

Bond Case Briefs

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EMPLOYMENT - NORTH CAROLINA

Hunter v. Town of Mocksville, N.C.

United States District Court, M.D. North Carolina - October 21, 2013 - F.Supp.2d - 2013 WL 5726316

Town police officers discharged after contacting the Governor's office about corruption and misconduct by the police chief and others in the department brought action against town, town police chief, and town manager, alleging under § 1983 that defendants retaliated against them, in violation of their First Amendment rights, and asserting claim under state law for wrongful discharge.

The District Court held that:

- Fact issues precluded summary judgment as to First Amendment retaliation claims;
- Chief and manager were entitled to qualified immunity from First Amendment retaliation claims;
- Chief and manager did not have final policymaking authority; but
- Fact issue precluded summary judgment as to wrongful discharge claim.

To balance interests of public employee and government, for purposes of First Amendment retaliation claim, district courts undertake three-step inquiry: (1) whether employee was speaking as citizen upon matter of public concern or as an employee about matter of personal interest, (2) whether employee's interest in speaking upon matter of public concern outweighed government's interest in providing effective and efficient services to public, and (3) whether employee's speech was substantial factor in employee's adverse employment decision.

"The plaintiffs have offered sufficient evidence to support a jury finding that the Town fired them for reporting to the Governor's office that the Mocksville Police Department was experiencing corruption and other issues. While the Town has offered evidence that the plaintiffs were fired for performance issues, that evidence does not entitle them to summary judgment. It merely creates a disputed question of material fact which a jury must decide."