

SUPREME COURT OF VERMONT

Loveland v. Gorczyk

173 Vt. 501 (2001) · Decided November 7, 2001

SUMMARY

The Vermont Supreme Court affirmed summary judgment for prison officials in a challenge to a prison disciplinary appeal decision. The court held that the Department of Corrections directive requiring the superintendent to “respond” to an appeal within 30 days required a decision within that period, but did not require that the inmate receive notice within the same period. Because the superintendent decided the appeal within 30 days and the inmate was not prejudiced by delayed notice, expungement was not warranted.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Skoglund
JURISDICTION	Vermont
DECIDED	November 7, 2001
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from the superior court's grant of summary judgment to defendants in a Vermont Rule of Civil Procedure 75 action seeking review of a prison disciplinary decision.
STANDARD OF REVIEW	Review under V.R.C.P. 75; the court deferred to the Department of Corrections' interpretation absent compelling indications of error.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Michael Loveland v. John Gorczyk, Kathleen Lanman

TOPICS

agency adjudication judicial review of agency action administrative law statutory interpretation
summary judgment

PRACTICE AREAS

administrative law civil procedure prison discipline statutory interpretation judicial review

QUESTIONS PRESENTED

1. Whether DOC Directive 410.01(I)(2), requiring the superintendent to respond to an inmate's appeal within thirty days, requires the inmate to receive notice of the decision within that period.
2. Whether failure to provide notice of the superintendent's decision within thirty days required dismissal and expungement of the disciplinary conviction.

HOLDINGS

1. The directive requires the superintendent to answer the appeal by deciding it within thirty days; it does not require the inmate to receive notice of that decision within the thirty-day period.
2. Loveland was not entitled to automatic dismissal and expungement because the superintendent decided the appeal within the prescribed period and the absence of contemporaneous notice did not cause indecision, protracted deliberation, or prejudice.

KEY QUOTATIONS

“We believe that the common meaning of the words chosen is that the superintendent must answer the appeal by deciding it within 30 days.” (502)

“There is no indecision or protracted deliberation, and plaintiff was not prejudiced by the lack of notice.” (502)

FACTUAL BACKGROUND

Loveland was found guilty of a major disciplinary infraction on October 18, 1999, and appealed to the superintendent. The superintendent denied the appeal on November 16, 1999, within the directive's thirty-day period, but did not notify Loveland of the decision until later. Loveland sought expungement, arguing that the directive required notice of the decision within thirty days and that failure to provide timely notice triggered the expungement remedy.

PROCEDURAL HISTORY

Loveland was found guilty of a major disciplinary infraction and appealed to the superintendent of the correctional facility. Although the superintendent denied the appeal within thirty days, she did not notify Loveland of the decision at that time. Loveland filed a Rule 75 complaint, and the parties filed cross-motions for summary judgment. The superior court ruled that the applicable DOC directive did not require notice to the inmate within thirty days and granted summary judgment to defendants.

DISPOSITION

affirmed

CASES CITED

- *Shuttle v. Patrissi*, 158 Vt. 127, 131-32, 605 A.2d 845, 848 (1992)
- *In re Capital Investment*, 150 Vt. 478, 482, 554 A.2d 662, 665 (1988)

- In re Newton Enterprises, 167 Vt. 459, 465, 708 A.2d 914, 918 (1998)

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