MARCH 26, 2018 |

Brutus, James Madison, John Pickering, Judicial Impeachment, prudence, Publius, Samuel Chase, William Blackstone

Restoring Judicial Impeachment

by GREG WEINER | *56 Comments*

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In March 1804, the House of Representatives did something for the first and, sadly, last time: It impeached a justice of the Supreme Court for abusing the office of a judge. The high-Federalist Samuel Chase was acquitted by a Jeffersonian-dominated Senate, setting a precedent that a judge should not be impeached for his or her rulings. It is a precedent that should be, as it were, reversed.

Mark Pulliam has wisely counseled that conservatives will rue an escalating war of judicial impeachment, and that, regardless, the device requires more institutional assertion and judgment than Congress can reasonably be said currently to possess. James R. Rogers similarly argues that Congress has ample weapons short of impeachment to control judges.

Yet the power of these subordinate weapons is diminished by the dismemberment of the ultimate one. Put otherwise, the problem with the untouchability of judges is not that some of them should be impeached but rather than all of them know it will never happen. An impeachment and removal now and then, if only for public morale, would have the effect not just of punishing an individual judge — and surely there are deserving candidates over the course of time — but also of reminding all the others that they are ultimately subject to the political branches.

No one worthy of the office of a judge would fret over impeachment before writing every opinion. The point is that a judge who knows he or she cannot be removed no matter how unmoored or unreasonable his or her judicial opinions may be will inevitably display the arrogance the Anti-Federalist Brutus predicted: Supreme Court justices, he wrote, "are independent of the people, of the legislature, and of every power under heaven. Men placed in this situation will generally soon feel themselves independent of heaven itself."

It is certainly reasonable to believe Chase acted in such a manner, from his notoriously partisan harangues from the bench to his high-handed declarations of law at a time when the law was generally thought to be triable by juries along with facts.

His impeachment was a Jeffersonian shot across the judicial bow. To defenders of the Chase precedent, that is evidence that Chase should have been acquitted. It is in fact exactly how the constitutional system should work. Publius declared as much in *Federalist* 81: The impeachability of judges was "alone a complete security" against their abuse. Knowing of that threat, judges would never engage in "a series of deliberate usurpations on the authority of the legislature…." James Madison likewise wrote that judges' "amenability to the Legislative tribunal in the form of impeachment" was an available means by which they could be "kept or reduced within the paths of duty…."

Note that on Publius' account, impeachment is available for a "series" of judicial abuses. Such was arguably the situation in the Chase impeachment. Impeachment is not for discrete instances of abuse alone, unless they rise to a grave level. The doctrine has instead become that judges are home-free unless, in the parlance of Louisiana politics, they are caught with a dead girl or a live boy. The overwhelming proportion of judges impeached and removed have been accused of corruption of various sorts.

But impeachment, whether of presidents or judges, is fundamentally a political rather than a juridical instrument: "political" in the prudential rather than the partisan sense. Impeachment requires an offense but not a crime. Unfitness for office can be impeachable, as can abuse of power, even if these actions do not constitute literal crimes. One of the articles of impeachment against Richard Nixon accused him of violating the rights of citizens. Impeachment's reduction to a criminal standard lets legislators escape the duty of judgment that is implicit in the term of art "high crimes and misdemeanors," which, as *Federalist* 65 notes,

refers to political offenses. The revered William Blackstone applied it to "the mal-administration of such high officers as are in public trust and employment."

To be sure, Article III specifies a standard of "good behavior" for judges rather than "high crimes and misdemeanors." But it also does not supply a procedure of impeachment for them even though one was plainly intended. It must therefore be the case that judges are "civil officers" under Article II's impeachment clause and that the standard of "high crimes and misdemeanors" consequently applies to them.

The Congress did remove Judge John Pickering of New Hampshire — his Senate conviction occurred on the same day as Chase's impeachment by the House — an incident remembered mainly for the jurist's drunkenness and insanity. But it is significant that one of the counts was an unlawful ruling involving a Jeffersonian Customs officer's seizure of a ship owned by one of Pickering's fellow Federalists.

Nonetheless, both the Chase and Pickering impeachments were widely assumed to mark political broadsides against the courts by Jeffersonians. It is only a sanctimonious view of courts as standing above the sordid practice of politics that sees this as inherently contemptible. In fact a measured politics that includes impeachment can be a valuable corrective for judicial abuse.

More important, it can be a preventative. Again, the problem with impeachment is not that the device is reserved for grave cases of abuse — it should be; no serious power should ever be casually invoked — but rather that it is wholly off-limits where judicial behavior is concerned. One result is that judges are free to ignore Congressional attempts to control them (witness *Boumediene*, in which the Supreme Court bulldozed Congress' jurisdiction-stripping) with impunity.

The question is how constitutional jurisprudence might work not if judges lived not in terror of impeachment but were simply aware of its possibility not merely for felonious crimes but also for what "high crimes and misdemeanors" actually means, which encompasses abuse of an office. Consider the difference between Presidents and Justices. The former know impeachment can be accomplished — with great difficulty, yes, which is how it should be — and they adjust accordingly. It is no panacea for presidential abuse, especially given the polarization of Congress. The point is that presidents know impeachment is out there, lurking somewhere on the frontier of possibility.

Judges, by contrast, more or less know their robes provide impenetrable protection. That is what has to change. It has taken only two presidential impeachments — which were not even successful — and the near certainty of a third for presidents to get the message that there are outer boundaries to their ability to get away with abusing their authority.

There are no such limits with judges. It beggars belief that at no point between 1804 and now could the House and Senate have concurred that a Supreme Court justice had abused his or her authority. There have been several justices who have demonstrated a consistent pattern of abuse — which is to say disregarding the law in favor of political agendas — including some on recent courts. Do we agree as to who they are? No, but disagreement does not mean the argument should not be had. Congressman Gerald Ford had it right when, attempting to impeach Justice William O. Douglas, he said an impeachable offense was whatever the House believed it to be.

It is certainly true, as Pulliam notes, that this sword cuts with two edges. It can be used against conservative judges as well as liberal ones. This would be an imprudent moment to trigger an impeachment arms race. Pulliam is equally right that such an approach requires Congress to demonstrate fortitude it has recently lacked. And Rogers is right that it should not be an easy resort when so many other mechanisms of control are available.

Judicial impeachments need not, and should not, be routinized to have their restraining effect. One or two at sufficient intervals would do the trick. The wide constitutional margin necessary for conviction is safety enough against a purely partisan use of the device. The far larger problem is the wide margin allowed judges without having even to fear it.

Greg Weiner

Greg Weiner is a contributing editor of Law and Liberty, associate professor of political science at Assumption College, and most recently the author of *American Burke: The Uncommon Liberalism of Daniel Patrick Moynihan*. He tweets at @GregWeiner1.

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Comments

Mark Pulliam says
March 26, 2018 at 7:49 am

"Judges, by contrast, more or less know their robes provide impenetrable protection. That is what has to change. " Just so.

Reply

timothy says
March 26, 2018 at 9:57 am

“Judges, by contrast, more or less know their robes provide impenetrable protection. That is what has to change. “

True, but if black robes are their protection then take away their dressing gowns and compel them to wear powdered wigs and Nehru suits because impeachment is a hollow remedy that will not happen.

Recall, too, that Clinton was impeached but culturally lionized after his acquittal and Judge Alcee Hastings, impeached and convicted (for a crime of which jury nullification found him not guilty,) was then elevated to Congressman Hastings (Sheriff Israel’s well-run department is in his county) where he wreaks even greater public havoc.

The sad stories of illegal Alcee and slick Willie suggest that impeachment doth risk turning scoundrels into heroes.

Let’s face it: the only answer to the constitution’s myriad dilemmas is to appoint better judges which requires electing better representatives and better presidents. Reagan was a great start; Trump on judges and the administrative state is doing a fantastic job. Ryan and McConnell, if their budget debacle and Mitch’s refusal to eliminate the filibuster are indicators, are constitutional dead weight.

Reply

Rob says
March 26, 2018 at 10:23 pm

There should not be lifetime appointments to the bench. They could serve ten year terms to insure that no executive could appoint one, and then appoint their successor after 10 years, since they would no longer be in office.

Reply

Daniel Artz says
March 26, 2018 at 10:49 am

One big problem is that judges refuse to even police their own when it comes to judges willfully ignoring both the law and the Constitution in their judicial rulings. You can file a grievance for judicial misconduct against a judge with the Judicial Counsel for the Circuit in which the Judge sits (for Federal judges) under the Judicial Conduct and Disability Act, 28 U.S.C. Sections 351-64, but ONLY with respect to non-judicial actions. Any complaint based upon an erroneous legal ruling, even an egregiously and obviously wrong ruling which completely ignores the Constitution, statutory text, and/or controlling precedent, will be rejected. Congress could make a start without resorting to the ultimate weapon of impeachment by amending the Judicial Conduct and Disability Act to: (1) expressly permit grievances against judges for any judicial decision asserted to be "obviously contrary to the Constitution, the text of any statute (except to the extent that such statute is found to be unconstitutional), or any precedent binding upon that judge"; and (2) requiring that any complaint based upon a contention of an obviously erroneous legal ruling be reviewed by at least three independent judges before being dismissed as without merit. Such an amendment should also allow the reviewing judges by a majority vote to withdraw the case from the judge complained of as an alternative to, or in addition to, any other sanction. I think the possibility of such embarrassment might significantly rein in judges willing to ignore the law to impose their own preferences.

Reply

Iñaki Viggers says
March 27, 2018 at 10:43 am

The Michigan judicial system is so corrupt at its three levels that meritorious complaints would never clear condition (2) (requiring the persuasion of three judges). There might be other jurisdiction/states with such deplorable situation.

Judge Carol Kuhnke, one of the crooks abusing the Washtenaw County Trial court, systematically impaired the ascertainment of the truth in my two cases. One of these cases is against a defendant who wears the hat of mental illness when it's time to elude liabilities. The defendant was unduly favored by crook Kuhnke. I later discovered that Carol Kuhnke was domestically involved in a situation of mental illness, yet she at all times concealed from me the risk of bias. In fact, I learned of this judge's involvement and bias was because judge Carol Kuhnke got busted for illegal posession of drugs (a felony under Michigan law). But by that time my two cases were in the appellate queue.

