

VERMONT SUPERIOR COURT, CIVIL DIVISION, WASHINGTON UNIT

Lafayette v. Winters

Lafayette · No. 25-CV-01954 · Decided March 30, 2026

SUMMARY

The Vermont Superior Court granted the Department’s motion to dismiss Robert Lafayette’s amended complaint for lack of subject-matter jurisdiction. The court held that Lafayette was required to exhaust the statutory appeal process through the Human Services Board before seeking review under Vermont Rule of Civil Procedure 75 of the Commissioner’s decision denying expungement from the Child Protection Registry. The action was dismissed under V.R.C.P. 12(b)(1).

CASE DETAILS

COURT	Vermont Superior Court, Civil Division, Washington Unit
WRITING FOR THE COURT	Daniel Richardson
JURISDICTION	Vermont Superior Court, Civil Division, Washington Unit
DECIDED	March 30, 2026
DOCKET	25-CV-01954
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff sought review under Vermont Rule of Civil Procedure 75 of a Department of Children and Families Commissioner’s denial of his petition for expungement from the Child Protection Registry. The Department moved to dismiss for lack of subject-matter jurisdiction based principally on failure to exhaust administrative remedies.
STANDARD OF REVIEW	On a motion to dismiss for lack of subject-matter jurisdiction, the court assumes the complaint’s factual allegations are true and asks whether it appears beyond doubt that no facts or circumstances would entitle the plaintiff to relief. Failure to exhaust administrative remedies is treated as a jurisdictional defect, and once nonexhaustion is established, the plaintiff bears the burden of showing an applicable exemption.
PRECEDENTIAL VALUE	Unknown; Vermont Superior Court trial-level entry regarding motion to dismiss.

TOPICS

exhaustion of remedies

subject matter jurisdiction

judicial review of agency action

writ of certiorari

motions to dismiss

PRACTICE AREAS

administrative law

civil procedure

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether the superior court had subject-matter jurisdiction under V.R.C.P. 75 to review the Commissioner's expungement decision when Lafayette did not appeal to the Human Services Board as provided by 33 V.S.A. § 4916c.
2. Whether alleged constitutional, procedural, or bias-based challenges to the administrative process excused Lafayette's failure to exhaust the statutory administrative appeal.
3. Whether the amended complaint should be dismissed under V.R.C.P. 12(b)(1) for lack of subject-matter jurisdiction.

HOLDINGS

1. The superior court lacked subject-matter jurisdiction to review the Commissioner's expungement determination because Lafayette failed to appeal to the Human Services Board under 33 V.S.A. § 4916c.
2. Allegations of constitutional violations, bias, delay, and procedural irregularities did not excuse Lafayette from appealing through the Human Services Board.
3. The amended complaint was dismissed under V.R.C.P. 12(b)(1) for lack of subject-matter jurisdiction.

KEY QUOTATIONS

"Based on the foregoing, the Department's Motion to Dismiss is Granted. The present action is Dismissed pursuant to V.R.C.P. 12(b)(1) for lack of subject-matter jurisdiction." (Order)

"Plaintiff's remedies were an appeal to the Human Services Board, and Plaintiff may not shop for a new forum." (Legal Analysis)

FACTUAL BACKGROUND

Robert Lafayette was listed on Vermont's Child Protection Registry based on a substantiated child-abuse-or-neglect report dating from 2003. He petitioned the Department of Children and Families Commissioner for expungement, received a May 1, 2025 review hearing, and was denied expungement by decision dated May 19, 2025. The decision advised him that he could appeal to the Human Services Board, but he did not do so; instead, he filed a Rule 75 action alleging delay, procedural irregularities, bias, and impropriety in the expungement process.

PROCEDURAL HISTORY

Lafayette petitioned the Commissioner for expungement from the Child Protection Registry. After a May 1, 2025 hearing, the Commissioner's designees denied the petition on May 19, 2025 and advised Lafayette that he could

appeal to the Human Services Board. Lafayette did not pursue that administrative appeal and instead filed a Rule 75 action in superior court seeking declaratory, injunctive, and remand relief. The court granted leave to amend, denied ex parte injunctive relief, and dismissed the amended complaint under V.R.C.P. 12(b)(1) for lack of subject-matter jurisdiction.

DISPOSITION

dismissed

CASES CITED

- Vermont Human Rights Commission v. Town of St. Johnsbury, 2024 VT 71, ¶ 6
- Lowell v. Department for Children and Families, 2024 VT 46, ¶¶ 34–37, 325 A.3d 42, cert. denied sub nom. Healey v. Vermont Department for Children and Families, 145 S. Ct. 1433 (2025)
- Murray v. City of Burlington, 2015 VT 11, ¶ 2
- Wool v. Office of Professional Regulation, 2020 VT 44, ¶ 8
- Pratt v. Pallito, 2017 VT 22, ¶ 15
- Mullinnex v. Menard, 2020 VT 33, ¶¶ 8, 14
- Luck Bros. v. Agency of Transportation, 2014 VT 59, ¶¶ 19–21
- Jordan v. State Agency of Transportation, 166 Vt. 509, 512 (1997)
- In re M.R., 2025 VT 6, ¶¶ 13–16
- In re Landry, 2015 VT 6, ¶ 13
- Swan v. Stoneman, 635 F.2d 97, 104 (2d Cir. 1980)
- Alexander v. Town of Barton, 152 Vt. 148, 151, 565 A.2d 1294, 1296 (1989)
- Garbitelli v. Town of Brookfield, 2011 VT 122, ¶¶ 5–6
- In re Town of Bennington, 161 Vt. 573, 573–74 (1993) (mem.)
- LaRoche v. Sterett, 2025 WL 3174940, at *2 (Nov. 13, 2025)