

SUPREME COURT OF NEW HAMPSHIRE

Jonathan Wolfgram v. New Hampshire Department of Safety

169 N.H. 32 (2016) · No. Merrimack No. 2015-0256 · Decided April 29, 2016

SUMMARY

The Supreme Court of New Hampshire held that the Department of Safety could not maintain publicly accessible notations of a petitioner’s habitual offender certification and decertification after the convictions underlying that status had been annulled. The court interpreted the annulment statute and habitual offender law together, concluding that the Department must maintain the information in a manner inaccessible to the public. The judgment was reversed and remanded.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Bassett, J.; Dalianis, C.J.; Hicks, J.; Conboy, J.; Lynn, J.
JURISDICTION	New Hampshire
DECIDED	April 29, 2016
DOCKET	Merrimack No. 2015-0256
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Wolfgram appealed the Superior Court's order affirming the New Hampshire Department of Safety's decision to retain notations concerning his habitual-offender certification and decertification on his publicly accessible motor vehicle record after the convictions underlying that status had been annulled.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Jonathan Wolfgram v. New Hampshire Department of Safety

TOPICS

- statutory interpretation
- legislative intent
- administrative law
- judicial review of agency action
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether RSA 651:5 requires removal from a publicly accessible motor-vehicle record of notations concerning a person's habitual-offender certification and decertification when the convictions underlying that status have been annulled.
2. Whether RSA 651:5, X(a)'s provision allowing annulled convictions to be counted toward habitual-offender status requires or permits DOS to retain public notations revealing those convictions.
3. Whether the court needed to reach Wolfgram's constitutional challenge after resolving the statutory issue.

HOLDINGS

1. When a person's habitual-offender status has been decertified and the convictions underlying that status have been annulled, RSA 651:5, construed together with the habitual-offender statutes, requires DOS to maintain the related certification information in a manner inaccessible to members of the public. DOS may not retain notations revealing that information on the person's publicly accessible motor-vehicle record.
2. The provision stating that annulled convictions may be counted toward habitual-offender status permits DOS to consider those convictions when determining whether a person qualifies for habitual-offender certification; it does not exempt habitual offenders from the protections of the annulment statute or require their annulled convictions or habitual-offender status to remain on a publicly available record.

KEY QUOTATIONS

“Nonetheless, because the habitual offender notations on the petitioner’s motor vehicle record reveal the fact of his prior convictions, they are inextricably linked with the petitioner’s criminal history.” (at 4)

“Thus, construing the annulment statute together with the habitual offender law, we conclude that, because the petitioner is a decertified habitual offender and the convictions underlying his habitual offender certification have been annulled, DOS must maintain its record of his habitual offender certification status in such a way that the information is not accessible by members of the public.” (at 6)

FACTUAL BACKGROUND

Between 2002 and 2007, Wolfgram was convicted of multiple motor-vehicle offenses, after which DOS certified him as a habitual offender and revoked his driving privileges. DOS later decertified him, reissued his license, and placed him on probationary status; between 2012 and 2013, approximately seventeen of his motor-vehicle convictions, including those underlying his habitual-offender certification, were annulled. DOS removed the convictions from his motor-vehicle record but retained notations concerning his habitual-offender certification and decertification, which Wolfgram challenged because the notations disclosed his annulled convictions to members of the public.

PROCEDURAL HISTORY

DOS denied Wolfram's request to remove the habitual-offender notations from his motor vehicle record and denied reconsideration. The Superior Court affirmed, concluding that retaining the notations was consistent with the plain language of RSA 651:5 and the habitual-offender statutory scheme. The Supreme Court of New Hampshire reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

DOS must maintain the petitioner's habitual-offender certification information in a manner that is not accessible to members of the public. The court did not decide the separately characterized references to annulled convictions because that issue was not preserved before DOS.

CASES CITED

- JMJ Properties, LLC v. Town of Auburn, 168 N.H. 127, 130 (2015)
- Choquette v. Roy, 167 N.H. 507, 517 (2015)
- Appeal of Wilson, 161 N.H. 659, 664 (2011)
- State v. Bulcroft, 166 N.H. 612, 614 (2014)
- State v. Roe, 118 N.H. 690, 692-93 (1978)
- Brown v. Brown, 133 N.H. 442, 445 (1990)
- State v. Fitzgerald, 137 N.H. 23, 28 (1993)
- Holt v. Keer, 167 N.H. 232, 241 (2015)
- State v. Patterson, 145 N.H. 462, 465 (2000)
- Panas v. Harakis & K-Mart Corp., 129 N.H. 591, 610 (1987)
- Lovejoy v. Linehan, 161 N.H. 483, 487 (2011)
- Duchesne v. Hillsborough County Attorney, 167 N.H. 774, 781 (2015)
- Appeal of Morrissey, 165 N.H. 87, 98 (2013)

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