

Bond Case Briefs

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MUNICIPAL ORDINANCE - COLORADO

Ryals v. City of Englewood

Supreme Court of Colorado - January 25, 2016 - P.3d - 2016 WL 297371 - 2016 CO 8

Registered sex offender brought action against municipality challenging constitutionality of residency ordinance that effectively barred him from living in 99% of the municipality's residences. The United States District Court for the District of Colorado entered judgment in favor of offender. Municipality appealed. The United States Court of Appeals certified question whether city ordinance was preempted by Colorado law to the Colorado Supreme Court.

The Colorado Supreme Court held that:

- City ordinance would have an extraterritorial impact on residents outside the municipality, as a factor in determining whether state law preempted city ordinance;
- Fact that city ordinance was a zoning ordinance did not require a finding that sex offender residency was a local matter, for purposes of determining whether state law preempted city ordinance;
- State constitution did not clearly favor either the state or the city as a factor in determining whether state law preempted city ordinance;
- Degree of cooperation needed between state and city with regard to the placement of sex offenders was not so stringent as to weigh in favor of state, as factor in determining whether state law preempted city ordinance;
- Legislature's declaration that it was necessary for public safety to comprehensively evaluate, identify, treat, manage, and monitor sex offenders did indicate that management of sex offenders was a matter of statewide concern, as a factor in determining whether state law preempted city ordinance;
- Sex offender residency was an issue of mixed state and local concern, as a factor in determining whether state law preempted city ordinance; but
- City ordinance did not conflict with state law, and therefore, was not preempted by state law.