In the other lawsuit, crook Kuhnke literally lectured me that Michigan loves anybody who is powerful and that the rest of us have to stay out of the way. The transcript (dated August 17 ,2016, available at my website, section Viggers v. Pacha) also reflects this crook reinforcing her pathetic lecture by stating "I won't apologize for the state". This unfit judge is blatantly adverse to the equal protection of the laws.

Despite a multitude of instances of her judicial incompetence, the Michigan appellate court rubber-stamped felon Kuhnke's rulings. For that purpose, the appellate panel indulged in judicial fraud by

distorting the evidence and trivializing the matters. The Michigan Supreme Court subsequently refused to review the cases.

"Justices" themselves in the Michigan Supreme Court have given signs of their moral ineptitude also when they bother to "review" a matter. One example is the grievance against judge Lisa Gorcyca, the Michigan judge known for jailing three kids because they didn't want to spend time with their father. By arguing that "none of the 7 adults attending the hearing objected to Gorcyca's contempt orders", these so-called "Justices" deny that judge Gorcyca acted in bad faith when she had the kids handcuffed and jailed for seventeen days.

When crooks from the state's top court defend an extremely unfit judge from trial court (be it felon Kuhnke, irked Gorcyca, and look alikes), self-policing of the judiciary is entirely hopeless.

Reply

QET says
March 26, 2018 at 11:08 am

Then:
Dans ce pays-ci, il est bon de tuer de temps en temps un amiral pour encourager les autres.

Now:
An impeachment and removal now and then, if only for public morale, would have the effect not just of punishing an individual judge — and surely there are deserving candidates over the course of time — but also of reminding all the others that they are ultimately subject to the political branches.

Plus ca change.

Reply

EK says
March 26, 2018 at 11:51 am

Here's a link to a Washington U. (St. L.) law review article from 2005 on term limits for Art. III judges.

http://epstein.wustl.edu/research/courses.judpol.Calabresi.pdf

It's interesting but, like all such discussions, its interest is purely theoretical. Nothing will change because there is no will in government to do anything about it and, as we coming to fully understand,

the electorate have no ability to change the minds of those who have been elected. That an informed electorate has no power to check a rogue government has been blindingly obvious since 1968 and things have only gotten worse since then.

There are really only two factions in government; one faction lives to feed the war machine and the other faction lives to feed the welfare state. Call it the Great Society settlement. Recently both factions have agreed to add the state security apparatus to the things that must be fed. The governing duopoly has reached a modus vivendi, they have agreed to feed all three until the regime collapses.

Back in the old days, before the Revolution, judges sat at the pleasure of the executive, the legislature could withhold judges' salaries and juries were the triers of both law and fact.

Adams and his Federalist friends changed all that, and certainly not for the better. Objectively, the colonists were freer between 1620-1763 than they were after 1776 and, over time, our own government has come to model itself on the governments of the Earl of Bute, the Marquess of Rockingham and Lord North and, in one form or another, it has adopted for its own use all of the coercive and intolerable acts aimed at the colonies between 1763-74 and applied them first to the states and now to the population at large.

Reply

gabe says
March 26, 2018 at 1:54 pm

Perhaps, a little dose of Andrew Jackson; "John Marshall has made his decision; now let him enforce it."

It may not be necessary to actually carry this out. The threat itself may be sufficient to "wake" these Black Robed Lords of the Realm as to the potential for removal.
Did not the Great and Wise Obama issue such a veiled threat during one of his SOTU addresses. It appears that it may have had effect upon Justice Roberts.

Perhaps, The Trumpster can be persuaded to make a similar comment. The Black Robes may think him mad enough to follow through and it would seem given the inability / unwillingness of the Legislative to assert its' institutional prerogative, the Executive must take the lead.

Successful or not, it may generate some consideration amongst our Begowned Lords of the Bench.

Reply

Iñaki Viggers says
March 27, 2018 at 10:54 am

I'm afraid that the sole warning will not deter corrupt judges. These judicial officers is habituated to a vast leniency from both the supervisory entity (in Michigan it is the Judicial Tenure Commission) and the state's top court.

The few hearings at the Michigan Supreme Court regarding a judge's misconduct are a total circus. The seven "justices" seem on track to grill the respondent judge, only to end up with a delayed ruling that is a joke (typically a 30-day suspension, or a public reprimand, or even an endorsement to the respondent's illicit conduct).

Efforts will be more effective if processes lead to heads rolling.

Reply

Alan Tarr says
March 26, 2018 at 4:06 pm

The understanding of what approaches to legal materials are appropriate has changed, affording judges greater leeway in reaching what they consider correct results. I suspect that virtually all judges believe that they are acting in line with the law–the problem is rarely judicial bad faith. But if judges can "say what the law is", they cannot say what the law should be. The answer to bad decisions in statutory interpretation and administrative law is congressional override. The answer to bad constitutional decisions was suggested by Theodore Roosevelt a century ago–a popular vote to overturn the precedential value of specific decisions. Judicial independence is preserved, because judges do not lose their positions for their good-faith interpretations of the law; but the popular understanding of the Constitution replaces the professional understanding–what Larry Kramer has celebrated as "popular constitutionalism".

Reply

Nancy D. says
March 26, 2018 at 6:06 pm

Fraud is an impeachable offence, and yet several members of The Supreme Court have voted to remove the necessary requirement for a couple to be married to one another, which is the ability and desire to exist in relationship as husband and wife, invalidating the validity of a valid marriage while promoting fraud and the sin of adultery. It is also a fraudulent misrepresentation to deny that every son or daughter of a human person can only be a human person.

Reply

Walter says
March 26, 2018 at 6:26 pm

I agree with the topic article, and with the comments, but I find them lacking in an essential ingredient: A ripe/active case (current right NOW). I can provide that.

The case is Tuvell v. IBM, documented FULLY on my website (see below). The judicial misconduct/impeachment aspect of the case has nothing whatsoever to do with IBM or the substantive merits of the case, of course, but rather solely with the acts of the judges: DENIAL OF THE RIGHT TO BE HEARD. Specifically, refusing very clearly/specifically to "hear"/heed even one iota of Plaintiff's/nonmovant's side of the story, at Summary Judgment time, and instead crediting 100% the Defendant's/movant's story. Proof: see the Smoking Gun mentioned below.

Any lawyer reading the preceding paragraph knows it "can't possibly happen," because breaches one of the (if not actually THE) bedrock commandments of our legal system. Yet, it DID happen. Provably. See my website, and refute if you can. (Hint: you can't.)

For nonlawyers reading these sentences, don't despair: the Introduction on my website gives a comprehensive-yet-succinct crash-course in the necessary legal underpinnings.

As I said, this is an absolutely refuttable test-case, which is currently active, at JUDICIAL CONFERENCE level. ALL details are on the website.

All readers here are hereby invited to discuss further, either here, or on my website (which now supports a fully robust forum feature).

Please, let's keep this discussion alive! Especially, you, Greg Weiner.

— Walter Tuvell (PhD, MIT & U.Chicago, Math & CompSci — hence, "not-a-crank")
— http://JudicialMisconduct.US (esp., …/CaseStudies/WETvIBM#smokinggun and environs)
*** Contact me, publicly or privately (walt.tuvell@gmail.com). "Ask Me Anything." ***

Reply

Nancy D. says
March 27, 2018 at 9:33 pm

" A ripe/active case (current right NOW)"

https://www.oyez.org/cases/2017/16-1140

It is unconstitutional to coerce someone into fraudulent misrepresentation of the facts, which can be known through both Faith and reason confirmed by Scientific evidence, in order to mislead someone into believing that abortion is not the destruction of the life of a son or daughter residing in their mother's womb and/or that it is possible for a son or daughter of a human person, to not be a human person.

Reply

Fred Gregory says
March 26, 2018 at 6:47 pm

Judge Alcee Hastings just have gone to jail. Short of that the House and Senate did the appropriate thing by impeaching and removing him. https://en.wikipedia.org/wiki/Alcee_Hastings

Sadly the Senate had the option to forbid Hastings from ever seeking federal office again, but did not do so. Since 1993 he has been a member of congress.

Reply

Pettifogger says
March 26, 2018 at 7:27 pm

There's some material to work with in the Ninth Circuit.

Reply

sestamibi says
March 27, 2018 at 2:25 am

And in some state courts as well–starting with the Supreme Court of Pennsylvania

Reply

Iñaki Viggers says
March 27, 2018 at 10:59 am

Don't forget the Michigan trial, appellate, and supreme courts.

Reply

Wild Bill Kinda says
March 26, 2018 at 9:11 pm

The Congress should alter the Constitution to give itself veto power over SCOTUS decisions, like with 2/3 vote in both houses.

Reply

Five Daarstens says
March 27, 2018 at 5:38 am

I'm not 100% sure that the founders intended judges to have lifetime appointments. It's a very oddly worded part of the Constitution. There is no part that explicitly states "Judges shall have lifetime appointments". It could be that it was just something they did not think about in an era of more primitive medical care and lower life expectancy.

Reply

Walt Tuell says
March 27, 2018 at 8:28 am

In response to Daniel Artz (above, March 26, 2018 at 10:49 am):

I wholeheartedly agree with his initial premise, that the existing laws (JCDA, https://www.law.cornell.edu/uscode/text/28/part-I/chapter-16) are not enforced as rigorously/vigorously as they should/must be. He then goes on to propose two additions to JCDA that may not be as expressly emphasized as they should/need be — but which are present in watered-down/ineffective/inadequate measure by the implementing rules (JCDR, http://www.uscourts.gov/sites/default/files/guide-vol02e-ch03.pdf). I agree with one, but not the other.

