

Bond Case Briefs

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LABOR - ARIZONA

Gilmore v. Gallego

Supreme Court of Arizona - July 31, 2024 - P.3d - 2024 WL 3590669

City employees who belonged to collective bargaining unit but were not members of union brought action against city, alleging that provisions in memorandum of understanding (MOU) between city and union governing release time for union purposes violated plaintiff employees' rights to free speech and free association, their right to work, and the Gift Clause of state constitution.

Union intervened as defendant. The Superior Court entered summary judgment for city and union and granted them attorneys' fees against employees. Employees appealed. The Court of Appeals affirmed in part and vacated in part. Employees petitioned for review, which was granted.

The Supreme Court held that:

- Under MOU, it was city, not the non-member employees, who paid for the release time, and therefore the release time did not violate employees' free-speech or free-association rights or their right to work, but
- MOU's release-time provisions were not supported by adequate consideration and thus violated Gift Clause.

Under memorandum of understanding (MOU) between city and union governing release time of city employees for union purposes, it was city who paid for the release time, rather than employees who worked in bargaining unit but did not belong to union, and therefore the release time did not violate the non-member employees' free-speech or free-association rights or their right to work, even though MOU contained provision stating that the cost to city for the release positions "has been charged as part of the total compensation" detailed in MOU; "total compensation" referred to city's total expenditure under MOU, not sum entitlement of employees, and no evidence suggested that, absent release time, the non-member employees' pay or benefits would necessarily be commensurately increased.

Portions of memorandum of understanding (MOU) between city and union providing for release time of city employees for union purposes were not supported by adequate consideration and thus violated Gift Clause of state constitution, in case involving MOU which provided for, inter alia, four full-time, paid release positions for union members "to engage in lawful union activities" and a bank of 3,183 additional paid release time hours per year for union members "to engage in lawful union activities"; annual cost of release time was estimated at \$499,000, and benefits to city consisted of few tangible obligations along with the general promotion of cooperative labor relations.