

To: Advisory Committee on Rules

From: David Peck

Date: January 7, 2020

Re: Docket No. 2020-001, Supreme Court Rule 24 (Suggestion of Joseph S. Haas, Jr.)

On January 6, 2020, I received an e-mail from Joseph S. Haas, Jr. that requests that Supreme Court Rule 24 be placed on the Committee's agenda for discussion. Justice Donovan reviewed the e-mail and determined that it should be accepted and added to the agenda for the Committee's next meeting. See Sup. Ct. R. 51 (2), (3). Accordingly, this matter will be on the agenda for the March 2020 meeting.

Mr. Haas' e-mail refers to a letter he received from Eileen Fox, Clerk of Court, dated November 25, 2019, and relating to Mr. Haas' appeal in Supreme Court Docket No. 2019-0295, Joseph Sanders Haas, Jr. v. City of Nashua. In that appeal, the docket reveals that the supreme court issued an order dated October 25, 2019, that affirmed the decision of the superior court. On November 7, 2019, a motion for reconsideration and a motion for late entry of the motion for reconsideration were both filed with the court by Mr. Haas. The docket further indicates that the mandate was issued on November 7, 2019. On November 12, 2019, objections to both motions were filed. The court issued the following order on November 25, 2019 (which may be the letter to which Mr. Haas is referring in his e-mail):

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2019-0295, Joseph Sanders Haas, Jr. v. City of Nashua & a., the court on November 25, 2019, issued the following order:

The plaintiff's motion for late entry of his motion for reconsideration is denied. The mandate was issued before the plaintiff filed his motion for late entry.

Hicks, Bassett, and Donovan, JJ., concurred.

**Eileen Fox,
Clerk**

Finally, I have reproduced below Supreme Court Rule 24, followed by Mr. Haas' e-mail.

Supreme Court Rule 24

Rule 24. Mandate.

(1) Within 7 days after the time to file a motion for rehearing or reconsideration has expired, or within 7 days after issuance of an order denying a timely motion for rehearing or reconsideration,

whichever is later, the clerk of the supreme court shall forward to the clerk of the trial court or of the administrative agency a mandate. The court may shorten or extend this period of time.

(2) Unless the court directs that a formal mandate issue, the mandate shall consist of a certified copy of the court's opinion or final order.

(3) The mandate is effective when issued.

(4) Pleadings filed after the mandate has issued may not be considered or acted upon by the court.

Comment

"The mandate is the order that gives authoritative notice to the trial court that the judgment appealed from has been reversed or affirmed, as the case may be. The general rule is that the date of the *mandate*, not the date of the issuance of the decision, is the effective date of an appellate court's decision, that the *mandate* is the order and that the court's opinion merely gives the reason supporting the order." *State v. Gubitosi*, 153 N.H. 79, 82 (2005)(citations and quotations omitted).

January 6, 2020 Email from Joseph S. Haas

Thanks for the WHEN and WHERE Sarah, of FROM: Friday, "January 10th at 2:30. " re: your e-mail to me of: " Tue 12/10/2019 11:28 AM "in reply to mine of: = " Mon 12/9/2019 7:53 PM" TO what you wrote, but what about the WHAT? What is going to be on the Agenda?

Reference two items I've written to you about of:

1 . My e-mail of: " Thu 12/26/2019 3:10 PM " to you and others of: " Now since the Judicial Council has an Annual Report. You still working on it? _____ for Year 2019. And with help from statistics from The A.O.C. / Administrative Office of the Courts. Do you have the numbers and/or names of cases and where of in which county court(s), plaintiff(s) have filed any action(s) of utilizing / taking advantage of this Fall 2018 amendment to Article 8? [<https://www.nh.gov/glance/bill-of-rights.htm>] And if, so to please share that info with me. Or am I the ONLY one? "

Your answer back to me on that was on: " Mon 12/30/2019 3:11 PM" = "I will follow-up with Nina to see if she will put this item on our next agenda, but as you know, the Council doesn't normally get involved in specific cases. I will keep you posted. "

