United States, 431 U.S. 651 (1977)
- Midland Asphalt Corp. v. United States, 489 U.S. 794 (1989)
- Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949)
- Flanagan v. United States, 465 U.S. 259 (1984)
- Coopers & Lybrand v. Livesay, 437 U.S. 463 (1978)
- Stack v. Boyle, 342 U.S. 1 (1951)
- Helstoski v. Meanor, 442 U.S. 500 (1979)
- Sell v. United States, 539 U.S. 166 (2003)
- Mitchell v. Forsyth, 472 U.S. 511 (1985)
- Shalala v. Ill. Council on Long Term Care, Inc., 529 U.S. 1 (2000)
- Printz v. United States, 521 U.S. 898 (1997)
- New York v. United States, 505 U.S. 144 (1992)
- Robertson v. Morgan County, 166 F.3d 1222 (10th Cir. 1999)
- P.R. Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc., 506 U.S. 139 (1993)
- United States v. Kouri-Perez, 187 F.3d 1 (1st Cir. 1999)

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