

# **Bond Case Briefs**

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## **LIABILITY - WASHINGTON**

### **State v. Birge**

**Court of Appeals of Washington, Division 2 - January 5, 2021 - P.3d - 2021 WL 37509**

Defendant police officers were charged with third-degree assault of child under theory of accomplice liability and official misconduct.

The Superior Court granted defendants' motion to dismiss, and State appealed.

The Court of Appeals held that:

- State made prima facie showing that created disputed issues of material fact, as required to survive dismissal of charge for third-degree assault of child;
- State made prima facie showing that created disputed issues of material fact, as required to survive dismissal of charge for official misconduct;
- Official misconduct statute did not require State to prove both that defendants "intended to obtain benefit" and to "deprive another person of lawful right or privilege" in committing unauthorized act;
- Official misconduct statute was not unconstitutionally vague on its face for failure to define "unauthorized act";
- Official misconduct statute was not unconstitutionally vague as applied to defendants;
- Official misconduct statute was not facially overbroad; and
- Official misconduct statute was not unconstitutionally overbroad as applied to defendants.