



# INSTITUTE FOR REFORMING GOVERNMENT

## JUDICIAL IMMUNITY IN WISCONSIN HAS LIMITATIONS ATTACHED TO THE ROLE OF A JUDGE

### SUMMARY

Wisconsin Judge Hannah Dugan is facing federal charges for allegedly helping a defendant avoid arrest by telling him to exit her courtroom through a side door, delaying federal immigration agents. She claims she was just doing her job as a judge and is protected by judicial immunity, which usually shields judges from legal consequences for decisions made using judicial authority. But prosecutors argue she acted outside her authority and broke the law.

This case raises big questions:

- » **How far does a judge's immunity go?**
- » **Can judges be prosecuted for actions taken in the courtroom? What about actions taken *outside* the courtroom?**
- » **Where is the line between courtroom management and illegal conduct?**

A similar case in Massachusetts involved another judge accused of helping an undocumented immigrant escape arrest. In that case, the court ruled that the judge could be prosecuted.

What happens next could set a national precedent. If Judge Dugan wins, judges may gain broader protection from prosecution. If she loses, it could reinforce that judges are not above the law—especially when it comes to interfering with federal enforcement.

### OVERVIEW

A Milwaukee County Circuit Court Judge, Hannah C. Dugan, faces federal charges for allegedly directing a defendant, Eduardo Flores-Ruiz, to exit her courtroom through a jury door to evade federal agents executing an administrative warrant.<sup>1</sup> Charged with concealing a person from arrest ([18 U.S.C. § 1071](#)) and obstruction of justice ([18 U.S.C. § 1505](#)), Dugan is claiming judicial immunity, arguing her actions were official judicial acts, exempt from prosecution because she acted within her role as a judge. The prosecution counters that her conduct was not judicial, and she illegally exceeded her authority, and thus is not shielded from criminal liability. This case tests the boundaries of judicial immunity and federal-state relations, raising questions about accountability and sovereignty; it also echoes precedent in *United States v. Richmond Joseph*, 2020 WL 4288425 (D.Mass., 2020)<sup>2</sup> where a Massachusetts judge faced similar charges for aiding a defendant's evasion, highlighting tensions between judicial immunity and federal law enforcement.

### ZOOM IN

This case, like *United States v. Richmond Joseph*, highlights a clash between judicial authority and federal power. Judges have broad discretion to manage courtrooms, but Dugan's alleged actions—directing Flores-Ruiz to evade arrest, confronting agents, demanding a judicial warrant, and neglecting

a hearing—mirror Richmond Joseph’s scheme to help a defendant escape via a rear exit, deemed a non-judicial “ruse” (*United States v. Joseph*, 26 F.4th 528, 531). Judges have broad discretion to manage courtrooms, but Dugan’s alleged act of directing a defendant to evade arrest may exceed the limits of that authority.

The prosecution argues this was an abuse of power, not a judicial function, while Dugan frames her actions as routine courtroom control, but her interference with federal agents may suggest criminal intent. The dispute also reflects broader federalism concerns, as prosecuting a state judge for courtroom conduct could be seen as federal overreach, yet allowing such actions to go unchecked may undermine federal law enforcement. The court’s decision will likely hinge on whether Dugan’s conduct is deemed a protected judicial act or an unprotected criminal act, setting a significant precedent for judicial accountability.

## WHAT YOU SHOULD KNOW

- » On April 18, 2025, during a misdemeanor docket, Judge Dugan allegedly directed Flores-Ruiz to leave through a jury door, temporarily delaying his arrest by federal agents on an administrative warrant.<sup>3</sup>
- » Related, in 2018, Massachusetts Judge Shelley M. Richmond Joseph was charged with obstruction of justice ([18 U.S.C. §§ 1512, 1505](#)) for allegedly helping an undocumented immigrant evade Immigration and Customs Enforcement (“ICE”) by directing him through a rear sally port door, turning off the courtroom recorder, and ordering an ICE officer to leave.
- » Dugan’s defense asserts absolute judicial immunity, claiming her actions were part of her courtroom management authority and protected under common law principles dating back to 17th-century England. However, when Judge Richmond Joseph claimed immunity, the court found it inapplicable to allegedly corrupt acts.
- » The prosecution contends that directing a defendant to evade arrest is not a judicial act, likening it to aiding a fugitive, and falls outside her jurisdiction and scope of her work as a state judge. In *Richmond Joseph*, the court upheld the indictment, noting that corrupt conduct falls outside judicial immunity
- » The case implicates federalism, with Dugan arguing that federal prosecution infringes on Wisconsin’s sovereignty, while the government emphasizes its authority to enforce federal warrants without interference. In *Richmond Joseph*, similar Tenth Amendment arguments were rejected, as the court found affirmative interference, not mere non-assistance, was prosecutable (*United States v. Joseph*, 26 F.4th 528, 534-35).

