

## THAI V. COUNTY OF LOS ANGELES

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Ninth Circuit Clarifies Test for Joint Federal-State Task Forces Under Color of State Law

*Thai v. County of Los Angeles*

Ninth Circuit

February 12, 2025

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In a written opinion issued last week, the Ninth Circuit clarified the test for when an employee in a joint federal-state task force acts “under color of state law” for the purposes of a 42 U.S.C. § 1983 claim.

The plaintiffs filed suit against two law enforcement officers who worked for a joint federal-state program that investigated allegations of fraud in Social Security disability benefits applications. The officers worked for the county’s district attorney office as investigators but were assigned to the joint Cooperative Disability Investigations Unit under the supervision of a federal special agent. The special agent instructed the officers to investigate applicants, including plaintiffs, who were suspected of malingering. The plaintiffs contended that during the investigation, the officers displayed guns and state badges, conducted a search without consent, and failed to have an interpreter present for them. One of the plaintiffs had his application for disability benefits denied as a result of the investigation, and the other canceled his application.

Plaintiffs brought a variety of state and federal claims against the county and the officers. The officers argued that they did not act under color of state law, and accordingly, they could not be held liable under § 1983. The district court granted their motion for summary judgment on those grounds, which the plaintiffs appealed.

The Ninth Circuit first considered the nature of the unit. It examined the relevant statutory and regulatory frameworks that governed the creations of the cooperative unit; where the reports of fraud come from; the Memorandum of Understanding that created the specific unit; the supervisory and decisionmaking authority over the unit; and who paid for the work. It determined that the unit was created between the federal government and the state government; led by a special agent; and that it was staffed by federal, state, and local enforcement officers.

The court explained that it had never analyzed whether an employee in a joint federal-state program is acting under color of state law but acknowledged that other circuits use a totality of the circumstances test in such cases. The Ninth Circuit adopted that analysis in its opinion.

Under the totality of the circumstances, the court concluded that the officers did *not* act under color of state law because: (1) the unit is implemented under federal law; (2) the unit supervisor is a federal agent; (3) the federal government reimbursed the county for the officers’ work; and (4) the investigation took place outside of the geographical bounds of the county. The court stated that this is consistent with other cases involving joint task forces in other circuits. The court rejected arguments that the nature of the referrals or the fact that the officers adhered to state or local procedures meant that they acted under color of state law, even though the officers wore state identification rather than federal identification.

The Ninth Circuit held that the officers were not subject to suit under § 1983 and affirmed summary judgment on that basis.

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