

Bond Case Briefs

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CONSTITUTIONAL LAW - VIRGINIA

Davison v. Randall

United States Court of Appeals, Fourth Circuit - January 7, 2019 - F.3d - 2019 WL 114012

County resident brought § 1983 action against official who served as chair of county board of supervisors, alleging that the chair violated his First Amendment and due process rights by blocking him from chair's social media page.

Resident sought injunctive and declaratory relief. The United States District Court for the Eastern District of Virginia dismissed resident's procedural due process claims and granted county's motion for summary judgment on claims asserted against it, but entered judgment in resident's favor on his free speech claims against the board chair, and parties cross-appealed.

The Court of Appeals held that:

- Chair of county board of supervisors acted under color of state law in maintaining government official webpage on social networking website, and in banning county resident from page;
- Government official webpage on social networking website qualified as public forum, for First Amendment purposes;
- Chair of county board of supervisors engaged in viewpoint discrimination in violation of the First Amendment by banning county resident from posting on webpage;
- County could not be liable under § 1983 for a one-off, unilateral decision by chair of the county board; and
- District court did not abuse its discretion in denying, on grounds of prejudice, the resident's motion for leave to amend his complaint.

Chair of county board of supervisors acted under color of state law in maintaining government official webpage on social networking website, and in banning county resident from page based on his past criticisms of the chair and other board members, such that the chair's actions were subject to constitutional restraints under § 1983; while the chair's enumerated duties did not include maintenance of webpage was used as a tool of governance, was categorized as government official webpage, and the specific actions giving rise to county resident's claim, the banning of resident from webpage, were linked to events which arose out of the chair's official status.

Government official webpage on social networking website, which the chair of county board of supervisors established and clothed with the trappings of her office by choosing to list her official contact information on webpage, and which she used to post public announcements and messages and to solicit comments thereon by any resident of county on any issues, qualified as public forum, for First Amendment purposes, whether a traditional public forum or only a limited or designated public forum.