

No. 24965 -- State of West Virginia ex rel. Stan Farley v. The Honorable O. C. Spaulding

Workman, J., concurring:

I write separately to emphasize two significant caveats to the majority's holding that the county commission has the authority to employ individuals to perform security functions for the county judiciary, so long as they do not supplant or impair the power and duties of county sheriffs.

In this regard, county commissions should not conclude that the majority opinion in any way licenses them to create their own force of deputies, or in any way erode the civil service protections to which deputy sheriffs are statutorily entitled. See W. Va. Code §§ 7-14-1 to -21 (1993 & Supp. 1997). These protections continue to be in force and effect and cannot be abrogated by virtue of the majority's conclusion that court security can properly be provided by both the sheriff and the county commission.

Although this matter arose in a rather unique factual scenario,¹

a number of other West Virginia sheriffs appeared on the day of oral argument, apparently as a show of support for the assertion of their statutory right to provide court security services. Now that our opinion has clarified the sheriffs' power and authority, it is their attendant and mandatory responsibility to perform those duties and to provide adequate security for the judicial system.

The inadequacy and insufficiency of security in West Virginia's courtrooms has been consistently identified as a major problem, especially in family law master proceedings, where violence is most likely to occur.

In recognition of this problem, the West Virginia Legislature in 1996 created a special fund to be administered by a "court security board," in order to enhance the security of courts in the counties of this State. W.Va. Code § 51-3-14 (1996), et seq. As stated in West Virginia Code

¹In Putnam County, a new judicial building with state-of-the-art security features was constructed. The record reflects that the sheriff participated in the planning and apparently at least tacitly acquiesced in the creation of a separate security force for the county judicial system.

51-3-16(a) (1996): "The sheriff of each county in conjunction with the circuit judges, magistrates and family law masters may develop a security plan to enhance the security of all the court facilities in use in the county and submit said plan to the county security board." Moreover, in 1995, 1996 and 1997, statewide judicial summit meetings were conducted by this Court which included the input of various justices, judges, magistrates and officers of the court with regard to a variety of problems. During each of those meetings, it was determined that court security was one of the most serious concerns facing the West Virginia judicial system. In 1998, the Commission on the Future of the West Virginia Judicial System, which met in lieu of a summit meeting, filed a report concerning its information gathering activities. That report also listed court security as one of the most serious concerns of the West Virginia judicial system.

We will look to the Commission's final report due in the fall of 1998 for recommendations on how to deal with this problem, but the sheriffs of West Virginia should also be developing plans to perform their statutory responsibility to provide courtroom security throughout West Virginia.