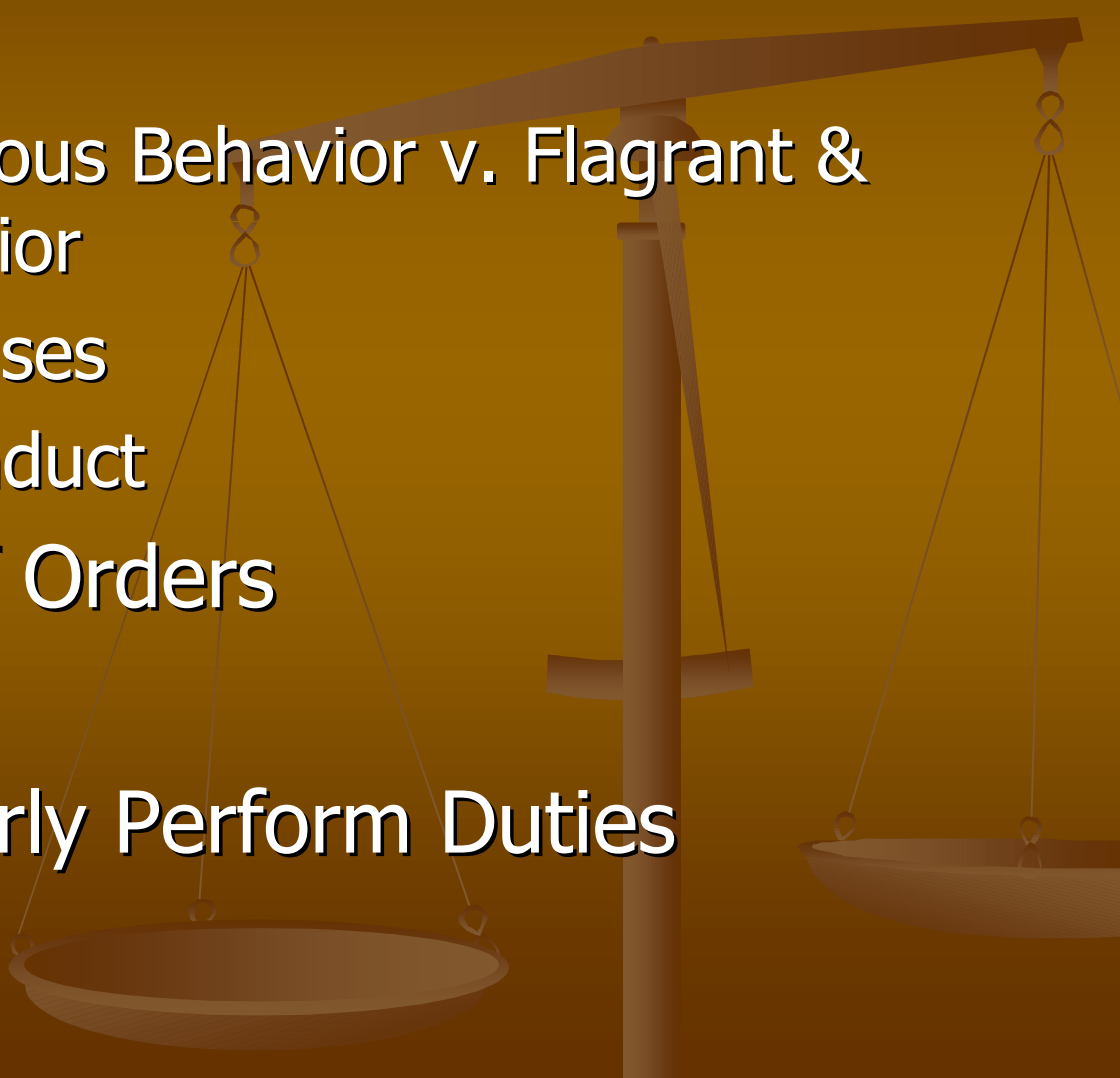


Civil Service Commissions


Disciplinary Procedures



Section 400.18 & 400.19

- Misconduct
 - Minor & Innocuous Behavior v. Flagrant & Injurious behavior
 - Public Safety cases
 - Off-duty Misconduct
 - Disobedience of Orders
 - Neglect of Duty
 - Failure to Properly Perform Duties
- 

Examples of Misconduct

- Profanity & Disrespect for Authority
 - Extra marital activities & veiled threats
 - Drinking with minors
 - Excessive Force
 - Resisting Arrest
 - Criminal Conduct by Police Officers
 - Residency issues
- 

