

SUPREME COURT OF NEW HAMPSHIRE

Correia v. Town of Alton, 157 N.H. 716

958 A.2d 992 (2008) · No. 2008-290 · Decided October 8, 2008

SUMMARY

The Supreme Court of New Hampshire held that RSA chapter 43 does not apply to the termination hearing of a police officer under RSA 41:48. Because the trial court improperly required the town selectmen to appoint alternates under RSA 43:7, the court reversed and remanded. The court did not reach the petitioner’s remaining due process arguments.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Duggan, J.; Broderick, C.J.; Dalianis, J.; Galway, J.; Hicks, J.
JURISDICTION	New Hampshire
DECIDED	October 8, 2008
DOCKET	2008-290
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Town of Alton appealed the superior court's reversal of the Board of Selectmen's decision terminating Correia's employment. The superior court had ruled that RSA chapter 43 applied to the termination hearing and required the appointment of alternates for two recused selectmen.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of New Hampshire.
PARTIES	Town of Alton v. Edward Correia

TOPICS

- municipal law
- statutory interpretation
- legislative intent
- plain meaning rule
- appellate procedure

PRACTICE AREAS

- municipal law
- statutory interpretation
- public employment
- appellate procedure

QUESTIONS PRESENTED

1. Whether RSA chapter 43 governed the termination hearing of a permanent police officer under RSA 41:48.
2. Whether RSA 43:7 required the Board of Selectmen to appoint alternates for the two recused members.
3. Whether the court needed to reach Correia's remaining procedural and due process arguments.

HOLDINGS

1. RSA chapter 43 does not apply to the termination hearing of a police officer governed by RSA 41:48.
2. The introductory language of RSA 43:1 does not independently require RSA chapter 43 procedures for police-officer termination hearings.

KEY QUOTATIONS

“We hold, however, that RSA 41:48 is not, on its face, an ambiguous statute.” (958 A.2d at 994)

“We conclude that RSA chapter 43 does not apply to the termination hearing of a police officer.” (958 A.2d at 995)

FACTUAL BACKGROUND

The Town investigated alleged misconduct by command police staff, after which Correia was placed on administrative leave and offered the choice of resigning or facing possible demotion or termination. Correia requested a public hearing under RSA 41:48 and RSA chapter 91-A. At the hearing, two of five selectmen recused themselves; the remaining three proceeded as a quorum and ultimately voted 2-1 to terminate Correia after finding that he committed four of six alleged acts.

PROCEDURAL HISTORY

Correia, an Alton police lieutenant, was terminated by the Board of Selectmen after a three-day public hearing. Two selectmen recused themselves, but the remaining three proceeded as a quorum without appointing alternates. The superior court reversed the termination because the Board failed to comply with RSA 43:7. The Town appealed, and the Supreme Court of New Hampshire reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded for further proceedings consistent with the opinion.

CASES CITED

- N.H. Dep't of Envtl. Servs. v. Marino, 155 N.H. 709, 713, 928 A.2d 818 (2007)
- DaimlerChrysler Corp. v. Victoria, 153 N.H. 664, 666, 917 A.2d 209 (2006)

- Dalton Hydro v. Town of Dalton, 153 N.H. 75, 78, 889 A.2d 24 (2005)
- Appeal of Baldoumas Enters., 149 N.H. 736, 739, 829 A.2d 1056 (2003)

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