
WITNESSES IN GRAND JURY PROCEEDING ARE ABSOLUTELY IMMUNE FROM § 1983 LIABILITY

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Rehberg v. Paulk

U.S. Supreme Court, April 2, 2012

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The chief investigator for a D.A.'s office testified at three separate grand jury proceedings, with each resulting in an indictment of petitioner that was ultimately dismissed. After dismissal of the third indictment, petitioner sued the investigator under § 1983, alleging that he conspired to, and did, present false testimony.

The U.S. Supreme Court held that the investigator was absolutely immune for his grand jury testimony. The reason trial witnesses are absolutely immune is to encourage witnesses to come forward with critical evidence without fear of retaliation. The same rationale applies to grand jury witnesses.

The court rejected petitioner's argument to distinguish law enforcement witnesses from lay witnesses. In fact, officers testify with such frequency that immunity is especially important to their availability as witnesses. Officers are subject to employment-related sanctions for giving false testimony, such as loss of their jobs. The court also held that an officer who testifies at a grand jury proceeding is not a "complaining witness" in the traditional sense of that term, which refers to "a party who procured an arrest and initiated a criminal prosecution." Finally, the interest in keeping grand jury proceedings secret overrides any risk of perjury that results from providing witnesses immunity. Although grand jury witnesses are not subject to cross examination, typically the witness will testify again at trial, where cross examination is available to deter perjury.