

**Van de Kamp v. Goldstein**  
--- U.S. --- (2009)

**FACTS:** In 1998, Goldstein, a state felon, filed a habeas corpus petition in a California federal court. He alleged that his 1980 murder conviction was flawed because it “depended in critical part upon the testimony of” Fink, a “jailhouse informant,” which he claimed was “unreliable, indeed false,” and that Fink had “received reduced sentences for providing prosecutors with favorable testimony in other cases.” He further alleged that LA District Attorneys knew about this and that they had not shared this “potential impeachment information” (as required) with Goldstein’s attorney.

The Court agreed, after a hearing, that the information may have made a difference at the trial had Goldstein’s attorney been made aware of it in a timely manner. The state was ordered to either retry Goldstein (who had already served 24 years) or release him, they chose the latter.

Goldstein then filed an action under 42 U.S.C. §1983 against individual district attorneys, the elected district attorney and others, complaining that the “prosecution’s failure to communicate ... “violated the prosecution’s constitutional duty to ‘insure communication of all relevant information on each case [including agreements made with informants] to every lawyer who deals with it.’”<sup>1</sup> He further alleged that “this failure resulted from the failure of petitioners (the office’s chief supervisory attorneys) adequately to train and to supervise the prosecutors who worked for them as well as their failure to establish an information system about informants.”

The LA County District Attorney petitioners claimed absolute immunity from suit. The trial court denied the claim, finding that “conduct asserted amounted to ‘administrative,’ not ‘prosecutorial’ conduct,” making immunity inappropriate. The Ninth Circuit agreed. Goldstein requested certiorari, and the U.S. Supreme Court granted it.

**ISSUE:** Does a prosecutor enjoy absolute immunity for failing to disclose informant information in violation of Brady<sup>2</sup> and Giglio?

**HOLDING:** Yes

**DISCUSSION:** The Court analyzed the difference between prosecutorial functions and administrative functions, and made it “clear that absolute immunity may not apply when a prosecutor is not acting as ‘an officer of the court,’ but is instead engaged in other tasks, say, investigative or administrative tasks.” To determine the nature of a particular task, the court “must take account of the

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<sup>1</sup> Giglio v. U.S., 405 U.S. 150 (1972)

<sup>2</sup> Brady v. Maryland, 373 U.S. 83 (1963).

'functional' considerations" of that task. In the years since *Imbler*<sup>3</sup>, the court had decided that, for example, "absolute immunity does not apply when a prosecutor gives advice to police during a criminal investigation,"<sup>4</sup> but that it does apply when a prosecutor "appears in court to present evidence in support of a search warrant application."<sup>5</sup>

The court agreed that Goldstein was attacking the "office's administrative procedures." The Court also agreed "purely for argument's sake, that Giglio imposes certain obligations as to training, supervision, or information-system management." However, the Court concluded that prosecutors enjoyed absolute immunity for such claims, because they are "directly connected with the conduct of a trial," and that an "individual prosecutor's error in the plaintiff's specific criminal trial constitutes an essential element of the plaintiff's claim." The Court noted that it "will often prove difficult to draw a line between *general* officer supervision or officer training (say, related to Giglio) and *specific* supervision or training related to a particular case."

Although the Court acknowledge that "sometimes such immunity deprives a plaintiff of compensation that he undoubtedly merits," but that such immunity was essential for the functioning of the prosecutor's office.

The Court reversed the decision of the Ninth Circuit Court of Appeals, and remanded the case for further proceedings.

**NOTE:** *This decision does not affect the ability of law enforcement officers to be sued for withholding evidence under Brady.*

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<sup>3</sup> Imbler v. Pachtman, 424 U.S. 409 (1976).

<sup>4</sup> Burns v. Reed, 500 U.S. 118 (1997).

<sup>5</sup> Kalina v. Fletcher, 522 U.S. 118 (1997).