**History of the Supreme Court**

Chapter 2 § 21 of the 1777 Vermont Constitution established a supreme court. The Vermont Supreme Court is the highest court in the Vermont court system and performs five basic functions. It hears final appeals from all cases originating in lower Vermont courts and from certain state agency administrative proceedings; establishes the rules of civil, criminal, family, and appellate procedure; administers the Vermont court system; admits attorneys into practice; and serves as the disciplinary authority for all attorneys and judicial officers. The Supreme Court has the constitutional responsibility to interpret the law, meaning that it does not review the facts of a case, but clarifies questions of law as applied to the facts.

The Vermont Supreme Court consists of the Chief Justice and four Associate Justices, but the number of judges has varied from time to time.

During its first year of sessions in 1778, the Vermont General Assembly provided for “inferior courts” with judges elected by freemen, and a “superior court” of judges elected by the legislature. In 1782, the superior court was replaced by a “supreme court of judicature”, which met in each county once a year. This means that prior to 1782, the term “Superior Court” was often used for the Supreme Court. Supreme Court powers were broadly defined, and included civil and criminal cases brought by appeal or original process. By 1787 the yearly one-week session in each county had proved to be insufficient, so the legislature added more sessions at additional locations.

In early years the supreme court was the highest appeals court, but it also held jury trials, heard the same kinds of civil cases as county courts, divorce cases, and handled almost all criminal matters, including adultery, polygamy, treason, counterfeiting, forgery, perjury, incest, rape, and any crimes where the penalty was corporal punishment. Corporal punishment ended after the 1809 construction of a state prison in Windsor.

The legislature restructured Vermont’s courts in 1824. The Supreme Court would now consist of one chief judge and three assistant judges who, in addition to supreme court duties, served as presiding judges in county courts. At the same time, full criminal jurisdiction was extended to the county court. In 1828 the number of assistant judges increased from three to four. Chancery suits moved from the Supreme Court to county courts in 1840.

In 1849 Supreme Court judges were relieved of county court duties by four circuit judges elected by the legislature. This lasted only until 1856, when they resumed their county court role, and the bench was expanded to six. A seventh judge was added in 1870, and this was the same time that divorce jurisdiction moved to county court. Beginning in 1892 a general Supreme Court term was held in Montpelier, and by 1908 all general sessions were being held there, with a few special sessions around the state. Today, all terms are held in Montpelier.

In 1906 the legislature again replaced Supreme Court judges with circuit judges in county courts. From 1907 on, Supreme Court judges had no role in county courts. Supreme Court terms were held in Montpelier by three assistant judges and one chief judge, increased to
a total of five judges in 1908. This structure has continued to the present and is now mandated by the Vermont constitution. Beginning in 1912 supreme court judges were called “justices”.

The legislature elected Supreme Court Justices until 1974. They were almost always drawn from the ranks of superior court judges in a seniority system. Article 46 of the Constitutional Amendments ended this practice. Supreme and superior court judges are now appointed to six-year terms by the Governor from a list submitted by a judicial nominating board and confirmed by the Senate. That same constitutional amendment called for the Supreme Court to assume the role as administrative head of the judicial branch.

A unified judiciary, under the central administrative control of the Supreme Court, was created in 2010. Now, and since the late 20th century, appeals are considered either before a three-justice panel or the full Court. Cases assigned to a three-justice panel generally involve fewer issues, in which the applicable law is settled, does not involve new legal principles, or is not of substantial public interest. The decision of a three-justice panel must be unanimous and a short written decision is issued in each case. The practice of judicial opinion began in 1797 when the General Assembly passed a law requiring each Supreme Court judge to give his opinion in writing, to be recorded by the court clerk. In 1823, the Legislature appointed a reporter to collect and officially publish the decisions of the Vermont Supreme Court. These published decisions are known as the Vermont Reports. As a general rule, those decisions settled on by a three-justice panel are not included for publication.

Description of Records

Supreme Court briefs are written statements setting out the basis for an argument in a case that has been appealed with the Vermont Supreme Court. These often include a statement of the issues, references to legal authorities, and an argument for the relief sought. Briefs will sometimes also include printed case material, which contain extracts from the case file that are relevant to the appeal. This can include records of proceedings and other actions, as well as exhibits.

Before a case is argued, the Supreme Court Justices read the briefs to familiarize themselves with the facts and points of law involved. After reading the briefs, they make the decision whether to hear the case before a three-justice panel or the full court.

Every year, some case decisions are published in the Vermont Reports, meaning that they are precedent-setting cases that can be cited as legal authority in future cases. This record series contains briefs related to cases whose decisions are published in the Vermont Reports, as well as briefs related to cases that were not published. As a general rule, decisions issued by a three-justice panel are not published in the Vermont Reports.
Arrangement of Records

These records are in a variety of formats, including paper, bound volumes, microfiche, and digital.

Supreme Court briefs are arranged primarily in chronological order, then alphabetically by case name. However, depending upon the date of the case and the record format, arrangement may vary. Any printed case material will be filed together with the corresponding brief.

Cases before 1890
All briefs are in bound volumes. Regardless if the brief is related to a published or unpublished case, it should be bound with all other briefs from that year. If a year is bound in more than one part, look at the index in the last part. This will tell you which part has the brief you are looking for.

Cases after 1890, published in Vermont Reports
With these briefs, it is important to have the Vermont Reports citation (e.g. 101 Vt 456).
- Briefs related to cases published in Vermont Reports volumes 63 – 135 (1890 - 1970s) are in bound volumes. If the volume is in multiple parts, look at the index in the last part. This will tell you which part has the brief you are looking for.
- Briefs related to cases published in Vermont Reports volumes 136 – 171 are on microfiche. The briefs are arranged by volume number, then alphabetical by case name.
- Briefs related to cases published in Vermont Reports volumes 172 and after are in paper format. Briefs are arranged by volume number, then alphabetical by case name.

Cases after 1890, unpublished
With these briefs, it is very important to know the case docket number, or at least the approximate year the case was entered on the Supreme Court docket.
- Briefs for cases up to 1915 are in bound volumes. If the volume is in multiple parts, look at the index in the last part. This will tell you which part has the brief you are looking for.
- Briefs for cases between 1916—1991 are not in the Vermont State Archives. Please contact the Supreme Court for more information.
- Briefs for cases after 1992 are in paper format. Briefs are arranged first by the year they were entered on the docket, then alphabetical by case name.

Searching Tips
Indexing and arranging aren’t always perfect. Try looking under other words than just names, such as “Town”, “Estate”, “Trust”, “Appeal of”, “Petition of”, “In re:”, etc. State or criminal cases should be filed under “State v. Whomever”. When in doubt, try looking under the name of the other party. Case names sometimes change depending upon which party is the appellant/appellee.

Other Resources

A complete set of the Vermont Reports volumes is available in our Reference Room. Each volume is indexed and can help you identify cases. The State Archives also holds a large amount of early Supreme Court case files for most counties.
Original entry orders and opinions for Supreme Court cases are still in the custody of the Supreme Court. If you are interested in those records, you should contact the Supreme Court for access.

For more information about researching court records, please see our Historical Research with Vermont Court Records guide.

Contact Us

If you are interested in doing research using these or any other records in the State Archives, please visit or contact our Reference Room. We are open Tuesday – Friday, 9 AM – 4 PM. We are closed Mondays, state holidays, and stop pulling records from our vaults at 3:30 PM.

Vermont State Archives Reference Room
1078 Route 2, Middlesex
Montpelier, Vermont 05633-7701
802-828-2308
archives@sec.state.vt.us