

## TOWN OF LEE

v.

## DURHAM DISTRICT COURT

February 23, 1981

[REDACTED]

*Charles F. Hartnett*, of Dover, by brief and orally, for the plaintiff.

*Barrett & McNeill*, of Durham (*Malcolm R. McNeill, Jr.*, orally), for the defendant.

## MEMORANDUM OPINION

On June 26, 1979, under RSA ch. 169 (1977) (current version at RSA 169-D (Supp. 1979) ), the Town of Lee's chief of police filed a juvenile petition in the Durham District Court which was originally entitled *State v. Karin M. . . .* (a minor; Henry . . . , parent). The juvenile was placed in a foster home and eventually on February 26, 1980, the Town of Lee was designated to be the legally responsible unit.

On February 28, 1980, counsel for the plaintiff, Town of Lee, filed an appeal in the superior court based primarily on a claim of imposition of liability on the town without notice or hearing. A confused and inadequate record reveals that somehow in the course of the appeal the district court was designated the named party defendant with orders of notice and service joining the juvenile's parents as parties to the appeal.

After a hearing, the Superior Court (*Randall, J.*), on a "petition to stay order of district court and enjoin liability," ruled "[t]hat the only issue to be heard in this [superior] court is who is ultimately liable for expenses incurred." Recognizing that "you [the district court] shouldn't be a party, . . . ," it granted a motion to dismiss filed by counsel for the Durham District Court. The plaintiff Town of Lee appeals.

[REDACTED]

We affirm. *Cf. Melton v. Personnel Comm'n*, 119 N.H. 272, 278, 401 A.2d 1060, 1064 (1979). *But see Benton v. Dist. Ct.*, 111 N.H. 64, 274 A.2d 876 (1971).

*Remanded.*

GRIMES, C.J., and DOUGLAS, J., did not sit.

Belknap  
No. 80-028

THE STATE OF NEW HAMPSHIRE

v.

STEPHEN R. CASS

March 6, 1981

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

*Gregory H. Smith*, acting attorney general (*Paul Barbadoro*, attorney, on the brief), by brief for the State.

*McSwiney, Jones & Semple*, of Concord (*Paul C. Semple* on the brief), by brief for the defendant.

KING, J. [REDACTED] The defendant, Stephen R. Cass, was indicted on the charge of aggravated assault. The indictment alleged that he knowingly caused bodily injury to another through use of a deadly weapon. At the completion of the trial, a jury returned a verdict of guilty. The court sentenced the defendant to nine months in the house of correction. The defendant appealed his conviction on the