His #1: "Expressly permit grievances against judges for any judicial decision asserted to be obviously contrary to the Constitution, the text of any statute (except to the extent that such statute is found to be unconstitutional), or any precedent binding upon that judge." What Daniel is getting at here (I surmise) is the "merits-related" language of JCDR 3(h)(3)(A) and its Commentary (http://www.uscourts.gov/sites/default/files/guide-vol02e-ch03.pdf pp.6-9). That merits-related language in indeed thorny/slippery, and easily provides double-talk cover for judges who seek to deep-six just-about-any judicial misconduct they wish. Daniel's desire for "express" language is a very good one, because it makes explicit the sentiment currently only present implicitly, in the general emergency escape clause (JCDR 2(b)), which says the Judicial Council/Conference can ignore any other rule they want/need to, under exceptional circumstances "manifestly unjust or contrary to the purposes of the JDCA/JCDR" — which Daniel's #1 certainly does implicate: (i) unconstitutional, (ii) illegal, (iii) contrary to procedural rules (such as stare decisis).

I'm not so sure Daniel's #2 is useful/workable, however: "review by 3 independent judges in cases of 'obviously erroneous legal rulings'" (by which latter I suppose he means the 3 classes (i)-(iii) mentioned in his #1, as repeated at the very end of the preceding paragraph here). For, this suggestion seems to impinge on the ground already owned by the mainline Appellate/SupCt process (hence, redundant).

That is, instead of Daniel's #2, in my view the proper path forward (after his #1 is failed by the Judicial Council/Conference, let us suppose) is to leave the Judicial Branch altogether, and "appeal" to the Executive: CRIMINAL prosecution, via DOJ, FBI, PIN (https://www.justice.gov/criminal/pin). For, breach of Daniel's targeted precepts (3 classes (i)-(iii) above) certainly DOES amount to CRIMINAL Obstruction of Justice (and a number of other crimes, see bottom of the webpage http://judicialmisconduct.us/Introduction, and the Twilight Zone essay mentioned there).

— Walter Tuvell (PhD, MIT & U.Chicago, Math & CompSci — hence, "not-a-crank")
— http://JudicialMisconduct.US (esp., …/CaseStudies/WETvIBM#smokinggun and environs)
*** Contact me, publicly or privately (walt.tuvell@gmail.com). "Ask Me Anything." ***

Reply

Walt Tuvell says
March 27, 2018 at 8:33 am

/* Oops, misspelled my own name: Tuvell, not Tuell! */

Reply

Walt Tuvell says
March 27, 2018 at 12:03 pm

To Iñaki Viggers : I'm trying to understand what you're saying about your case, but there are some important documents I can't find (on your website, http://www.oneclubofjusticides.com/).

It seems that both of your cases (Viggers v. Pacha and Viggers v. Viggers) were dismissed at Summary Judgment time. But all the necessary documentation doesn't seem to be available, so we cannot evaluate your claims. You do publish a fair amount of stuff, but a lot of it is "raw" (it needs to be processed/"cooked" for us to understand it), and in particular you haven't pubished the most important docs. What we need to see (in both cases) (names of docs might vary slightly according to jurisdiction, I don't know Michigan practice) are:

Docket
Plf Complaint
Def Reply
Motion for S.J.
Def Stmt of Facts (DSOF)
Plf Stmt of Facts (PSOF)
Court Decision/Order/Judgment
Appellate docs, esp. Appellant & Appellee Briefs
Appellate Decision
Further proceedings (Mich Supreme Ct, U.S. Supreme Ct …)
Judicial Misconduct proceedings …
(Other really important docs, if any)

Reply

Iñaki Viggers says
March 27, 2018 at 2:38 pm

Hello Walt,

Thank you for your comments. The litigation of these two intertwined cases is best "condensed" at the Youtube series "Corrupted from Ed to Judge" (Youtube channel "One Club Of Justicides). This is also posted at http://www.oneclubofjusticides.com/2017/11/introducing-series-corrupted-from-ed-to.html . I concluded that video format is the most alternative for presenting the diverse facets involved.

In "Corrupted from Ed to Judge", I also explain general aspects: laws, doctrines, what to watch out for about judges, and procedural aspects. This is intended for the benefit of anyone who contemplates self-representation in court and to substantiate how is it that the courts have been obstructing

justice. Relevant excerpts of the evidence and court documents of my cases are displayed as the presentation progresses.

For a direct look at what led to the discovery of Carol Kuhnke's felony and subsequent developments, please see the links I posted right below video "Part 7" in the above URL, or as follows:
– Excerpts of the police report:
https://drive.google.com/file/d/1m8xAaQygLWnolVEY06LR5d6qE5ZlSThA/view
– Prosecutor's letter to her (what I sarcastically refer to as Carol Kuhnke's narcodiploma) :
https://drive.google.com/file/d/1CPCHdytC_VHbvTf0E4AAGX7qmpgCkgWg/view
– Excerpt of Carol Kuhnke's staunch denial of motions for recusal in two cases involving the detective who busted her: https://drive.google.com/file/d/1Is2PdQ-QyiNLyGovQuhiX1ziDxhn8Qe_/view
In Part 7 of "Corrupted from Ed to Judge" I point to context and aspects that highlight the alarming ramifications on Carol Kuhnke's "judgeship".

The records of case Viggers v. Pacha are available at http://www.oneclubofjusticides.com/p/viggers-v-pacha_74.html . In particular, the hearing transcript of August 17, 2016, is at https://drive.google.com/file/d/0B9pwLmQ-UixYbE1yTjRySzNxalE/view (page 21, lines 7-13; page 22, lines 1-2).

In Viggers v. Maria de la Merced Viggers (http://www.oneclubofjusticides.com/p/viggers-v-maria-de-la-merced-viggers.html), I have only uploaded briefs in the appellate and supreme courts. The defendant never filed anything in those two courts. I haven't yet uploaded the records from trial court, though. I have been slow on this. First I need to heavily redact them so as to avoid self-publication of the defendant's defamatory statements. However, the redacted excerpts of court documents and evidence of the case are displayed in the aforementioned Youtube series.

That same defendant is respondent to a Personal Protection Order (PPO). The records of this case are at http://www.oneclubofjusticides.com/p/mcoa-336419-ppo-against-maria-de-la.html . The Michigan Court Of Appeals recently affirmed the dismissal of the PPO. Time permitting, I'll produce another series to highlight the appellate panel's multiple deficiencies.

Thanks again for pointing that out. Please let me know of any concerns or if the records aren't displayed.

Reply

Walt Tuvell says
March 27, 2018 at 4:24 pm

Iñaki: Thank you for your reply. However, I think it is still inadequate. I will explain why. For simplicity, I will talk about only Viggers v. Pacha (not the other case).

You point to some YouTubes you've posted, and other documents you've created (such as on your website, esp. http://www.oneclubofjusticides.com) outside the legal/court processes. However, those are of no interest. The reason is that, for purposes of assessing Judicial Misconduct, we must look at what the Judge(s) did, WITH THE MATERIALS THEY WERE PRESENTED WITH. That is, it is ONLY formal/filed court documents that "count" (which I listed in my previous comment, esp. DSOF, PSOF and Judge's Decision/Opinion/Judgment), and NOT extraneous documents that the Judge never saw (such as your website, YouTubes, etc.).

Let me tell you why this is important. I found, by web search, the Appellate Decision/Opinion at https://law.justia.com/cases/michigan/court-of-appeals-unpublished/2017/334522.html (I had to search because you haven't posted it, noting that your link at http://www.oneclubofjusticides.com/p/viggers-v-pacha_74.html, which you call "August 15, 2017: COA's judicial fraud or 'appellate review'," is dead).

I have now read that Appellate Decision/Opinion, and it looks "perfectly reasonable" to me, insofar as I can tell at the present time. And this is the problem for you. In order to refute what the Appellate Court decided, we must know what input materials it was looking at, namely, the docs listed in my previous note (esp. DSOF, PSOF, Lower Court Decision/Opinion, and the Appellate Briefs by the parties). You have not provided those. Instead, you point to websites and YouTubes. Those were not before the Court(s), so they were irrelevant to the present discussion of Judicial Misconduct.

Does this help you understand why you MUST publish the docs I listed, in order for us to intelligently evaluate your claims of Judicial Misconduct? For an "ideal" presentation of the kind of evidence you must supply, see the write-up I've done of my own case, at http://JudicialMisconduct.US/CaseStudies/WETvIBM, which includes ALL the relevant docs, wrapped inside an encompassing narrative. If you cannot produce the required docs, we cannot evaluate/assess your Judicial Misconduct claims.

— Walter Tuvell (PhD, MIT & U.Chicago, Math & CompSci — hence, "not-a-crank")
— http://JudicialMisconduct.US (esp., …/CaseStudies/WETvIBM#smokinggun and environs)
*** Contact me, publicly or privately (walt.tuvell@gmail.com). "Ask Me Anything." ***

Reply

Iñaki Viggers says
March 28, 2018 at 11:33 am

Hello Walt,

The excerpts (of evidence, pleadings, motions, transcripts) I display in the videos were properly and timely filed in trial court. But you are right in that posting more of the relevant records and a synopsis of the case facilitates validation by the audience. Now the coverage of Viggers v. Pacha (

http://www.oneclubofjusticides.com/p/viggers-v-pacha_74.html) is far more complete than yesterday 😉

Also thanks for noticing that the link to the COA's opinion wasn't working. I removed the trailing apostrophe that was causing the error.

The URLs in my previous comment regarding Carol Kuhnke's felony (police report, prosecutor's letter, and her subsequent insistence to preside certain criminal cases) is still pertinent to the topic of impeachment. Greg Weiner's article rightly points out that even offenses that do not constitute literal crimes are to be impeachable. In this sense, the Kuhnke files inherently identify her as a strong candidate for impeachment.

Greetings and kudos for following up on the important topic of judicial misconduct. This type of efforts by us, the affected civilians, is a valuable pushback against the judicial decadence arising in so many places.

Reply

Nancy D. says
March 28, 2018 at 9:23 am

https://www.oyez.org/cases/2017/16-1140

"Question:
Do disclosures required by a California reproductive rights law violate protections arising from the free speech clause of the First Amendment, applicable to the states through the 14th Amendment?"

