

Landmarks in the Law

Current developments in judicial law, legislation, and administrative action together with a foretaste of emergent trends in law and the legal profession for the complete Minnesota lawyer.

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ADMINISTRATIVE LAW**JUDICIAL LAW****■ Minnesota Administrative Procedure Act; rule clarification.**

The Minnesota Supreme Court has held that a 2013 amendment to section 14.63 of the Minnesota Administrative Procedure Act (MAPA) eliminated the requirement that parties seeking *certiorari* review of contested case hearings serve the agency within 30 days—but maintained that requirement for service on parties.

The case involved a claim by Midway against the city of St. Paul for statutory relocation benefits after it was displaced by construction of the Allianz Field soccer stadium. The Office of Administrative Hearings (OAH) denied Midway's claim after a contested case hearing. Midway's petition for *certiorari* review of OAH's decision in the court of appeals quickly became embroiled in a service dispute arising under two MAPA provisions.

MAPA section 14.63 currently provides that a petition for a writ of *certiorari* for review of a contested case proceeding "must be filed with the court of appeals and served on all parties to the contested case not more than 30 days after the party receives the final decision and order of the agency." MAPA section 14.64 provides that review under section 14.63 is instituted by serving a petition for a writ of *certiorari* "upon the agency and by promptly filing the proof of service in the Office of the Clerk of the Appellate Courts[.]" A series of convoluted procedural turns in the court of appeals ultimately resulted in Midway serving the city—but not OAH—within the 30-day timeframe of section 14.63. The city moved to dismiss the appeal, arguing that failure to serve OAH within 30 days was a jurisdictional bar to review. The court of appeals disagreed, finding it had jurisdiction over the appeal under the plain language of these statutory provisions.

The Supreme Court granted review

and affirmed the court of appeals. The Court noted that prior to 2013, section 14.63, which includes the 30-day service requirement, referred explicitly to service "on the agency." But that year the Legislature amended the statute to replace "on the agency" with the current language, "on all parties to the contested case." The Court concluded that the legislative intent of this amendment was that section 14.63 should no longer govern the timing of service on the agency. In a brief footnote, the Court acknowledged the city's policy concerns with this interpretation but suggested that the city seek redress in the Legislature. *In re Midway Pro Bowl Relocation Benefits Claim*, 937 N.W.2d 423 (Minn. 2020).

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CRIMINAL LAW**JUDICIAL LAW****■ Firearms: Expungement by inherent authority itself does not satisfy federal "expungement" requirement for reinstatement of right to carry firearms.**

In 2007, the district court granted respondent's request to expunge his 1996 domestic assault conviction under the court's inherent expungement authority. From 2008 until 2018, respondent was granted a permit to carry a firearm, but his application was denied due to his 1996 conviction. The district court denied respondent's petition for a writ of mandamus, concluding the sealing of respondent's 1996 conviction did not remove or eliminate the conviction as defined under federal law. The court of appeals reversed, finding the 2007 expungement order met the plain meaning of "expunged" in the federal law, 18 U.S.C. §921(a)(33)(B)(ii), and the sheriff appealed.

A sheriff may not issue a permit to carry a firearm to a person prohibited from possessing a firearm under Minn.