Appeal Process



- Appeal w/i 14 days (Sec. 400.20)
- Specification of Charges filed w/i 14 days (Sec. 400.22)
 - Charges must include past discipline in order to consider
- Hearing scheduled w/i 10 days (Sec. 400.23)
- Hearing held w/i 5-20 days (Sec. 400.23)
- Public Hearing (Sec. 400.26)



Dolan v. CSC of City of Davenport

634 NW2d. 657 (Iowa, 2001)

Facts



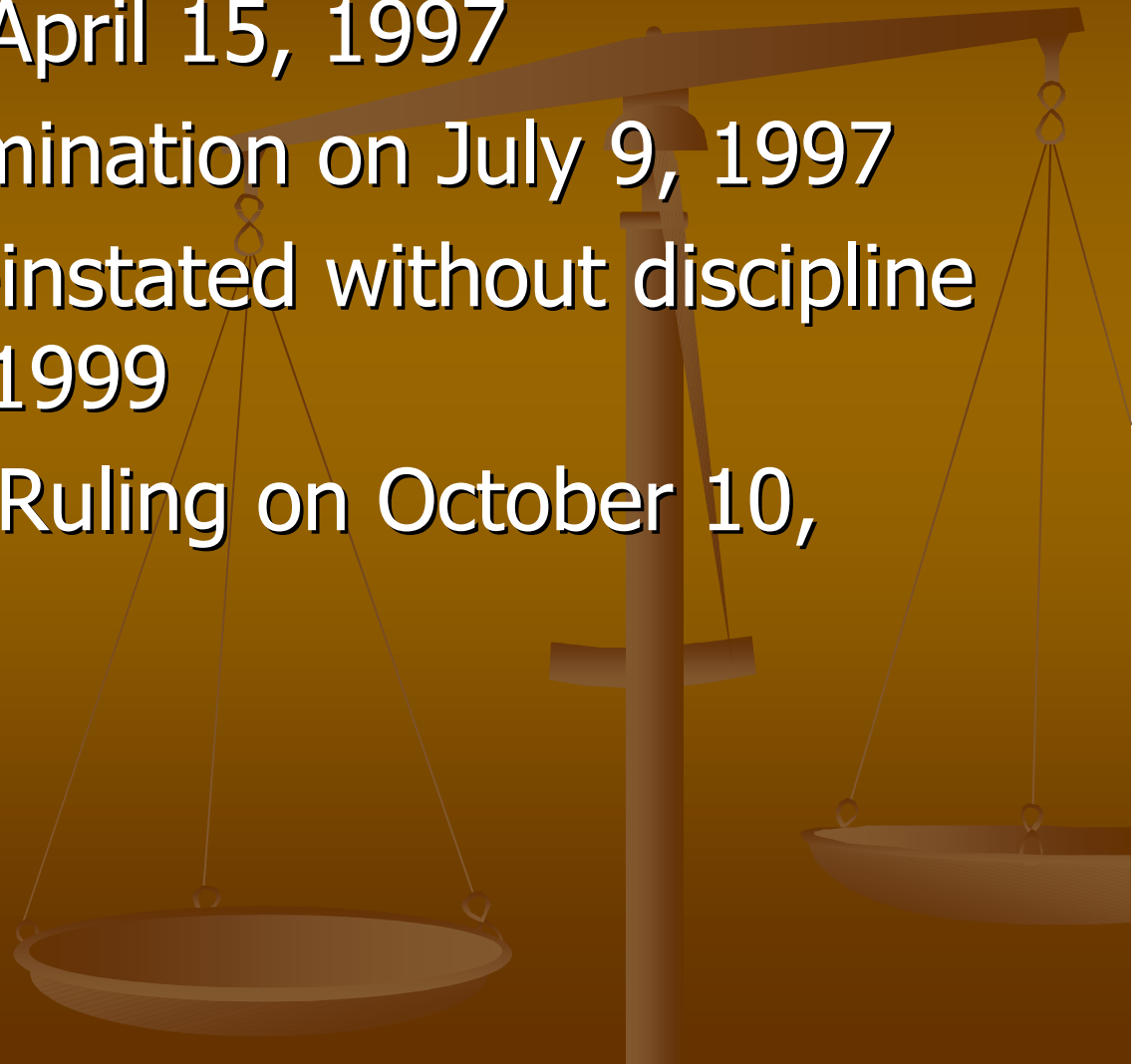
- 15 year Firefighter (promoted as Engineer)
- Misconduct: Incident on April 15, 1997
- One vehicle accident/off-duty/private vehicle/snowy conditions
- LeClaire Police suspected alcohol/OWI arrest
- “Wait a minute”/IWOWA/tumble down stairs