The Question is, how can any reasonable person suggest that a reproductive rights law has been violated after a son or daughter has been brought into being at conception? You have been you from the moment of your creation at your conception; and I have been me since the moment of my creation at my conception.

"Reproduction is the biological process by which new individual organisms – "offspring" – are produced from their "parents". Reproduction is a fundamental feature of all known life; each individual organism exists as the result of reproduction."

A human person can only conceive a human person, thus every son or daughter of a human person, from the moment they were created and brought into being at their conception, Is Endowed By God, The Author of Love, of Life, and of Marriage, The Most Holy And Undivided Blessed Trinity, with their unalienable Right to Life, to Liberty, and to The Pursuit of Happiness, the purpose of which can only be what God intended.

Fraudulent misrepresentation is an impeachable offence. Abortion destroys the life of a son or daughter after that son or daughter has been brought into being at conception.

Reply

Walt Tuvell says
March 28, 2018 at 11:02 am

Concerning Nancy D.'s two comments (March 28, 2018 at 9:23 am; March 27, 2018 at 9:33 pm):

The case documents before the SupC. are at http://www.scotusblog.com/case-files/cases/national-institute-family-life-advocates-v-becerra/. After a very quick scan (this is not the kind of case I follow), I gather its posture is denial of injunction by the District Court, and the Question Presented at the SupCt is: "Whether the disclosures required by the California Reproductive FACT Act violate the protections set forth in the free speech clause of the First Amendment, applicable to the states through the 14th Amendment."

To my mind, this appears to be a more-or-less common type of case (some might call it "political," but we need not characterize it so) that's following an appropriate course of action, up the chain to the SupCt. Of course, it's unusual for a case to progress all the way to the SupCt, and for that I congratulate the parties in raising an important issue.

HOWEVER, I don't understand why you're presenting as a case of Judicial Misconduct/Impeachment, which is what this particular forum/topic is concerned with. What I see are judges and litigants making arguments/decisions based on their good-faith understanding of the laws. I do NOT see anything (upon my admittedly quick perusal) that implicates Judicial Misconduct/Impeachment.

What am I missing?

Reply

Nancy D. says
March 28, 2018 at 12:20 pm

With all due respect, you are missing the fact that Roe V. Wade is based upon a fraudulent misrepresentation of the essence of personhood, which occurs at the moment of our creation at our conception, resulting in an error of both substantive and procedural due process law and thus is not possible for The California Reproductive Fact Act to be constitutional, from the start, because it is not possible for the son or daughter of a human person, to not be, in essence, from the moment of conception, a human person.

P cannot in essence be, not P.

Reply

Daniel Artz says
March 28, 2018 at 1:09 pm

Nancy D., your argument starts from the assumption that a fertilized human ovum becomes a "person" at the moment of conception. That is NOT a legal axiom, nor is it a necessary conclusion which follows from the 14th Amendment. It is a religious belief, and merely because Courts reach conclusions at odds with your own sincere and deeply held religious beliefs does not mean that the results are "fraudulent". While there are a great many very good arguments that Roe v. Wade and its progeny, and Obergefell, were erroneous as a matter of Constitutional law, and I among a great many others believe that those cases were wrongly decided, those cases do NOT belong in the category of "fraudulent", nor would I support impeachment of the Justices who reached those decisions. On the other hand, whether or not one thinks that Heller vs. District of Columbia and McDonald v. City of Chicago were correctly decided as a matter of the Second Amendment, those cases are binding precedent, yet the Ninth Circuit Court of Appeals and the Second Circuit Court of Appeals have willfully and defiantly refused to apply either Heller or McDonald in an honest way. The Ninth Circuit has essentially rendered California a "Second Amendment-Free Zone." THOSE decisions were definitely fraudulent, and the Judges who refuse to recognize the Second Amendment as a genuine Constitutional right in open defiance of the binding precedent of Heller and McDonald are well deserving of impeachment.

Reply

timothy says
March 28, 2018 at 4:47 pm

Daniel Artz makes a good point about "open defiance" of crystal clear Supreme Court Second Amendment precedents. I think Justice Stevens should be commended (least for his honesty)in recommending yesterday resort to the ONLY constitutionally-proper way to achieve what he, the Ninth Circuit, the Second Circuit and the Fourth Circuit and most Democrats want: destruction of the Second Amendment.

While Stevens would seek to do that the constitutional way, several C of A's since Heller and MacDonald, have sought to dilute if not to nullify the Second Amendment by artful dodging. The DC government, the Peoples Republic of Maryland and the City of Chicago, likewise, continue to flout the law and to impose all-but-insuperable obstacles to the exercise of the Second Amendment.

Faced with this "racist- governor-blocking-the-schoolhouse-door" obstructionism, the Supreme Court has chosen to do nothing, a deplorable quiescence which insults its integrity and demonstrates

that, while all constitutional rights may be worthy of protection, some are deemed by the judicial oligarchy as far more worthy of far more protection than others.

Sadly, the Court's unsupported/unsupportable/unjustified/unjustifiable invidious intra-constitutional discrimination between different constitutional protections was started with Justice Stone's Footnote Four in Carolene Products, has steadily worsened and continues to this day to plague the nation, not just with the invidious notion of varying levels of constitutional scrutiny but with the even more invidious notion that the Court will overlook reasonably alleged (if not patently obvious) violations of the explicit Second Amendment while expeditiously responding to myriad dubious complaints about the infringement of voting rights, abortion rights (virtually EVERY state law is reviewed,) Due Process and Equal Protection protection.

The consequence for the Second Amendment has been a) public confusion, b) varying legally-confusing levels of lower court review from a very short-lived "strict scrutiny" to "intermediate scrutiny" to "it doesn't matter" because the Second amendment does not apply and c) undermining of the constitutional right to bear arms at a time when it is under dire political and media attack and especially needs the Court to do the right thing and come to the Second Amendment's constitutional defense.

That vicious attack of the Second amendment right is such that one might credibly argue, in the language of "Footnote Four," that the Second Amendment itself has become "a discrete and insular minority" the increasing and relentless attempts to obstruct and undermine which warrant heightened judicial scrutiny, not the Court's studied indifference.

Yet, none of that arguably "fraudulent" judicial behavior has any chance of being asserted in Congress by anybody as constitutional grounds for impeachment of any federal judge.

No chance, none, nada, never ever ever,

Sorry, only Maxine Waters would make such a ridiculous assertion and only against Donald Trump for publically defending the Second Amendment:)

Reply

Walt Tuvell says
March 28, 2018 at 1:30 pm

I agree with Daniel Artz (March 28, 2018 at 1:09 pm) on the Nancy D. issue. I, like him, have my own views about abortion/religion/politics issues, but my/anyone's views are irrelevant to a discussion of Judicial Misconduct/Impeachment, properly so-called (JCDA, JCDR, etc.), in the sense we're discussing things here.

I cannot speak to Daniel's 2nd Amend comments, as I don't know whats going on there.

Reply

Nancy D. says
March 28, 2018 at 1:50 pm

"…nor shall any person…" (Our Founding Fathers knew that not all persons are naturalized citizens of The United States of America.)

https://www.merriam-webster.com/dictionary/person

See: human individual

"We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer."

(1) To be fraudulent, a false statement must relate to a material fact. It should also substantially affect a person's decision to enter into a contract or pursue a certain course of action.
(2) To be fraudulent, there must be knowledge on the part of the defendant that the statement is untrue,
(3) To be fraudulent, there is an intent on the part of the defendant to deceive the alleged victim through the false statement.
(4) To be fraudulent, there is justifiable reliance by the alleged victim on the false statement,
(5) To be fraudulent, The other party did, in fact, rely on the representation.
and there is
(6)injury to the alleged victim as a result.

http://www.lifenews.com/2015/01/08/41-quotes-from-medical-textbooks-prove-human-life-begins-at-conception/

Dr. Morris Krieger "The Human Reproductive System" p 88 (1969) Sterling Pub. Co

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"The first cell of a new and unique human life begins existence at the moment of conception (fertilization) when one living sperm from the father joins with one living ovum from the mother. It is in this manner that human life passes from one generation to another. Given the appropriate environment and genetic composition, the single cell subsequently gives rise to trillions of specialized and integrated cells that compose the structures and functions of each individual human body. Every human being alive today and, as far as is known scientifically, every human being that ever existed,

began his or her unique existence in this manner, i.e., as one cell. If this first cell or any subsequent configuration of cells perishes, the individual dies, ceasing to exist in matter as a living being. There are no known exceptions to this rule in the field of human biology."

From Newsweek November 12, 1973:

"Human life begins when the ovum is fertilized and the new combined cell mass begins to divide."
Dr. Jasper Williams, Former President of the National Medical Association (p 74)"

Human Embryology, 3rd ed. Bradley M. Patten, (New York: McGraw Hill, 1968), 43.

"It is the penetration of the ovum by a spermatozoan and resultant mingling of the nuclear material each brings to the union that constitutes the culmination of the process of fertilization and marks the initiation of the life of a new individual."

Reply

Walt Tuvell says
March 28, 2018 at 2:53 pm

Iñaki, what you've posted now (March 28, 2018 at 11:33 am) is somewhat more helpful. It's still not quite a clean as it could be, but at least I can sort-of figure out the main lines of the case now.

For simplicity, is appears to be sufficient to concentrate on the Appellate decision (http://publicdocs.courts.mi.gov/opinions/final/coa/20170815_c334522_79_334522.opn.pdf), because it was printed (albeit "unpublished"), as opposed to the District Court decision, which appears to have been delivered from the bench (https://drive.google.com/file/d/114zmtyvUXxxPsaUQLkcCly32os-2eaG2/view, https://drive.google.com/file/d/0B9pwLmQ-UixYbE1yTjRySzNxalE/view).

I gather, from the language of the Appellate decision p. 3, that this is a case of Dismissal for Failure to State a Claim (that's what it's called under the FRCP, described on my website at http://judicialmisconduct.us/Introduction#failuretostateaclaim, and we're dealing here with the essentially equivalent Michigan version).

