

Bond Case Briefs

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ELECTIONS - FLORIDA

Orange County v. Singh

Supreme Court of Florida - January 4, 2019 - So.3d - 2019 WL 98251 - 44 Fla. L. Weekly S102

Constitutional county officers of a charter county brought action for declaratory and injunctive relief, challenging validity of ordinance providing for nonpartisan election of certain county constitutional officers.

The Circuit Court entered a final judgment striking a portion of the ordinance. County appealed. The District Court of Appeal affirmed. County appealed.

The Supreme Court of Florida held that:

- Election Code did not expressly preempt county's authority to determine that county constitutional officers be elected without partisan affiliation;
- Portion of ordinance requiring election of such officers at primary election was inconsistent with Election Code section requiring general election; and
- Portion of ordinance that conflicted with Election Code could be severed without rendering the remainder of ordinance incomplete.

Election Code did not expressly preempt the home rule authority of charter county to determine that county constitutional officers be elected in a general election without partisan affiliation; Election Code mandated that county constitutional officers be elected at a general election, but did not contain language requiring the election to be partisan.

Portion of county ordinance requiring that the election of county constitutional officers be held at the primary election was inconsistent with Election Code section requiring that county constitutional officers appear on the general election ballot, and thus, that portion of ordinance was unconstitutional.

The unconstitutional portion of county ordinance that was inconsistent with Election Code, in requiring that county constitutional officers be elected at the primary election rather than the general election mandated by Election Code, could be severed without rendering the remainder of the ordinance incomplete, where the purpose of ordinance was to provide for election of county constitutional officers on a non-partisan basis, and there was a way to achieve that goal consistently with Election Code by having the candidates for those offices appear on the general ballot without party affiliation.