

State Laboratory, including the only schematics and bill of materials provided by the manufacturer, which was for “the general Intox 5000 EN,” not the instrument used in New Hampshire. Although the State asked the manufacturer for schematics and a bill of materials specific to the New Hampshire machine, the manufacturer did not provide those materials. Mobile also testified that there was no service manual specific to the New Hampshire machine. Although the defendant contends that he first learned during trial that the materials provided by the State in discovery were not specific to the New Hampshire machine, Mobile stated that she had repeatedly informed defense counsel of this fact.

The trial court concluded that it could not “dismiss or sanction . . . given what I’ve just heard, because I don’t think that even if [the State] made a good faith effort in this case to get what [the defendant] asked for, I don’t think they’d be able to get it.” The trial court ruled that the State had not “willingly or recklessly failed to turn over any discovery that would have allowed the defense to delve into its ‘inaccuracy’ theory further.”

■ We agree with the trial court. The State represented that it gave counsel for the defendant all materials that it had pertaining to the Intoxilyzer, that there was no manual specific to the version of the Intoxilyzer used in New Hampshire, and that it had asked the manufacturer to provide as much as possible. *See State v. Downs*, 157 N.H. 695, 698 (2008) (“We agree with the State that its duty to disclose exculpatory material does not extend to records not within the control of the prosecutor or police department.”).

*Affirmed.*

BRODERICK, C.J., and DALIANIS, HICKS and CONBOY, JJ., concurred.

Belknap  
No. 2009-519

JUNE FAVAZZA

v.

DAVID BRALEY & a.

Argued: February 17, 2010  
Opinion Issued: June 3, 2010



petitioned the Belknap County Superior Court for a new trial pursuant to RSA chapter 526, arguing that the tenant and Ellis perjured themselves on material issues during the district court proceedings, the tenant presented the court with a forged lease agreement, and Ellis threatened a witness that he would lose his job if he testified. The tenant's motion to dismiss the petition was granted, and this appeal followed.

■ Relying upon the language of RSA 526:1, the landlord argues the superior court is authorized to grant a new trial in all cases, including landlord-tenant matters originally tried in district court. We disagree, and hold that a party cannot petition for a new trial in the superior court pursuant to RSA 526:1 when the case originated in the district court.

To resolve this issue we must construe RSA 526:1. "The interpretation of a statute is a question of law, which we review *de novo*." *Zorn v. Demetri*, 158 N.H. 437, 438 (2009). In matters of statutory interpretation, we are the final arbiters of the legislature's intent as expressed in the words of the statute considered as a whole. *Id.* When construing its meaning, we first examine the language found in the statute, and where possible, we ascribe the plain and ordinary meanings to the words used. *Simpson v. Young*, 153 N.H. 471, 475 (2006). When statutory language is ambiguous, however, we will consider legislative history, see *Profl Firefighters of N.H. v. Local Gov't Ctr.*, 159 N.H. 699, 703 (2010), and examine the statute's overall objective and presume that the legislature would not pass an act that would lead to an absurd or illogical result. *Simpson*, 153 N.H. at 475. We interpret statutory provisions in the context of the overall statutory scheme. See *Appeal of Pennichuck Water Works*, 160 N.H. 18, 27 (2010).

RSA 526:1 provides that "[a] new trial may be granted in any case when through accident, mistake or misfortune justice has not been done and a further hearing would be equitable." This section is ambiguous because the phrase "any case" does not specify whether the original case must have been first tried in the superior court, or could have been first tried in the district court. Because there is more than one reasonable interpretation of the statute, we look to the legislative history of RSA 526:1. See *Profl Firefighters*, 159 N.H. at 703.

■ The legislative history of RSA 526:1 supports our conclusion that it was not intended to permit new trials in the superior court when the case originated in the district court. The right to petition for a new trial has continuously existed in our laws, in one form or another, since 1842, when it was codified in RS 192:2. When RS 192:2 was first enacted, there were no district courts in the state, and all new trials were granted in cases that were originally tried in the superior court. Cf. *Sheafe v. Sheafe*, 29 N.H. 269, 270, 272-73 (1854) (act providing for new trials to be granted in superior

court not applicable where superior court did not have original jurisdiction over subject matter). Because there were no district courts in the state when RS 192:2 was enacted, the legislature could not have intended it to apply to cases originating in the district court. When the legislature created the district courts in 1963, *see* RSA ch. 502-A (1997 & Supp. 2009), it did not amend RSA 526:1 to apply it to cases that originated in the district courts. Thus, the scope of RSA 526:1 was not expanded to allow the superior court to review decisions of the district courts.