Prior Discipline History

April 21, 1986	48 hours suspension	Off-duty arrest for OWI
April 22, 1987	5 month suspension	Loss of driver's license as habitual driver
April 22, 1996	24 hour suspension	Late to work third time
November 18, 1996	120 hour suspension	Off-duty arrest for harassment

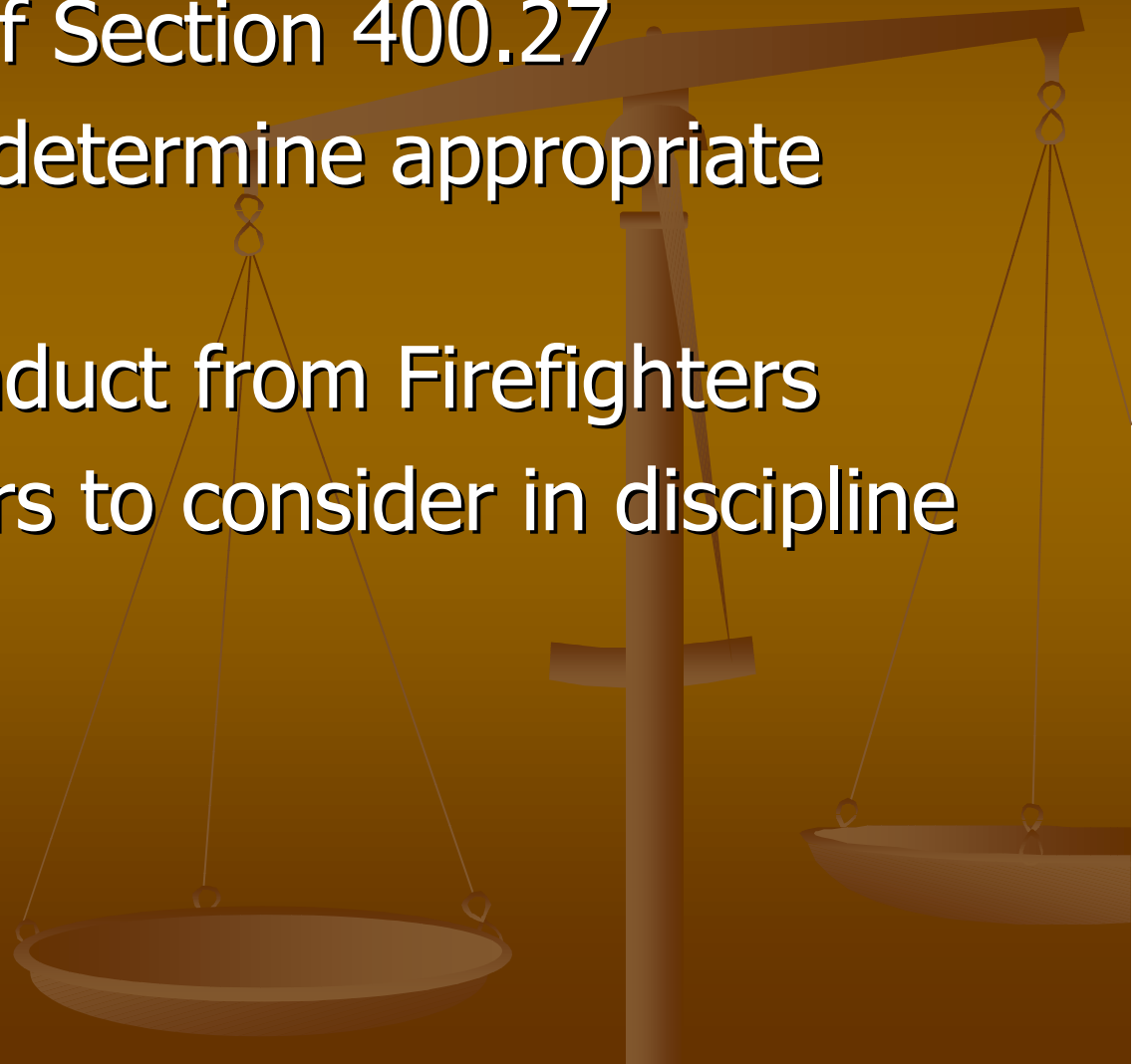
Procedural History

- Terminated on April 15, 1997
- CSC upheld termination on July 9, 1997
- District Court reinstated without discipline on February 8, 1999
- Supreme Court Ruling on October 10, 2001