Now with my reply to that of that of me not looking for "specific cases" at first, of that's with the A.O.C. or Superior Court Center but that like what Mike Brewster did show you and the House Judiciary Committee [<http://gencourt.state.nh.us/house/committees/committeedetails.aspx?id=5>] was that in the past "you" / The Council did do and report on these statistics but have grown lazy during the decades since which attitude I really find truly disgusting! and getting paid \$more for # less! Please , as I say , of: "Wise Up!" and be more Article 14 "complete"mess instead of you know what of: half - - - ! (;-0)

The other question was and still is:

2. From in my e-mail of: "Wed 12/11/2019 6:04 PM " = "

What I'd like to have placed on the Agenda as Item #___ please would be to discuss the policy or custom (?) over-ride (or Rule #___?) [which one is it?] [*] of common sense that did-away with the old practice of sending the Z letter or Mandate from the Supremes of back to the lower court of FROM back #___ year(s) [?] and decade(s)[?] ago of last Century(?) was that such was not sent back for transfer of jurisdiction until AFTER thirty (30) days from the final decision and of same # of days of after any Objection to a decision in like a Motion to Reconsider was filed, of IF not within ten (10) calendar days, like when a party be on a 1,2,or 3 week vacation that they did not have to notify the court that of their whereabouts, or WHEN-about-s . . .

Case in point of in my case of Haas. v.s. The City of Nashua and that crooked Trucking Company of McLaughlin Transportation , #2019-0295 it was . . . of anyway it (of the Motion to Reconsider was filed) within ten (10) business days, but still the Mandate was sent out too early, as compared to in the past, because then HOW can thus one use this reasoning? in that of the phrase of: by accident, mistake or misfortune. "

See the pdf file attachment of the Eileen Fox, Clerk letter of: Monday, November 25th '19 = "The mandate was issued BEFORE the plaintiff filed his motion for late entry." with emphasis ADDED."

[*] So is it a "policy or custom"? and to do a SURVEY of just what be the "same" or "different" times for others!? _____ OR is it a Rule? #___ and IF so then WHAT number? and leading toward to get such on the Agenda for the NEXT Rules Committee Meeting on: " Friday, March 6, 2020" of exactly two month's from today, so plenty of time to place it on the Agenda,, like with your all's recommendation from the last day of THIS month, of having ALL of February to place it, and THEN for any member of the PUBLIC to talk about it during the PUBLIC INPUT hearing on: " Friday, May 29, 2020 " .

So would you please get back to me on BOTH questions as soon as possible.

Thank you, - - Joe

cc: after the To: of to the same people as in the past two e-mails, of thus now to Paul Berch, on your Council [<https://www.nh.gov/judicialcouncil/aboutus/council.htm>] and his associates., on the Committee, and more on this Council too.

P.S. I do not have Judge James E. Duggan's e-mail, and IN SEARCH OF. . . it at Google did find this here at: <https://www.courts.state.nh.us/press/2011/JED-Cases.pdf> = "In 2008, the Supreme Court dismissed the last pending school financing case, concluding that the legislature had taken needed action to define a constitutionally adequate education (Londonderry School District SAU #12 & a. v. State of NH, 157 N.H. 734). Duggan, in a separate opinion, said he would have sent the case back to the trial court to determine whether the state had fulfilled its duty to provide an adequate education, saying the long-standing debate, in Duggan's words, "is far from settled." " on page 1 of 3, that IF that was done now 12 (a dozen) years ago, [<https://www.courts.state.nh.us/supreme/opinions/2006/londo103.pdf> See pages 8+9 of 19] then we would not have the latest ConVal Case #2019-0500 at The Supremes, see: " The Con Val details at: https://www.unionleader.com/news/education/court-says-state-education-funding-unconstitutional/article_13726ebc-6df3-55dd-a9ca-2fcf60914c54.html

gets to:

<https://bloximages.newyork1.vip.townnews.com/unionleader.com/content/tncms/assets/v3/editorial/f/49/f4909351-c935-5c19-aeab-20c82b51ffa3/5cf84935e6a78.pdf.pdf>

" . of that would have been solved a dozen years ago !!!!! !!!!!