## WHAT COULD HAPPEN

- » If the court grants Dugan’s motion to dismiss, it could set a precedent expanding judicial immunity to cover actions that obstruct federal law enforcement, potentially shielding judges from accountability in similar cases. It could also create a split in authority with the *Richmond Joseph* decision.
- » If the motion is denied, the case could proceed to trial, testing what actions of a judge can be prosecuted as criminal conduct, possibly deterring judicial overreach but potentially straining federal-state relations.
- » A ruling could clarify the scope of judicial immunity in criminal prosecutions, particularly under general criminal statutes like §§ [1071](#) and [1505](#), which do not explicitly abrogate immunity. *Richmond Joseph*’s district court ruling supports prosecution without requiring abrogation for obstruction charges.
- » The outcome may influence how state judges interact with federal authorities in courtrooms, especially in cases involving immigration enforcement, as seen in *Richmond Joseph*, where the prosecution, though later dropped in 2022, sparked debate over judicial independence.

## LEGAL BACKGROUND

Judicial immunity, rooted in common law since the 17th century, protects judges from civil liability for official acts within their jurisdiction (*Bradley v. Fisher*, 80 U.S. 335, 1871). However, its application to criminal prosecution is less established and has traditionally applied to actions like issuing rulings or managing courtrooms, even if erroneous or malicious, but not to non-judicial acts (e.g., administrative decisions, *Forrester v. White*, 484 U.S. 219, 1988) or acts without jurisdiction (*Rankin v. Howard*, 633 F. 2d 844, 1980). Judicial immunity “arose because it was in the public interest to have judges who were at liberty to exercise their independent judgment about the merits of a case without fear.” *Dennis v. Sparks*, 449 U.S. 24, 31 (1980).

Furthermore, “judicial immunity was not designed to insulate the judiciary from all aspects of public accountability . . . they are subject to criminal prosecutions as are other citizens.” *Id.* The Supreme Court has held that immunity does not bar criminal liability for acts like bribery (*O’Shea v. Littleton*, 414 U.S. 488, 1974) or civil rights violations (*Imbler v. Pachtman*, 424 U.S. 409, 1976). Prosecutors argue Dugan’s actions—directing a defendant to evade arrest—are not judicial and fall under statutes (18 U.S.C. §§ 1071, 1505) that apply to “whoever” commits the acts, without exempting judges. The U.S. Justice Department has the ability under [8 U.S. Code § 1324](#) to criminally prosecute any person, including state and local officials, who violate federal immigration law or otherwise attempt to obstruct justice. They are not protected by sovereign immunity from federal prosecution.

Dugan’s defense cites *Trump v. United States* (603 U.S. 593, 2024) to argue immunity extends to official acts, but Dugan’s reliance on Trump may be misplaced, as presidential and judicial immunity differ. Also, the *Trump* decision recognizes that not all actions taken by an official are therefore automatically official—people in public offices retain a private capacity and may be accountable for actions taken outside their official role. Dugan is also asserting a federalism interest, as she argues prosecuting a state judge for courtroom actions infringes on state sovereignty, though federal authority to enforce immigration laws is well established (*Tennessee v. Davis*, 100 U.S. 257, 1879).

### Endnotes

1 Dugan [argued](#) that an administrative warrant, issued by the Department of Homeland Security, did not grant authority to arrest someone in a courthouse setting, unlike a judicial warrant.

2 See [United States v. Joseph, 1:19-cr-10141](#), (D. Mass.) (listing a chronological docket of events).

3 Full docket found here: [United States v. Dugan, 2:25-cr-00089 – CourtListener.com](#).

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