Vermont Department of Corrections

Testimony to the Senate Judiciary Committee

The Vermont Supreme Court held that no liberty interest existed in furlough, which was cited as the controlling Vermont law by the Second Circuit Court of Appeals in Ladd v. Thibault:

> "The Vermont Supreme Court held that an inmate's 'status under furlough more closely resembles that of an inmate seeking a particular right or status within an institution, rather than that of a parolee,' and 'no liberty interest in furlough status may be asserted directly under the United States Constitution.' Conway v. Cumming, 161 Vt. 113, 636 A.2d 735, 736-37 (1993); see State v. Greene, 172 Vt. 610, 782 A.2d 1163, 1166-67 (2001) (citing Conway for the rule that Vermont's furlough program does not create a constitutionally protected liberty interest); Parker v. Gorczyk, 170 Vt. 263, 744 A.2d 410, 417 (1999) (referencing Conway's discussion of the 'qualitative difference between prisoners' interest in release from parole as opposed to furlough')."

Ladd v. Thibault United States Court of Appeals, Second Circuit Dec 6, 2010
402 F. App'x 618 (2d Cir. 2010)

In State v. Greene, the Vermont Supreme Court affirmed its holding that no liberty interest in furlough status may be assessed and further expanded on its rationale:

> "The Greene Court explained that 'one of the defining aspects of furlough' is that '[s]upervision of plaintiff by the Commissioner both under law and practice [is] not diminished by ... furlough status.' Id. at 612 (quoting Conway, 161 Vt. at 116). 'In other words, the degree of decisional control over [Plaintiff] by the corrections department is the same whether [Plaintiff] is on furlough or is incarcerated.'" Id.

State v. Greene, 172 Vt. 610.