

SUPREME COURT OF NEW HAMPSHIRE

DeVere v. Attorney General

146 N.H. 762 (2001) · Decided September 20, 2001

SUMMARY

The New Hampshire Supreme Court held that RSA 260:14, III, the Driver Privacy Act provision governing disclosure for official business, does not generally permit a private citizen to obtain motor vehicle records merely by obtaining a court order and asserting a governmental purpose. The court concluded that section III applies to requests from governmental entities, while private parties must satisfy the requirements of section V, subject to its limitations and opt-out provisions. The court reversed and remanded for further proceedings concerning the plaintiff’s alternative section V claims.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Duggan, J.; Hollman, J.; Groff, J.; Fauver, J.; Lynn, J.
JURISDICTION	New Hampshire
DECIDED	September 20, 2001
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The State appealed a superior court order requiring the Division of Motor Vehicles to disclose specified motor vehicle records to DeVere under RSA 260:14, III.
STANDARD OF REVIEW	The court construed the statute de novo, beginning with its language and considering the statutory scheme as a whole to discern legislative intent and avoid an absurd result.
PRECEDENTIAL VALUE	Published New Hampshire Supreme Court opinion
PARTIES	State of New Hampshire v. Peter DeVere

TOPICS

- statutory interpretation
- legislative history
- administrative law
- civil procedure

PRACTICE AREAS

- administrative law
- statutory interpretation
- government records and privacy

QUESTIONS PRESENTED

1. Whether RSA 260:14, III permits a private citizen to obtain motor vehicle records pursuant to a court order merely because the citizen intends to use the records in connection with a governmental or legislative function.
2. Whether RSA 260:14, III limits disclosure for governmental entities and courts to use in official business.
3. Whether DeVere was entitled to disclosure under RSA 260:14, V (a)(2) or (4), despite not first requesting the records from the Division under section V.

HOLDINGS

1. RSA 260:14, III does not authorize disclosure to a private party whenever the party asserts that the records relate to a governmental function. Section III applies to requests from governmental entities, including a court acting to obtain records for a litigant in connection with pending litigation; a private party seeking records for legislative testimony must instead satisfy section V.
2. The phrase 'for use in official business' limits disclosure under section III. The official business must be that of the governmental entity seeking the records, not merely the private citizen's intended use of the information.
3. The record was insufficient to determine whether DeVere could obtain the records under section V. Because he had not first requested access from the Division as section V requires, and the superior court had not addressed the section V issues or the effect of the federal Driver's Privacy Protection Act, the matter had to be remanded.

KEY QUOTATIONS

“Section III of the statute applies when the request for information comes from a governmental entity, including a court, and section V applies when the request comes from a nongovernmental entity, such as the plaintiff.” (146 N.H. at 766)

“Rather, section III is intended to allow a court to request a motor vehicle record for a litigant in connection with other pending litigation.” (146 N.H. at 768)

FACTUAL BACKGROUND

In August 1997, Peter DeVere, an advocate of legislation concerning drunk driving, requested from the Division of Motor Vehicles the names, hometowns, and license plate numbers of holders of one- through four-digit plates. He sought the information to cross-reference low-digit plate holders with contributors to the Governor's campaign and to prepare testimony for a senate transportation committee considering related legislation. The Division denied the request, and the superior court ordered disclosure for legislative research.

PROCEDURAL HISTORY

DeVere requested names, hometowns, and license plate numbers associated with low-digit plates under the Right-to-Know Law. The Division of Motor Vehicles denied the request under the Driver Privacy Act. The

superior court ordered disclosure for legislative research, denied the State's motion for reconsideration, and restricted use of the information. The Supreme Court of New Hampshire reversed and remanded because the superior court misinterpreted RSA 260:14, III and had not determined whether disclosure was available under section V.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The superior court was instructed to conduct further proceedings consistent with the opinion, including determining whether DeVere qualified for disclosure under RSA 260:14, V and considering the applicability of the federal Driver's Privacy Protection Act.

CASES CITED

- Reno v. Condon, 528 U.S. 141, 143-45 (2000)
- Atwood v. Owens, 142 N.H. 396, 398 (1997)
- Appeal of Ashland Elec. Dept., 141 N.H. 336, 340-41 (1996)
- Appeal of Mascoma Valley Reg. School Dist., 141 N.H. 98, 100 (1996)
- Piper v. Railroad, 75 N.H. 435, 442 (1910)
- Appeal of Sturm, Ruger & Co., 124 N.H. 506, 508-09 (1984)