

# Bond Case Briefs

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## **IMMUNITY - HAWAII**

### **McGuire v. County of Hawai'i**

**Supreme Court of Hawai'i - April 8, 2025 - P.3d - 2025 WL 1039365**

In federal court, plaintiff brought civil rights action under § 1983 against county, county prosecutor, and three deputy prosecutors in their official and individual capacities, asserting claims including malicious prosecution.

The United States District Court for the District of Hawai'i certified question to the Supreme Court as to whether, under Hawai'i law, a county prosecuting attorney or deputy prosecuting attorney acts on behalf of the county or the state when preparing to prosecute or prosecuting state crimes.

The Supreme Court held that:

- County prosecutors act on behalf of county, not state, when preparing to prosecute or prosecuting offenses, and
- County prosecutors do not have sovereign immunity from § 1983 claims.

The attorney general's limited ability to supersede a county prosecuting attorney's authority in compelling circumstances does not equate to control over the county prosecutor, as would render the prosecutor a state rather than county official for purposes of determining whether the county may be liable for the prosecutor's conduct under § 1983; the attorney general does not exercise direct control over day-to-day county prosecutions.

Judicially-fashioned immunity shields county prosecutors and their deputies in their individual capacities from liability under § 1983, and where absolute immunity does not apply, prosecutors still have qualified immunity.