

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **IMMUNITY - TEXAS**

### **Texas Department of Public Safety v. Bonilla**

**Supreme Court of Texas - December 4, 2015 - S.W.3d - 2015 WL 7786856**

Motorist filed suit against Department of Public Safety (DPS), seeking recovery for injuries sustained in collision with state trooper who was pursuing speeding vehicle. The District Court denied DPS's plea to jurisdiction and motion for summary judgment, which were based on defense of official immunity. DPS appealed. The El Paso Court of Appeals affirmed. DPS petitioned for review.

The Supreme Court of Texas reversed, holding that:

- Trooper was not acting in good faith performance of discretionary duties if no reasonably prudent officer in trooper's position would have assessed need for pursuit and risk of harm to public in same manner under circumstances, and
- Trooper considered alternative course of action in assessing need to pursue speeding vehicle and risk of harm to public, for purposes of determining whether trooper performed discretionary duties in good faith.

Whether state trooper acted in good faith in performance of discretionary duties in pursuit of vehicle, for which trooper would be entitled to official immunity from suit brought by motorist for injuries sustained in collision with trooper, did not depend on whether reasonably prudent officer could have decided on different course of action after balancing need to stop speeding vehicle against risk of harm to public. Rather, trooper was not acting in good faith performance of discretionary duties if no reasonably prudent officer in trooper's position would have assessed need for pursuit and risk of harm to public in same manner under circumstances.

A law enforcement officer can obtain summary judgment on the basis of official immunity from suit arising from a pursuit or emergency response by proving that a reasonably prudent officer, under the same or similar circumstances, could have believed the need for the officer's actions outweighed a clear risk of harm to the public from those actions, and in this context, "need" refers to the urgency of the circumstances requiring police intervention, while "risk" refers to the countervailing public safety concerns.

An officer's good faith performance of discretionary duties for which the officer is entitled to official immunity from suit does not require proof that all reasonably prudent officers would have resolved the need/risk analysis in the same manner under similar circumstance. Correspondingly, evidence of good faith is not controverted merely because a reasonably prudent officer could have made a different decision, but rather, when the summary-judgment record bears competent evidence of good faith, that element of the official-immunity defense is established unless the plaintiff shows that no reasonable person in the officer's position could have thought the facts justified the officer's actions.