

O'Laughlin v. Palm Beach County, 20-14676 (11th Cir. April 1, 2022)



Fact Summary: Pursuant to its Social Media Policy, the Palm Beach County Fire Rescue Department disciplined firefighters AJ O'Laughlin and Crystal Little for an exchange they had on an invitation-only Facebook page associated with O'Laughlin's campaign for the presidency of the local firefighters' union. In particular, O'Laughlin and Little accused union officials of conspiring with Fire Department management to misuse member-donated paid time off. We must decide whether, by punishing O'Laughlin and Little, the County violated their First Amendment rights to free speech and free association. The district court dismissed O'Laughlin and Little's as-applied free-speech and free-association claims on the pleadings, and subsequently granted summary judgment for the County on their claims that the Social Media Policy was unconstitutionally overbroad and vague on its face.

Court Holding: After careful review, we affirm the district court's judgment as to the free-association and vagueness claims but vacate and remand as to the free-speech and overbreadth claims.

Case Takeaways

- A Social Media Policy is a complex legal instrument that impacts a person's fundamental constitutional rights; it is not just a public relations or marketing issue.
- In-house attorneys nationwide agree, you must have an outside social media attorney specialist update your social media policy and employee training.
- Unless your PIO or marketing director is an experienced social media attorney, do not ask them to write a social media policy or conduct social media training.
- Under new federal social media training and policy standards, you must reinforce your social media policy with outside expert social media liability training for all employees.
- All social media policies must include the new federal language, especially regarding personal use of social media.