

Bond Case Briefs

Municipal Finance Law Since 1971

EMPLOYMENT - VIRGINIA

Roop v. Whitt

Supreme Court of Virginia - February 26, 2015 - S.E.2d - 2015 WL 798792

Sheriff's deputy filed a complaint alleging that his termination was impermissible retaliation in violation of state law. The Circuit Court dismissed action, and deputy appealed.

The Supreme Court of Virginia held that sheriff's deputy, who is an employee of the sheriff, is not a "local employee" for purposes of statute providing that nothing shall be construed to prohibit or otherwise restrict the right of any local employee to express opinions on matters of public concern.

Constitutional officers, including sheriffs, are creations of the Constitution itself, and their offices exist, abeyant and unfilled, by virtue of constitutional origination from the moment their county or city is created by the legislature. Their offices and powers exist independent from the local government and they do not derive their existence or their power from it, and their compensation and duties are subject to legislative control, but only by state statute and not local ordinance.

Constitutional officers are elected by the voters for prescribed terms, and they are neither hired nor fired by the locality, and therefore, they are not "local employees" within meaning of statute providing that nothing shall be construed to prohibit or otherwise restrict the right of any local employee to express opinions to state or local elected officials on matters of public concern, nor shall a local employee be subject to acts of retaliation because the employee has expressed such opinions.