■ This conclusion is further supported by an examination of the remainder of RSA chapter 526. *Pennichuck*, 160 N.H. at 27. RSA 526:2 provides that petitions for new trial “may be presented to the superior court in the county where the judgment was rendered.” RSA 526:5 further provides that when “a new trial is granted the action shall be brought forward on the docket of the court, and shall be tried as if no judgment had been rendered therein.” Read in conjunction with RSA 526:2, the word “court” in RSA 526:5 refers to the superior court. Thus, the original case must have been heard in the superior court; otherwise, when the probate or district court has exclusive jurisdiction, RSA 526:5 would transfer the matter to the superior court despite its lack of jurisdiction. As we held in *Sheafe*, “it would hardly seem probable that the Legislature intended that an action should be made returnable to a court having no jurisdiction of the cause when returned there.” *Sheafe*, 29 N.H. at 273. This demonstrates that the phrase “any case” in RSA 526:1 was not intended to mean literally “any case,” but, rather, “any case *in superior court*.”

■ In addition, it is a well settled rule of statutory construction that in the case of conflicting statutory provisions, the specific statute controls over the general statute. *See Appeal of Plantier*, 126 N.H. 500, 510 (1985). The landlord’s argument that the superior court may grant a new trial following the trial of a landlord-tenant dispute in the district court ignores the specific statutory scheme set forth in RSA chapter 540-A (2007). RSA 540-A:2 provides that “[n]o landlord shall willfully violate a tenant’s right to quiet enjoyment of his tenancy or attempt to circumvent lawful procedures for eviction.” The district courts have concurrent jurisdiction with the superior court over matters brought pursuant to RSA 540-A:2. *See* RSA 540-A:4, I. Following a trial in the district court, a party in an RSA chapter 540-A case may appeal questions of law to the supreme court. *See* RSA 540-A:4, V. Thus, RSA chapter 540-A has a specific mechanism for review. To the extent that RSA chapter 526 conflicts with RSA chapter 540-A, RSA chapter 540-A specifically governs subsequent review, and, thus, controls. *Plantier*, 126 N.H. at 510.

The landlord's argument would require us to interpret the phrase "any case" as granting the superior court the authority to grant a new trial in all cases tried in the district, family, and probate courts. This is inconsistent with the overall statutory scheme, which delineates specific situations in which the superior court has the authority to conduct *de novo* appeals from the district court.

For example, pursuant to RSA 599:1 (Supp. 2009), "[a] person convicted by a district court of a class A misdemeanor, at the time the sentence is declared, may appeal therefrom to obtain a *de novo* jury trial in the superior court." "If, after a jury trial in the superior court, the defendant is found guilty, the superior court shall sentence the defendant, and the defendant may appeal questions of law arising therefrom to the supreme court." RSA 599:1. Similarly, RSA chapter 169-C (2002 & Supp. 2009) provides that the district court has exclusive jurisdiction over all proceedings alleging the abuse or neglect of a child. RSA 169-C:4, I; 169-C:3, IX. Pursuant to RSA 169-C:28, I, however, appeals of such proceedings "may be taken to the superior court," which "shall hear the matter *de novo*." By contrast, to the extent that RSA chapter 526 is ambiguous, these statutes demonstrate a legislative intent to provide limited exceptions to the general rule prohibiting review of the district court's decisions by the superior court.

The landlord's interpretation of RSA 526:1 would confer upon the superior courts unprecedented review of district, probate, and family court decisions. It is easy to imagine that cases like this one, where, as the trial court noted, the facts were "contested, hotly, to include claims of lying, forgery and all manner of turpitude," disgruntled litigants could first appeal to the supreme court and then move for a new trial in the superior court under RSA 526:1. This would encourage litigants to "forum shop" until they found a tribunal that was sympathetic to their argument. Although many such motions for new trial would likely not be meritorious, the superior court would be required to review each petition.

Finally, we note that in *Sylvain v. Estate of Sylvain*, 117 N.H. 546 (1977), the plaintiff filed a motion for a new trial in the superior court following a trial in the probate court. We did not, however, decide in *Sylvain* whether RSA chapter 526 authorized the superior court to review a probate court's decision. The superior court's jurisdiction was neither challenged nor appealed. By contrast, it is our well-established practice that RSA chapter 526 allows the superior court to review its own judgments but not those of other courts. *See, e.g., State v. Looney*, 154 N.H. 801, 802 (2007); *State v. Bader*, 148 N.H. 265, 282 (2002), *cert. denied*, 538 U.S. 1014 (2003); *Hodgdon v. Weeks Mem. Hosp.*, 128 N.H. 366, 368 (1986). Thus, to agree

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with the landlord in this case would be a novel departure from the current appellate system in place in this state.

*Affirmed.*

BRODERICK, C.J., and DALIANIS, HICKS and CONBOY, JJ., concurred.

[REDACTED]

Hillsborough-northern judicial district  
No. 2009-520

IN THE MATTER OF ROBERTA L. (PIERCE) SCOTT AND JAMES P.  
PIERCE

Argued: April 8, 2010  
Opinion Issued: June 3, 2010

[REDACTED]

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[REDACTED]

[REDACTED]

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