And, there appear to be several counts (three: defamation, tortious interference, wrongful termination) to be considered, each/every of which may or may not be a target of your claims of Judicial Misconduct (and/or grounds for impeachment). You need to tell us which of these is/are the ones you claim the court committed J.M. on?

But first, you need to tell us: Does the Appellate Court at least recite the facts correctly (http://publicdocs.courts.mi.gov/opinions/final/coa/20170815_c334522_79_334522.opn.pdf p1-3)? If not, how should it be corrected (with references to the record actually before the court, please)?

Reply

Iñaki Viggers says
March 28, 2018 at 5:02 pm

The problem is that it is hard to attain a balance between a "short" synopsis at a post (or webpage) and the level of detail with due references for a serious validation of a case. I achieve the latter on the appellate brief and then again in my Application for Leave to Appeal.

To answer your question: The recitation of the facts by the Michigan appellate court (page 2) is quite inaccurate because it turned a blind eye on the defendant's multiple inconsistencies. Those inconsistencies debunk the defendant's alleged "good faith" that is necessary for preserving the qualified privilege in a defamation claim.

At http://www.oneclubofjusticides.com/p/viggers-v-pacha_74.html (Section: Miscarriage of Justice) I summarize only some of Al Pacha's inconsistencies, with reference to records filed in court. Despite defendant Al Pacha's inconsistencies, the appellate court single-handedly conceded that the defendant "interpreted the e-mails as direct threats".

Another fundamental distortion by the appellate judges is that they regurgitated Al Pacha's belated allegation (page 3) that he was "afraid" that I "would do something to impact [his] business with [the University] and [his company] would be held liable if something went wrong while [plaintiff] was [his] employee". Al Pacha's allegation of "being afraid" is materially different than what all deposition witnesses (University employees) testified that Al Pacha told them. They all testified that Al Pacha attributed to me a specific statement of threat (Section: Miscarriage of Justice gives the reference and link to the evidence filed in court). Any decent judge would notice the huge difference between saying "I am afraid he'll do something" and saying "He threatened me that he'll do something". Despite briefing this aspect in my appellate brief (again, with pointers to the record of the case), the Michigan Court of Appeals rubber-stamped Al Pacha's belated allegation of being "afraid".

When asked at deposition whether he made that narrative (of the threat) to the University employees, defendant Al Pacha answered "Not that I recollect" (page 16 of the pdf file at https://drive.google.com/file/d/0B9pwLmQ-UixYX1JISEluLVRWazA/view). As I briefed in the Court of Appeals, the defendant's bare answer entails either a denial or a showing of amnesia. If we are to construe his answer as "No, I didn't say that", preponderance of the evidence dictates that a defendant's bare answer cannot prevail over the deposition testimony of three non-party witnesses. Otherwise, if it we are to construe his answer as "I don't recall saying that", then defendant Al Pacha should have no problem retracting or clarifying via an affidavit to those University employees that "the plaintiff didn't make the threat that you guys testified I attributed to him". But Al Pacha at all times refused to produce a retraction or clarification. Whichever interpretation of "Not that I recollect" we concede, Al Pacha's refusals to retract/clarify his disproved statements to the University severely undermine his allegation that he acted with "good faith". Any judge with a scintilla of honesty would have addressed that Al Pacha's inconsistency.

The Michigan courts systematically ignored that, during my several years of employment with this rotten defendant, I never caused the defendant any damages whatsoever. Thus, Al Pacha's alleged "fear" is -at best- unfounded. By contrast, in Mareck v. Johns Hopkins University, 60 Md.App.217 (1984) (https://www.leagle.com/decision/198427760mdapp2171260), the Court of Special Appeals of Maryland stated that a situation of that sort is "A significant fact on [plaintiff/]appellant's behalf" that can defeat the defendant's qualified privilege. This gap between the Maryland court in Mareck and the Michigan courts here places the Michigan judiciary in a very bad spot.

As for "in which one of my claims the court incurred judicial misconduct", I will say that judicial misconduct broadly applies to at least the three most important claims (defamation, tortious interference, and wrongful termination) not only because they are so intertwined, but also because discovery is relevant to all three and yet trial judge Carol Kuhnke imposed unreasonable obstacles to it (see http://www.oneclubofjusticides.com/p/viggers-v-pacha_74.html, Section: Judge Carol Kuhnke's Obstacles to Discovery). For example, by absurdly preventing me -for months- from taking the deposition of Al Pacha, crooked Carol Kuhnke severely impaired the ascertainment of the truth for reasons I explain at that section of the website (and in the briefs). At that point, it is impractical and futile to try to do a breakdown of how Crol Kuhnke's inept rulings on discovery impaired each one of the claims.

Paraphrasing the previous point, a judge's misconduct often inflicts damage to the lawsuit altogether, no matter how many counts or claims are pleaded.

Reply

Iñaki Viggers says
March 29, 2018 at 7:41 am

Walt:
I submitted my reply last night but it isn't displayed (?). Maybe it was too loaded with contents and links. But that's ok.

See, it is hard to achieve a balance between (1) a synopsis of a non-trivial case and (2) reproducing on a post the level of referenced detail for serious validation of judicial misconduct. I accomplish the latter in my Application for Leave to Appeal, which contains references to the evidence which not is available at my site.

To answer your questions:
No, the appellate recitation of "facts" is grossly inaccurate in the most fundamental matters. The appellate court unduly trivialized matters, omitted facts, ignored the applicable laws, and distorted evidence. For a particularized scrutiny of judicial misconduct by these judges, I encourage anyone to read my Application for Leave to Appeal in each lawsuit. Evidentiary references are supplied in those

briefs for the benefit of the (non-)reviewing court, meaning the Michigan Supreme Court, and anyone interested.

The cases have nothing to do with failure to state a claim.

Much of judge Carol Kuhnke's judicial misconduct is in regard to discovery matters. But it would be impractical and futile to separate the harm of her judicial misconduct in each one the claims. This is because the claims are quite intertwined in terms of facts and of legal standards. For instance, legal doctrines in both defamation and wrongful termination place great weight on the defendant's mental state. The fact and circumstances of allowing the defendant to elude a deposition enable him to calculate where he can safely perjure. These aspects are also developed in my briefs to the upper courts.

Reply

Walt Tuvell says
March 28, 2018 at 3:09 pm

Nancy D. (March 28, 2018 at 1:50 pm) appears to be trying to teach us the definition of "person," by citing wholly irrelevant sources, and pretending that some judge, somewhere, is committing impeachable Judicial Misconduct, somehow.

For unknown reasons, she fails/refuses to cite the relevant legal definition, at 1 USC §8 (https://www.law.cornell.edu/uscode/text/1/8).

And in any case, none of any of this has anything to do with the case she cites (NIFLA v. Becarra).

In other words, at this point, there's nothing to distinguish her from a standard-issue Internet Troll. Unless she proves differently, promptly, she would appear to be unworthy of further comment (and should be banned by the moderator).

Reply

Nancy D. says
March 29, 2018 at 10:31 am

"The ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives."- Casey

"Reproduction is the biological process by which new individual organisms – "offspring" – are produced from their "parents". Pregnancy is the result of reproduction, in pregnancy, a child or children exist.

Abortion is the intentional destruction of the life of a son or daughter existing in their mother's womb from the moment they are created and brought into being at their conception. Our inherent Right to Life, to Liberty, and to The Pursuit of Happiness, is endowed to us from God at the moment of our creation, which is not the same moment we came forth from our mother's womb or were delivered by Caesarean Section.

This statute, prohibits the recognition of our unalienable Right to Life, to Liberty, and to The Pursuit of Happiness, from the moment we are created and brought into being at our conception and thus denies the self-evident truth that all of Mankind is created equal.

Reply

Walt Tuvell says
March 29, 2018 at 10:36 am

Iñaki: I am confused. You say, "The cases have nothing to do with failure to state a claim." Yet, as I pointed out, that's exactly the posture of the case, according to the Appellate Decision/Opinion (http://publicdocs.courts.mi.gov/opinions/final/coa/20170815_c334522_79_334522.opn.pdf, p. 3). I have asked you to publish the Docket, which would presumably clear this question up, but you're failed/refused to do so. Are you saying the Appellate Court is lying about the posture of the case? If so, then that would certainly implicate Judicial Misconduct.

You say a lot about evidence, depositions, "discovery matters," etc. But those are irrelevant at Failure to State a Claim state (they only become relevant at later stages, namely Summary Judgment and Trial). Yet, nowhere in the record you've supplied to us do I see anything about S.J. or trial. So why are you bringing evidence/deposition/etc. into question at this stage. It does nothing but muddy the waters.

You say the Appellate Opinion misstates the facts. You need to prove that. You claim that's difficult for you to do, but if you can't point out chapter-and-verse where the Court misstates the facts, then you can't prove your claim about misstatement of facts. For example, misstatement-of-facts happened in my case, and I've documented/proved exactly what those misstatement of facts are (http://judicialmisconduct.us/CaseStudies/WETvIBM#smokinggun, and the 3 documents cited in the paragraph http://judicialmisconduct.us/CaseStudies/WETvIBM#revelation4). You can (and must) do the same. However, bear in mind, as already stated, that at this stage of your case (Failure to State a Claim), evidence concerning these facts are irrelevant, it is only the statement/claim of the facts that is relevant (that's why it's called "Failure to State a Claim").

You say it is difficult to articulate exactly what your issues are. But you must do so. Legal proceedings are formalized the way they are, precisely because every case is different (complicated in its own way),

so there must be a procedure for presenting cases in ways that humans (litigants, judges, jurors, press, public, etc.) can understand them. If you cannot do this, then you have no chance of convincing anybody of your case/claims. You must try harder.

Reply

Iñaki Viggers says
March 29, 2018 at 5:11 pm

The appellate opinion (URL) you cite says nothing about "failure to state a claim". Instead, you'll see that it talks about "qualified privilege", albeit quite ineptly.

