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PUBLIC EMPLOYMENT - ARKANSAS

Thompson v. Shock

United States Court of Appeals, Eighth Circuit - March 28, 2017 - F.3d - 2017 WL 1149114

Former sheriff's deputy brought § 1983 action against sheriff, in his official and individual capacities, alleging that he was discharged in violation of his First Amendment right of free association.

The United States District Court for the Eastern District of Arkansas granted summary judgment in favor of sheriff. Deputy appealed.

The Court of Appeals held that:

- Narrow-justification test, prohibiting discharge on account of employee's political affiliation, applied to action, and
- County could not be liable under § 1983 for sheriff's alleged conduct.

The narrow-justification test, providing discharge solely on account of public employee's political affiliation violated the First Amendment unless the hiring authority could demonstrate that party affiliation was an appropriate requirement for the effective performance of the public office involved, rather than Pickering balancing test for adverse employment actions taken as a result of employee's expressive conduct, applied to sheriff's deputy's § 1983 First Amendment claim that he was discharged by sheriff because he supported sheriff's main rival in the election for sheriff, where deputy did not assert that he was discharged because of any overt expressive conduct.

County sheriff was not "final policymaker," under Arkansas law, with respect to matters of employment for the county sheriff's office, and thus, county could not be liable under § 1983 for sheriff's alleged conduct in discharging sheriff's deputy because of deputy's political affiliation with sheriff's main rival for office in violation of the First Amendment. By Arkansas law, quorum court had final authority to review employment decisions made by the county sheriff.