footnote: in trying to find John Durkin's e-mail I did find his website in Dover and gave him a call, of he said that question #2 above ought to be directed to the Court itself, and so I did call to there and Jeanie told me Rule #24 at:<https://www.courts.state.nh.us/rules/scr/scr-24.htm> and referred me over to Claire, my case manager and she was nice to say that of after working there for 18.5 years that this is what she was told / ordered to do was to " Within 7 days after the time to file a motion for rehearing or reconsideration has expired, " of that she is to go by : " The court may shorten or extend this period of time. " so that of the 10/25 Order of plus 6 days in October to the 31st + 4 days in November = I was to have filed my Motion on 11/4 of add 7 days to that gets it to 11/11 (Veteran's Day" a Monday holiday), so instead of to the NEXT business day of 11/12 THEY/ she chose to do a NOT 11/4 + 7 BUT a 11/4 + 3 = to the SAME day that I filed the Motion to Reconsider and Motion for late entry at 3:43 + 3:53 o'clock p.m. respectfully decided what? to pretend that they issued the Mandate at what? 8:31 a.m. and so really to back-time it!? And did the "court" meaning the judges really decide to spread it up!? I think not, of it a ministerial duty of somehow she decided or was told by a judge there(?) to fast track it out of there!? This crap of treating some of us like "shit" has got to STOP! I paid \$250 for Article 14 "complete"ness there and get shafted by 4 days!!!! So since the Judicial Council is by their duty in the statutes [<https://www.nh.gov/judicialcouncil/laws/index.htm>] RSA Chapter 494: 3 <http://www.gencourt.state.nh.us/rsa/html/LI/494/494-3.htm> of: "II. To survey and study continuously the administration of justice within the state and the organization, procedure, practice, rules and methods of administration and operation of the courts of the state. " and: " III. To devise ways of simplifying judicial procedure, expediting the transaction of judicial business, and of improving the administration of justice." of notice that of NOT just to "expedite" = " happen sooner or be accomplished more quickly. " BUT also that of improving from the word: improve of: " make or become better. " for WHO? The State or other public and private corporations of to be SUPERIOR to that of an individual!? I think not! WHO paid for this case to be done COMPLETE-ly? Me! So onto: " IV. To RECOMMEND and provide general information to the general court, to the supreme court, to the superior court, to the circuit court, to any public official, department or agency or to the state bar association, either upon request or upon the council's own motion, such CHANGES in the law or in the RULES, organization, operation or methods of conducting the business of the courts, or with respect to any other matter pertaining to the administration of justice, as it may deem desirable. " with emphasis ADDED, and so I see there's a NEW Court Clerk there of: "Tim Gudas " <https://www.courts.state.nh.us/courtlocations/index.htm#supreme> as #___ since I remember: Ralph Wood, Howie Zibel, David Peck(?)[Acting? +/or Deputy?] , and Eileen Fox before that, so me now onto # 5. And Claire said to look for the Rules person at their website. So on a search gets to: <https://search.nh.gov/courts-search.htm?q=Rules&goButton=Go> refine to: <https://search.nh.gov/courts-search.htm?q=Rules+Committee&cmd=Search%21> and a call back to Claire and my search for "David Peck" name gets to: <https://www.courts.state.nh.us/committees/adviscommrules/dockets/2017/2017-011-NHRE-404-b-06-26-17-memo-from-attorney-David-Peck.pdf> that it forbidden of to copy & paste and so by my typing of: "Secretary, Advisory Committee on Rules, David Peck, 36 NE Village Road, Concord, N.H. 03301, 603-568-1255) " so a call to there to get this Rule #24 revised so that if for a speed-up to screw the individual, that maybe there has to be NOT just a court judge (in the singular) to just talk verbally to a Court Clerk helper of to fast-track a case back to the lower court for no reason, that a reason has to be for WHY the speed-up? of that put into the file by the signing of ALL judges = the "court" what personnel as it is presumed or ass-u-me-d now!? Six rings to Peck's recorder to be on-the-lookout for this e-mail and DO that of please to place this on the Agenda for the March meeting and/or by Judicial Council advisory too.