Yes, the appellate panel mischaracterized the case when addressing the issue of qualified privilege. The appellate panel rubber-stamped the defendant's allegations notwithstanding his documented inconsistencies. To force that outcome, the appellate court indulged in cherry-picking of the evidence. It also misapplied the laws despite them being clearly presented in my appellate brief. If "failure to state a claim" were the issue, the appellate panel wouldn't have wasted its time (and its fictitious "prestige") delving in matters of qualified privilege.

As I explained in my previous reply, it is in my Application for Leave to Appeal where I disprove (with references to the evidence filed in court) the appellate's gross departures from the truth. Much of my Application in the Michigan Supreme Court discusses the judicial misconduct because of its improper ramifications on the cases. The Application as well as court records are publicly available at http://www.oneclubofjusticides.com/p/viggers-v-pacha_74.html . That being said, it would be burdensome to reproduce in this post/ thread 50+ pages of legal briefs that I have made publicly available already.

At the risk of sounding repetitive, what I said is difficult is to achieve a BALANCE between (1) a brief synopsis of a case and (2) to repeat in this thread the sufficient detail and references of that case. Anyone who bothers to seriously read the briefs I filed in the upper courts will realize that at this point this is not about having to "try harder".

Reply

Walt Tuvell says
March 29, 2018 at 10:44 am

To Timothy (March 28, 2018 at 4:47 pm) and Daniel Artz: I don't understand what the 2nd Amend Judicial Misconduct issues are that you're referencing. You seem to have some set of cases in mind, possibly in the 9th Cir, but I don't know what they are? Could you be more explicit, please?

Reply

Walt Tuvell says
March 29, 2018 at 10:49 am

To the serious participants in this forum topic (people like Timothy, Daniel, Iñaki, and others, but certainly not frivolous idiots like Nancy):

I don't know what this blog's policies are, but if you want to move discussions like ours to another location, I have now implemented a Forum feature on my website, entirely dedicated to Judicial Misconduct (incl. impeachment). Contact me if interested (and feel free to invite serious others, too).

— Walter Tuvell (PhD, MIT & U.Chicago, Math & CompSci — hence, "not-a-crank")
— http://JudicialMisconduct.US (esp., …/CaseStudies/WETvIBM#smokinggun and environs)
*** Contact me, publicly or privately (walt.tuvell@gmail.com). "Ask Me Anything." ***

Reply

timothy says
March 29, 2018 at 11:10 am

Dr. Tuvell,

I read Nancy's comments as those of a devout Christian dedicated to pointing out both the hypocrisy and the appalling specter of Article III judges condoning the sin of murder by giving legal sanction to abortion which she sees (and the Catholic Church sees) as murder. To that end she has also pointed out what she sees as flaws in the biological and therefore the legal reasoning of the Roe majority, and in that regard she allies herself with myriad legal and scientific scholars, even, to a large degree, the late, great Robert Bork.

Nancy seems also to be suggesting, although I'll concede that her message may at times be unclear, that right-thinking Americans should consider such fundamentally-flawed if not illicitly-motivated judicial behavior as constituting "high crimes and misdemeanors" worthy of impeachment, itself the very subject of the commentary on which you, Nancy, I and others have been commenting.

Thus, it seems to me, rather than railing against or even quibbling with Nancy over what strike you as comments irrelevant to the discussion, that we simply try to appreciate the moral and constitutional sincerity and seriousness of her message and respect her right to deliver it.

One need not be a Christian or even a right-to-lifer to do that.

Reply

Nancy says
March 29, 2018 at 1:49 pm

Dear Walter,

Perhaps I shoulld have simply stated :

All human persons exist in relationship; we are not autonomous human beings. The statute is invalid because it denies the personhood, of the son or daughter residing in their mother's womb.

We can know through both Faith and reason, the self-evident truth, that our unalienable Right to Life, to Liberty, and to The Pursuit of Happiness is endowed to us from God at the moment of our creation.

Whenever we render on to Caesar what belongs to God, we will eventually establish a form of government that "requires complete subservience to the State", which we can know through both Faith and reason, would be a fraudulent misrepresentation not only of The Laws of Nature and Nature's God, but also a fraudulent misrepresentation of the spirit of our Constitution, and thus our Republic for which it stands One Nation, Under God, Indivisible, with Liberty and Justice for all.
Totalitarianism serves in opposition to Life, to Liberty, and to The Pursuit of Happiness.

Nancy D, (St. Mary's College, Elementary Education, not – a – crank, but at times I can be quite cranky.)

Godspeed!

Thanks and gratitude to Timothy for defending all human life and thus the continuum of human life from the moment of our existence, when we are brought into being, equal in Dignity, while being complementary as a beloved son or daughter, Willed by God, worthy of Redemption.

Reply

Walt Tuvell says
March 29, 2018 at 2:01 pm

Timothy: The topic under discussion here is Judicial Misconduct/Impeachment, properly so-called (that is, JCDA, JCDR, etc.). If she has anything to add to this discussion, she should do so. Up to now, what she's said are nothing but wingnut screed (be it left-or-right wing is irrelevant) about abortion.

Abortion is legal, by law (executive, legislative branches), throughout the U.S. and much/most of the world (https://en.wikipedia.org/wiki/Abortion_law). As such, it's not up to the courts/judges (judicial branch) to do anything about abortion. Unless, that is, she/you happen to know of some specific instance of JCDA/JCDR/JudicialMisconduct invoving abortion, or if she/you otherwise has something cogent/rational to say on the subject ("emotions" are not debatable). If she/you can do that, say so, and we can address it rationally. Otherwise, irrational/nonsense-spewing can be found elsewhere on the Internet, and we don't need any of it here.

Reply

timothy says
March 29, 2018 at 4:24 pm

Dr. Tuvell, I know that you get my point so I won't belabor it.

For me that matter is one of maintaining respect for the individual and the dignity of communications. The logic of argument and its relevance to a particular intellectual issue are important in a courtroom and in debate. I've done lots of both. I've also talked constructively but casually (and not always logically) with good, well-meaning people (who are not trial lawyers or PhD's) in churches, classrooms and social settings. I've learned that one need not always argue a point and prove a matter in order to discuss it meaningfully. Wigmore on Evidence has its place as do Larry King and Oprah Winfrey.

Reply

Walt Tuvell says
March 29, 2018 at 3:23 pm

Further comment-reply to Daniel Artz (March 26, 2018 at 10:49 am):

Daniel's reading of JCDA, insofar as he expresses it, is correct, specifically the part about the "non-judicial complaint." However, if we dig deeper into the JCDR (which Daniel doesn't mention explicitly), we see something interesting (and I'm not just talking about the "merits-related" stuff in the JDCR that has already been mentioned here).

Namely, in the Judicial Conference (not Council, weirdly) section of the JCDR, at http://www.uscourts.gov/sites/default/files/guide-vol02e-ch03.pdf p.41, we read in JCDR 21(a) that the J.Conf. can review the J.Coun. for "errors of law, clear errors of fact, or abuse of discretion." This comes "pretty close" to addressing the 3 classes Daniel mentions: (i) unconstitutional, (ii) illegal, (iii) contrary to procedural rules (such as stare decisis).

So: Given that the J.Conf. is explicitly chartered to review these matters, "maybe" the J.Coun. is sort-of-implicitly chartered to do the same?

(PS: What I'm writing about here is something I hinted implicitly at in my earlier comment, March 27, 2018 at 8:28 am, but I failed to make it as explicit as I'm doing here. It is, in fact, a point I raised in more detail in my Petition for Judicial Conf. Review, currently pending: http://judicialmisconduct.us/drupal/sites/default/files/2018-01/JConfPetition.pdf.)

Reply

Walt Tuvell says
March 29, 2018 at 4:43 pm

Timothy: Yes I think I do get your point. But I think you get mine too.

The issue of Judicial Misconduct/Impeachment is a serious one, requiring dedicated/focused resources (brainpower). Both you and I could, if we were so inclined, hijack this forum with double-talk if we wanted to, claiming some sort of my-issue-is-more-important-than-anybody-else's. But that would be in-bad-faith, and would not contribute to the advance of understanding. We shouldn't be allowed to get away with that sort of thing. And neither should anybody else.

Reply

Walt Tuvell says
March 29, 2018 at 5:18 pm

"Motion to Dismiss" case in today's news:
https://www.techdirt.com/articles/20180327/14362539515/court-tosses-dennis-pragers-silly-lawsuit-against-youtube-refuses-his-request-preliminary-injunction.shtml

This is relevant here, in the sense that it relates to a topic (motion to dismiss) that we're discussing here. CAVEAT: I take no position on this ruling, or this case, or this website. I know nothing about those, and in fact I haven't even read thus ruling yet. I just noticed the headline, and thought it would help some/all of us understand what motion-to-dismiss means. I don't expect an extended thread to arise from this (in particular, I have no idea whether it involves Judicial Misconduct or not), it's just intended as an example.

Reply

Walt Tuvell says
March 29, 2018 at 5:52 pm

Iñaki (March 29, 2018 at 5:11 pm): You say: "The appellate opinion (URL) you cite says nothing about 'failure to state a claim'." You are wrong, and I pointed out exactly the page where the appellate opinion says this quite explicitly (http://publicdocs.courts.mi.gov/opinions/final/coa/20170815_c334522_79_334522.opn.pdf p. 3): "Viggers argues that the trial court erred by granting summary disposition [synonymous with 'failure to state a claim,' as is well-known]."

If that is a false characterization by the Appellate Court of the posture of the case (which would certainly amount to Judicial Misconduct), then you need to prove so. You have not done that. Instead, you continue to whine that I have not "bother[ed] to seriously read the briefs." The record (i.e., the present discussion on this blogsite) shows differently. I am trying to penetrate your pretty-much-incoprehesible mish-mash, by asking you gentle question to guide me through the thicket, but you continue to refuse to clarify matters. Such as: What exactly did the court rule, and what exactly are you complaining about? That is: Is this an issue of Judicial Misconduct involving Failure to State a Claim, or not??

