

## **Suspension and Dismissal of Police Officers**

There are statutory provisions covering the suspension and dismissal of municipal police officers. Police officers “shall hold office during good behavior, unless sooner removed for cause”.<sup>1</sup> When it appears to a municipal employer that a police officer “has become negligent or derelict in the officer’s official duty, or is guilty of conduct unbecoming an officer”, the employer is to set the matter for hearing before the municipal “legislative body” or the officer may have the matter heard by the Criminal Division of the Superior Court.<sup>2</sup> If the legislative body or Criminal Division of the Superior Court finds that the officer is guilty of the charges, “the legislative body shall have the power by majority vote to remove the officer or suspend him or her without pay for a period of time not to exceed 60 days.”<sup>3</sup> These statutory provisions apply to regular police officers and chiefs of police, but do not apply to any police officer until the officer serves continuously for one year.<sup>4</sup>

The Vermont Supreme Court ruled in a 1990 decision, under statutory language at that time providing district courts with a role in conducting a hearing involving charges against officers, that the district court’s role in conducting a hearing to determine if the officer is guilty of charges violated the separation of powers provision of the Vermont Constitution because it imposed non-judicial responsibilities on the judiciary.<sup>5</sup> The Court concluded that the statute inappropriately made district courts “hearing officers for municipalities”.<sup>6</sup> Although the statute made the court’s findings of fact final, they had “none of the authority of a judgment.”<sup>7</sup> The Court noted that the municipality held the ultimate power of

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<sup>1</sup> 24 V.S.A. §1931(a).

<sup>2</sup> 24 V.S.A. §1932(a)–(c).

<sup>3</sup> 24 V.S.A. §1932(d).

<sup>4</sup> 24 V.S.A. §1933.

<sup>5</sup> In re Williams, 154 Vt. 318 (1990).

<sup>6</sup> Id. at 320.

<sup>7</sup> Id. at 324.

discipline, and the district court's findings were no more than "an advanced ruling on what may or may not become a personnel dispute between the police officer and the legislative body of the municipality."<sup>8</sup>

In reviewing similar statutory provisions governing the discipline of state police officers, the Supreme Court concluded that the district court's role in conducting a hearing to determine if the officer is guilty of charges violated the separation of powers provision of the Vermont Constitution.<sup>9</sup> The Vermont General Assembly subsequently amended the statute to eliminate the role of district courts in state police disciplinary hearings.<sup>10</sup>

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<sup>8</sup> Id.

<sup>9</sup> In re Kennedy, 156 Vt. 645 (1991).

<sup>10</sup> Act No. 25 (1991); 20 V.S.A. §1880.