

Attorney Moves to Dismiss DEP Traffic Ticket

In addition, the case is being prosecuted by the Ulster County District Attorney's Office amid questions about how a new judge was assigned to the case.

A charge of passing in a no-passing zone against Lake Katrine resident Hugh Searles is expected to be reviewed Nov. 8 by Town Justice John Parker, seven months after fellow Justice Athena Groelle apparently agreed to move the case to another town court.

Matthew Tully, Searles' attorney, has challenged the authority of the city police agency to issue tickets outside reservoir property.

"The matter was sent up to County Court for reassignment," Tully said. "Sometime after April 7 but before Aug. 15, the other judge on his own revoked Judge Groelle's order, sending this up to county court and kept it himself. One of the elements of the motion was whether or not a judge of the same level can override another judge. My argument here is that the other judge is not an appellate court."

Neither of the Hurley justices were immediately available Monday for comment.

Prosecution was taken over by the county District Attorney's Office after questions arose over jurisdiction of the police agency, which on Nov. 25, 2003, issued Searles a ticket for passing another vehicle in a no-passing zone on state Route 28.

Tully said handling of the case should also be grounds to dismiss the case.

"The motion to dismiss deals with ... New York City DEP having jurisdiction off city property in Ulster County," he said. "It also deals with technical issues, such as, the DEP and the (Ulster County) District Attorney Office failing to serve a supporting deposition as required under the Criminal Procedure Law."

Contacted for comment Monday, District Attorney Donald A. Williams said details of how the depositions were requested and delivered were not immediately available. He said his office would not ordinarily become involved with traffic tickets, but that jurisdiction of the Department of Environmental Protection Police raises "complicated issues of law" affecting local residents.