Look, I've been supportive of you, trying to get your story into readable/understandable shape. But you continue refusing to cooperate. I've even given you a very clear example you can emulate (http://JudicialMisconduct.US/CaseStudies/WETvIBM), but you refuse to even try. What's your thing? Either you're serious, or else you're a just a "poor-me" troll, looking for emotional sympathy, pretending you have a legally viable complaint (both case-in-chief and Judicial Misconduct), or not. Which is it?? Stop stone-walling.

Reply

Iñaki Viggers says
March 30, 2018 at 9:29 am

Walt,
In a topic like judicial misconduct where public awareness and union are essential, your hostility toward participants in this thread is unfortunate. Your confusion about the law is becoming evident, it misinforms those who contemplate self-representation in court, and it contributes to prejudicing serious pro se litigants.

First, your transcription alters the excerpt of the appellate opinion. The opinion does NOT have the comment in brackets that summary disposition is "synonymous with 'failure to state a claim".

Second, your alteration in brackets is inaccurate. "Failure to state a claim" is NOT SYNONYMOUS with summary disposition. In federal and state rules of procedure, "failure to state a claim" is only

ONE OF MANY POSSIBLE grounds for summary disposition/dismissal. If you ignore this basic aspect, it is going to be impossible to make you understand the complexity of facts and legal doctrines involved in a case.

Third, your altered quote is from a paragraph which only cites MCR 2.116(C)(10), not (C)(8). The latter is in regard to "failure to state a claim", whereas MCR 2.116(C)(10) is about the evidence and merits of a case.

Fourth, if you read the opinion carefully, you will notice that on footnote 2 the appellate court made it explicit that it "will treat the motion as having been granted pursuant to MCR 2.116(C)(10)", the item that addresses the evidence and merits of the case.

Fifth, just prior to the paragraph you are quoting, the appellate court alleges that I "filed motions for summary disposition under MCR 2.116(C)(8)". The motions I filed for summary disposition are for MCR 2.116(C)(10), not (C)(8). This inaccuracy illustrates how carelessly the crooks at Michigan Court of Appeals proceed, as that statement falsely conveys that I filed a motion for summary disposition on grounds of "failure to state a claim". I hope you discern that no plaintiff would be so tremendously stupid to file a motion about his case on grounds of "failure to state a claim".

I thank you again for noticing -in one of your first replies- that a link in my website was broken. I am also sincerely open to explain (to you or anyone) legal concepts and to clarify any particular inquiry you may have from reading the briefs and records of the case. But it would be great if you take a deep breath before alienating the participants with the hostile and misinformed remarks you've been making lately.

Reply

timothy says
March 30, 2018 at 10:44 am

EXCUSE ME!!

Dr. Tuvell has complained (rather harshly and, I think, derisively) that Mary D.'s occasional biblically-based comments in opposition to judicial abuse of the constitution (pro-abortion decisions) are not relevant to a commentary on the impeachment of Article III judges. (On its face an absurd complaint.) Yet he shows enthusiasm (and even participates actively and at length) for abusing this site to engage in an extensive process of what appears to me to be the mere drafting and editing of what appears to me to be a mere legal brief written by a "commenter" who appears to me to be engaged in a personal contest of wills with a state judge whom the "commenter" (it appears to me) would like to have impeached.

Both sets of comments are relevant to a discussion of judicial impeachment.
Mary D's comments are of moral interest to me, but neither set of comments, as framed and worded, is of intellectual interest to me, so I have mostly ignored them. (I say, "Just turn off the TV or change the channel, if you don't like Jon Stewart; don't write querulous emails to his employer.")

But it is INARGUABLE that the irritatingly-frequent, spatially-annoying, intellectually-uninteresting, blandly-worded online dialogue through which Dr. Tuvell has attempted to edit an amateurish legal brief (perhaps, in another forum, a commendable eleemosynary act on Tuvell's part) demands vastly more forbearance by readers than do Mary D's harmless, innocent, morally-uplifting comments.

I suggest that one ought not demand of others what one is unwilling to give.

Reply

Walt Tuvell says
March 30, 2018 at 11:59 am

To Iñaki (March 30, 2018 at 9:29 am):

For the benefit of those reading this thread, let's point out that the Michigan Court Rules ("MCR") are available online at http://courts.mi.gov/courts/michigansupremecourt/rules/pages/current-court-rules.aspx.

To begin with, you accuse me of "hostile and misinformed remarks," and you "offer" to "explain legal concepts," and "clarify particular inquiries," etc. Yet to date, I think it's been YOU who's been withholding information, refusing to clarify, confusing legal concepts, etc. It would be great if we could clear all this up. Let's try. I'll address your note point-by-point.

#1.

You say I "alter[] the excerpt of the appellate opinion" (to the extent I interpolated bracketed wording), where I wrote: "Viggers argues that the trial court erred by granting summary disposition [synonymous with 'failure to state a claim,' as is well-known]." You are being false/misleading (whereas I am correct, confusing/misleading nobody). Adding/subtracting bracketed wording like that (inside the quotation-marks) is totally standard in legal (and other) writing (just as I did in the first sentence of this very paragraph #1), according all legal/writing standards of English-speaking America (which is the milieu/context in which this discussion is happening). Bryan Garner, Legal Writing in Plain English, as quoted at https://english.stackexchange.com/questions/185665/use-of-brackets-in-legal-writing. For you to pretend otherwise is bad faith.

#2.

You say my bracketed interpolation is inaccurate. You are being false/misleading. What I wrote (the "synonymous" thing) has already been quoted in #1 above. The context is that I was quoting the Appellate decision, and in that context the Court was indeed using the ("well-known") phrase "summary disposition" as synonymous with "failure to state a claim (upon which relief can be granted)," in the language of FRCP 12(b)(6) (https://www.law.cornell.edu/rules/frcp/rule_12, https://www.law.cornell.edu/wex/failure_to_state_a_claim) — which is indeed (as I wrote previously, March 28, 2018 at 2:53 pm), "essentially equivalent" to the Michigan version, MCR 2.116(C)(8).

You also say that "'failure to state a claim' is only ONE OF MANY POSSIBLE grounds for summary disposition/dismissal." Yes, of course, we all know that, and I've even written so at http://judicialmisconduct.us/Introduction#dismissals. However, you are here again being false/misleading. Because, as I said in what I wrote, the bare phrase "summary disposition" — in-CONTEXT, without further qualification, JUST AS THE APPELLATE DECISION WAS USING IT — is indeed "well-known" to be "synonymous" with "failure to state a claim," and is used here (by the Appellate Court) to distinguish this stage of litigation from the "summary judgment" stage. All this is very standard legal writing style.

You also say, "If you ignore this basic aspect, it is going to be impossible to make you understand the complexity of facts and legal doctrines involved in a case." Hmm, something tell you're willfully distorting the standard meanings of legal writings, as opposed to me "not understanding" something.

#3.

You say I'm only taking MCR 2.116(C)(10) into consideration, and not MCR 2.116(C)(8). Again, you are being false/misleading. For, again, we're speaking in the CONTEXT of the Appellate opinion, http://publicdocs.courts.mi.gov/opinions/final/coa/20170815_c334522_79_334522.opn.pdf (bottom of p.3 and top of p.4, and footnote 2 on p. 4), where the judge himself says he's speaking about MCR 2.116(C)(10), not MCR 2.116(C)(8).

#4.

You say that MCR 2.116(C)(10) "addresses the evidence and merits of the case." You are being false/misleading. ALL of MCR 2.116 (including, but not limited to (C)(10)) deals with STATEMENT-OF-CLAIMS ONLY, NOT EVIDENCE/PROOF-OF-CLAIMS. That is exactly what MCR 2.116(B)(1) says: "A party may move for dismissal of or judgment on all or part OF A CLAIM in accordance with this rule" (emphasis added). Evidence and proof only come into the proceedings later, at Summary Judgment stage, and at Trial. The judge is BY PROCEDURAL RULE/LAW NOT PERMITTED TO WEIGH FACTS/CREDIBILITY ("deciding for-or-against either party") at Summary Disposition or Summary Judgment time. Instead, BY RULE/LAW, the judge MUST automatically/reflexively ASSUME (as opposed to WEIGH) that the nonmovant's recitation of the facts is correct/true. Evidence/proof has nothing to do with it.

#5.

You say that you filed only under MCR 2.116(C)(10), whereas the Appellate Court says you filed under both (C)(10) and (C)(8). Let us assume (for the sake of argument) you're being accurate here. The point is, it makes no difference whether or not you also filed under (C)(8) because as the Court says in footnote 2 (cited in item #3 above) that it's going to ignore (C)(8) and pay attention to (C)(10) anyway (and further reading of the Opinion seems to bear that out), so you have really have nothing to complain about on this score. In other words, this is a case of "innocent error." No harm, no foul. De minimis non curat lex ("the law does not concern itself with trifles"), https://en.wikipedia.org/wiki/De_minimis. Capisce?

Reply

Walt Tuvell says
March 30, 2018 at 12:29 pm

To Timothy (March 30, 2018 at 10:44 am):

Nancy D. is decidedly NOT making a "relevant to a commentary on the impeachment of Article III judges." Instead, what she does do (March 27, 2018 at 9:33 pm) is expicitly cite the current Sup.Ct. case NIFLA v. Becerra (http://www.scotusblog.com/case-files/cases/national-institute-family-life-advocates-v-becerra/), claiming it somehow represents some kind of Judicial Misconduct. But rather than make any kind of rational argument to support her claim, she goes off on a bible-thumping tangent, wholly irrelevant to anything going on in this discussion. That's TROLLING.

I have nothing against pro-lifers. I also have nothing against pro-choicers, and I would react the same way if one of them decided to screech here. What I object to is stupid.

In the current status of the abortion debate, abortion is LEGAL. Period. That means judges MUST recognize/support it, to the extent of the law. Only legislatures (with the imprimatur of the executive, to sign the laws) can do anything about it now. Not judges. Hence, her hysteria about judicial misconduct in this realm is just plain irrelevant/stupid (and NOT "relevant" as you claim).

