

A tale of two immunities – or why NYU owes me \$5.80, and an explanation

By Lev Tsitrin

What do you do when you are scheduled to give a public lecture, and know that a particular person in the audience will be poised to ask a question which you don't want to answer – and moreover, you don't want the audience to hear the question itself?



The solution is simple – just don't allow that person in. Problem solved!

I was this problem the other day, and NYU provided the solution: four security guards blocked my entrance.

But let me step back. Per Aristotle, an action should have a beginning, a middle, and an end. As to the end, I'm not sure – only time will tell

But – both out of respect for the old man, and because his advice is indeed sound, let me begin at the beginning.

I walked into a kitchen to grab a snack and, the radio being on, caught the tail end of an interview with Micah Loewinger of NPR's *On the Media*.

To me, *On the Media* is of interest because its stated mission is to investigate how American journalism is done; it “tackles sticky issues with a frankness and transparency,” according to its [“about” page](#). One “sticky issue” I wanted *On the Media* to look into is media's strange differentiation between two very similar immunities, one which the Supreme Court recently gave to Trump, the other, that it gave federal judges in *Pierson v Ray* a while back – the self-given immunity for acting from the bench “maliciously and corruptly.”

I tried to bring media's attention to the latter, judicial immunity for a very long time – without any success. Mainstream journalists just roll their eyes, and walk away – without explaining the reason. And indeed, it is rather odd that an immunity that allows a full third of US government to be “malicious and corrupt” with total impunity should be of interest to the public, one would think. Democracy, after all, is all about keeping the public in the know of how the government machinery operates. Else, how can the public properly exercise its delegated self-rule? It just can't – it will be lead by the nose by opportunists. The press exposes them – or at least, is supposed to.

Operations of federal judiciary is media's deliberate blind spot. I learned about “corrupt and malicious” judging when, in my lawsuit against government censorship scheme that essentially hands America's “marketplace of ideas” – its libraries and bookstores – to the corporate publishers, Judge Lettow of the Court of Federal Claims concocted in the decision his own lawyerly argument rather than weighing my lawyer's argument against government's as per “due process” –

and decided the case for his own argument. In Lettow's telling, the government won because it never argued what it argued!

Then, the government published its own study of its scheme (or rather, scam) – proved Lettow's "facts" and "law" to be utter hogwash. Besides, Lettow claimed in his decision to have no First amendment jurisdiction. On the basis of new facts and Lettow's jurisdictional deficiencies, we refiled – in the Eastern District court of New York. To hand victory to the government, Judge Vitaliano announced in his decision that my lawyer did not invoke the lack of jurisdiction, or the new facts. I lost, in Vitaliano's logic, because my lawyer did not argue what he argued!

If all this sounds Kafkaesque, it is – and in fact Kafka (who was a lawyer by training) dedicated a properly-Kafkaesque parable titled [*Before the Law*](#) to the subject of judging. Nothing truer has ever been said on the subject I think. (Well, maybe I should take it back – *Alice in Wonderland's* Queen of Hearts' "sentence first–verdict afterwards" is pretty good too; in fact, both Lettow and Vitaliano followed exactly that principle, working backward towards their argument from pre- determined decision.)

The multitude of appeals failing, I sued judges themselves for fraud – to learn from the DAs who defended them of Pierson v Ray's "malicious and corrupt" immunity.

I ran to the press, delighted that I had first-rate material for the front pages – but journalists just stonewalled my fascinating discovery.

It is in finding out why, that *On the Media* seemed the godsend. If anyone, they – the dissectors of journalism – would know the answer.

But the "sticky issue" of non-coverage of the "corrupt and malicious" judging proved a little too sticky for *On the*

Media. The host Brooke Gladstone, to whom I spoke in person at an October 6, 2023 event at a Manhattan library, advised me to mail the material to her. I obliged on the very next day, October 7 – “the day that will live in infamy.” Did she get it, I inquired via email in a couple of weeks? No, she was working from home on the October 7 story; would I email the links to her? Sure! In another couple of weeks, another e-mail inquiry. Did she read what I sent? Not yet, was the reply – her daughter is getting married; she is too busy; give her some more time. After a few more weeks – did she read it? No reply. No reply. No reply. That was my *On the Media* experience – the *On the Media*’s host turning out to be a very deceitful lady indeed.

And then, came the news of Trump’s immunity – and the volcanic amount of coverage and editorializing (“no one should be above the law,” you know!) only reinforced my puzzlement of media’s indifference towards judicial immunity: two co-equal branches of government – and two diametrically opposite reactions from the press!

So when, as I was peeling an apple, I heard the radio mention that Micah Loewinger, *On the Media*.co-host, was to give a talk at NYU’s Gallatin School, I ran to the computer, [googled the event](#), and registered, sensing a great second chance. Let me talk to him – and at least ask my burning question! But this was not to be; as already mentioned, four guards headed by a gentleman who introduced himself as Sergeant Weizmann resolutely blocked the way, as if acting out the famous “no pasaran!” of the Spanish Civil War.

Naturally, I was taken completely aback – yet in a way, rather flattered. A flabby, extremely myopic short fellow decades past the middle age, I was treated like the coal man in [Sixteen Tons](#) – “one fist of iron, the other of steel | if the right one won’t get you the left one will!”

The explanation for refusal to admit me was, that back in

October I was blacklisted from coming to NYU building where IPK – the “Institute for Public Knowledge” ran its events, and that ban applied to all NYU events since.

Both the original ban and the subsequent, all-accompanying one was complete news to me; no one bothered to inform me, and since October I attended at least a half-dozen NYU events that are open to the public – and keep getting invitation to IPK ones (in fact, one arriving just yesterday.) So something else is going on.

What is that something? I wonder whether, just as I was eager to talk to Micah Loewinger, Micah Loewinger was equally eager *not* to talk to me – and being aware that I could hear the announcement on the air and show up, he pre-screened the list of attendees, demanding that I be blocked. “The apple doesn’t fall far from the tree,” as the Russian saying has it – and Micah Loewinger apparently has not gotten far in his attitudes from his colleague Brooke Gladstone.

This is how I got cancelled by NYU, which thus became the second institution that denied my status as “public” (the first one was WNYC where *On the Media* is produced – it blocked my phones and emails so I couldn’t call in); I just got an e-mail that I am barred from a [public talk by Judge Raymond J. Lohier](#) of the Court of Appeals for the Second Circuit to which I registered weeks ago, hoping to ask his opinion of the “corrupt and malicious” “process” I went through. But oh well.

And still, questions remain. For one, once I got home, I saw an e-mail from a “Theresa Anderson (she/her), NYU Gallatin Director of Special Events” informing me that I won’t be allowed in. I e-mailed her back, telling her that it is not that simple – she owes me \$5.80 (a subway round-trip fair to Manhattan); I also asked who it was exactly that flagged and blacklisted me, and for what reason? And how does the much-vaunted “academic freedom” manifests itself in blocking me? I got no reply. Still, she does owe me money – and the

explanation!

And, needless to say, the question of the reason for the dramatic difference for the mainstream press between two kinds of immunity – Trump’s and judges’ – remains. Why is the former loudly condemned as violating the principle of “no one is above the law,” while the latter is hush-hushed, as if federal judges are supposed to be “above the law” – or *be* the law, rather than the mere human agents of “due process” we are told that they are?

And finally – what good does “corrupt and malicious” judging that exists only due to media absenteeism, and allows for suppression of Americans’ fundamental free speech and property rights, do to America?

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