As for the discussion I'm having with Iñaki: That is totally "relevant" (though I won't argue with its less-than-legalistically-articulate nature). Namely, the point is this:

Many people throw around words like "Judicial Misconduct" without understanding what it means. Obviously you (Timothy) do understand, and so do Greg Weiner, and Daniel Artz, and me, and other who have commented here. So, what I'm trying to do is figure out whether or not Iñaki does or does not have a legitimate case of Judicial Misconduct to complain about. It's true that Iñaki is pro se, but that doesn't disqualify him (cf. Judge Posner's rececent initiatives in favor of pro se's, https://abovethelaw.com/2018/03/judge-posner-files-first-brief-since-leaving-the-bench-lights-into-federal-judiciary/).

At this point, the jury is still out on whether or not Iñaki has a valid case or not (I'm starting to believe "not"). The situation with Nancy is different: nothing can rehabilitate her "argument" above the realm of blatant nonsense.

Reply

timothy says
March 30, 2018 at 4:09 pm

I understand your defense, Dr. Tuvell, but I see a double standard and a lack of tolerance.

While it does not seem the case with you (as with some) that a double standard seems the predominant sign of standards, yet your obdurate intolerance of what is merely Nancy D's disagreement is disturbingly New Left in its tone.

What's more your notion is simply ridiculous that judges are now impervious to charges of judicial impropriety in any and all rulings on any and all cases arising under Roe, Casey and their myriad progeny. That you acknowledge the propriety of such a debate as to Second Amendment right to bear arms cases yet deny it as to the much more constitutionally-tenuous right to abortion cases illustrates my point.

And I would also argue, in Nancy's behalf, that since Roe was patently, blatantly, inarguably and improperly (because of Blackmun's judicial misconduct) wrongly-decided (as I and two generations of other legal scholars think is so,) given what is at stake constitutionally and morally in the abortion area (abortion really is killing hundreds if not thousands of people daily and killing in #'s that vastly exceed firearm deaths) for a federal judge either to extend such bad law (sometimes the outcome of abortion litigation) or merely(sic) to reaffirm it is (at least arguably, as Nancy D does) analogous to arguing that Dredd Scott remains valid case law but for enactment of the Thirteenth and Fourteenth Amendments. While few would argue that adhering to the logic of a harmless (though shameful) bad precedent like Dredd Scott is judicial misconduct, Nancy D seems to be arguing that adhering to Roe and Casey, (terrible precedents the following of which is not harmless but actually kills people) is morally and legally indefensible. I could also develop a line of logic along the Nuremberg principle about the legal duty of judges not to participate in crimes against humanity.

But enough! Federal judges, especially Supreme Court Justices, have made a mountain of deplorable, indefensible constitutional law in the course of which, in my opinion, not one judge has committed an impeachable offense (not even Taney in Dredd Scott, Billings Brown in Plessey, Hugo Black in Korematsu. Brennan in Baker v. Carr or Blackmun in Roe, although Blackmun went to the edge.) I also believe that federal judges trying to stretch the strictures of the Second Amendment by creatively (if evasively) construing Heller and McDonald is not impeachable. I also think that federal judges adhering to (or even extending) God-awful Supreme Court precedent like Roe and casey is not impeachable misconduct (although doing so is surely injudicious unless accompanied by at least a footnote of moral apology and constitutional protest.)

Nancy D thinks otherwise, and she has a point that one can reasonably defend.

My point is not to debate abortion or even gun rights or even impeachability. My point is to defend Nancy D's right to speak without being verbally abused by you. She is, after all, not Charles Murray or Anne Coulter, and the forum of this web site is not an auditorium at Middlebury College or Berkley:)

Reply

Walt Tuvell says
March 30, 2018 at 5:13 pm

To Timothy (March 30, 2018 at 4:09 pm):

You're misrepresenting me, as I know you know.

In my initial response to Nancy (March 28, 2018 at 11:02 am), I was careful/circumspect, and even congratulated BOTH parties in the case she cited (NIFLA v. Becerra), while also saying I didn't see the J.M. aspects of her comments, and politely asking her what I was missing. In her response (March 28, 2018 at 12:20 pm), she came back with pure off-the-wall double-talk ("P cannot in essence be, not P") about Roe v. Wade and "misrepresentation of the essence of personhood." That's insane (at least in the present context, of the Law, and Judicial Misconduct, and NIFLA v. Becerra, etc.), because she herself is the one who "misrepresented the essence of personhood," as I pointed out to her (March 28, 2018 at 3:09 pm, 1 USC §8).

And from there you flare off into the ozone yourself. I have no idea where you're getting your epithets from: "New Left?" "Charles Murray?" "Anne Coulter?" "Middlebury College?" "Berkley [sic]?" I don't even know what half these things stand for. Never heard of them. (Who the hell is Charles Murray, and what the hell is up with Middlebury College? What do they have to do with Judicial Misconduct?)

I did NOT say "judges are now impervious to charges of judicial impropriety in any and all rulings on any and all cases arising under Roe, Casey and their myriad progeny." All I said is that "judges following the law of the land (in this case, acknowledging that they must bow to valid abortion laws) does not amount to Judicial Misconduct." Of course I do know that Judicial Misconduct is possible in the abortion realm, the best recent example being Judge (and child sex abuser, etc.) Roy Moore's participation in the "Personhood Movement" (which abrogates federal law, 1 USC §8), cf. his official judicial opinion at https://cases.justia.com/alabama/supreme-court/2014-1110620.pdf?ts=1397930414, mentioned at http://nymag.com/daily/intelligencer/2017/09/lets-talk-about-roy-moores-extremism-on-abortion.html.

"Double standard?" I have no idea what you're talking about (unless it's Iñaki vs. Nancy, but the two are incomparable on the substance, though he's sadly trending towards the crank bin too).

"Lack of tolerance?" Towards stupidity? Yes. Towards religion/emotionality/liferism/choicerism/what-have-you-ism. No. Towards pretending any of the latter belong in a discussion of Judicial Misconduct? Yes.

Nancy has NOT been "verbally abused by [me]." I am, instead, attacking(/"abusing") her POSITION of pretending NIFLA v. Becerra somehow stands for some sort of Judicial Misconduct, because that's just plain stupid. No sane person would confuse a "person-as-a-whole" with their arguments/stances/positions (right?).

BTW, I do NOT "acknowledge the propriety of such a debate as to Second Amendment." I nowhere said anything like that. Instead, I've asked what you (& Daniel Artz) are talking about, and you're refused to clarify. "Asking for clarity" ≠ "acknowledgment of propriety." Just like I politely asked Nancy what I was missing. She refused to respond intelligibly. So have you.

PS: Please don't bother calling me "Dr.," that's only a formality on my "business card" (signature line), as is common, not a preferred/requested title. Just as you've advertised/mentioned your legal bona fides here (and I have no problem with that, but I don't continue to attach "Esq." to you). I prefer egalitarianism/meritocracy. I'm not into elitism, as you seem to be, or at least think I am.

Reply

Walt Tuvell says
March 30, 2018 at 5:39 pm

Sort-of sidelight from the current discussion threads on this blog, but totally relevant to the overall topic of discussion (Judicial Misconduct/Impeachment, this time at a state level, not federal):

There's an article at https://www.fandm.edu/politics/politically-uncorrected-column/an-unimpeachable-conclusion (Franklin & Marshall College), regarding the Judicial Misconduct/Impeachment gerrymandering stuff we're seeing happening recently (e.g., in Pennsylvania and Maryland).

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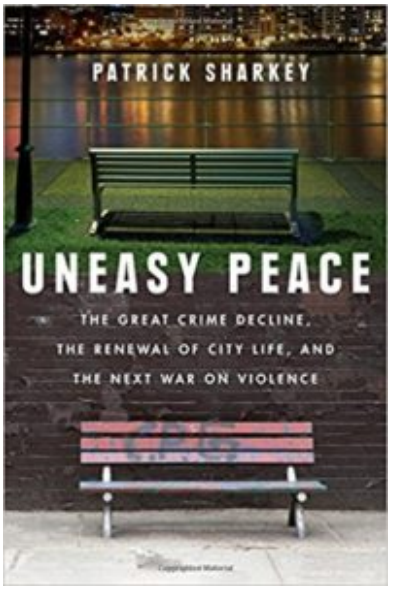

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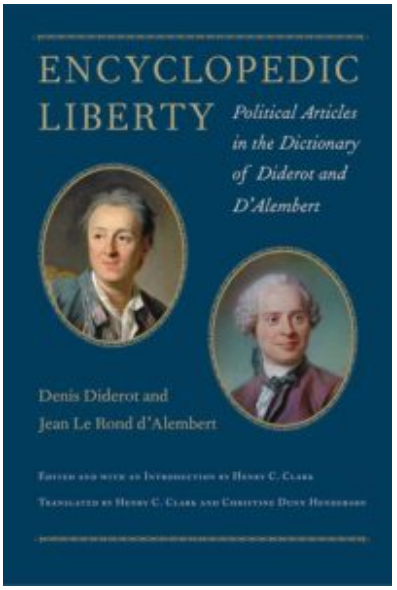

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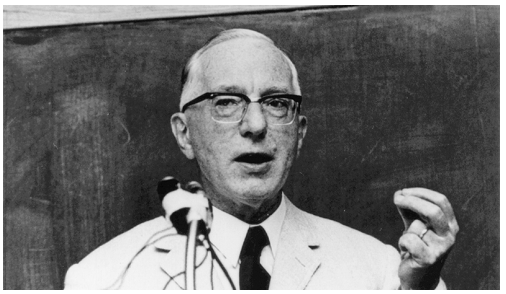

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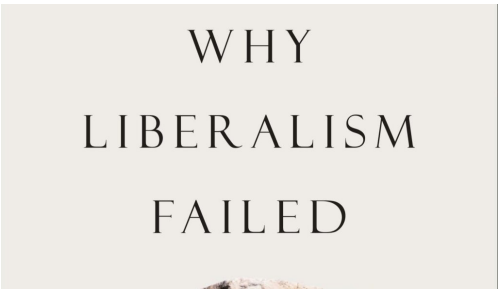

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