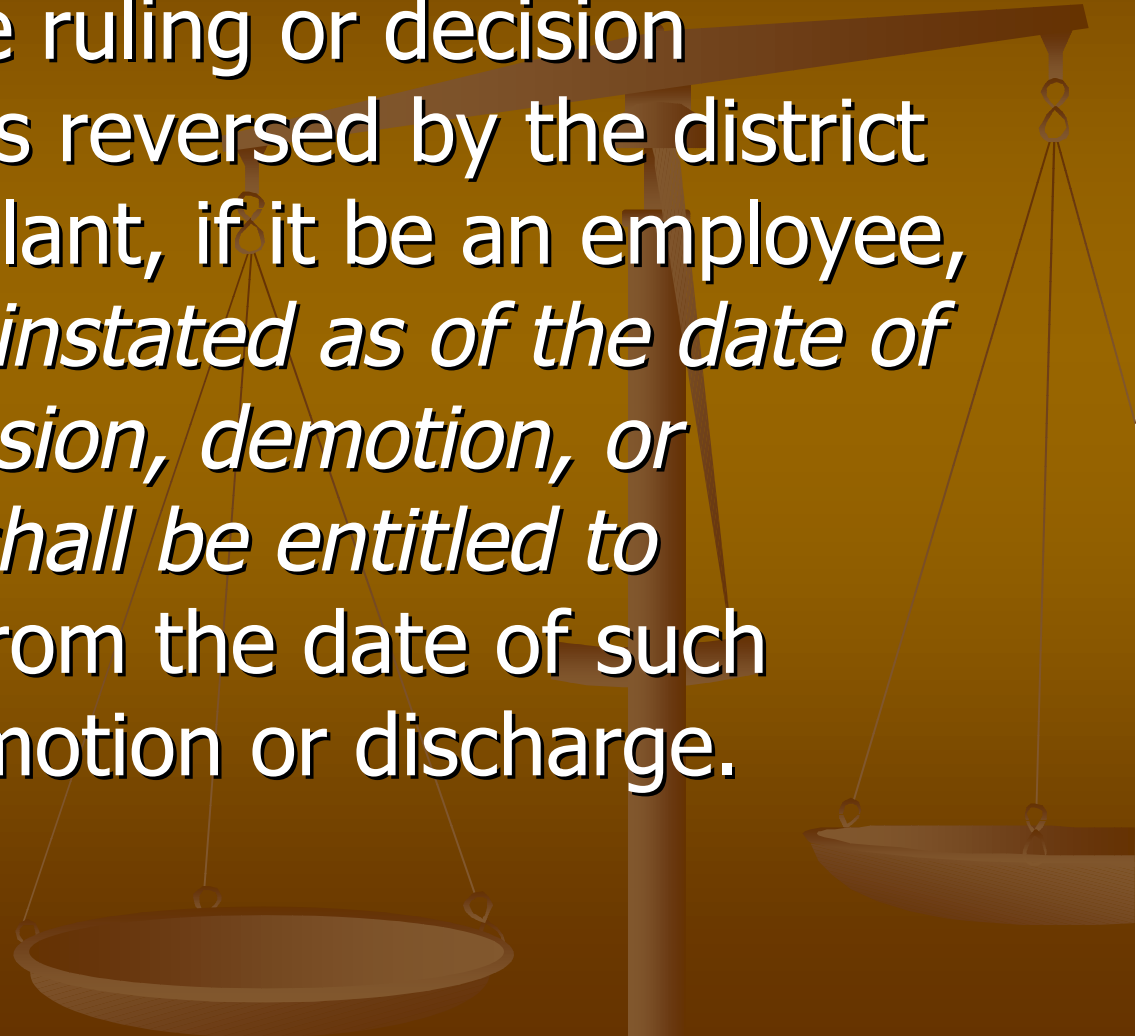
Issues before the Court

- Interpretation of Section 400.27
- Court ability to determine appropriate discipline
- Off-duty misconduct from Firefighters
- Mitigating factors to consider in discipline



Interpretation of Sec. 400.27

- In the event the ruling or decision appealed from is reversed by the district court, the appellant, if it be an employee, *shall then be reinstated as of the date of the said suspension, demotion, or discharge and shall be entitled to compensation from the date of such suspension, demotion or discharge.*

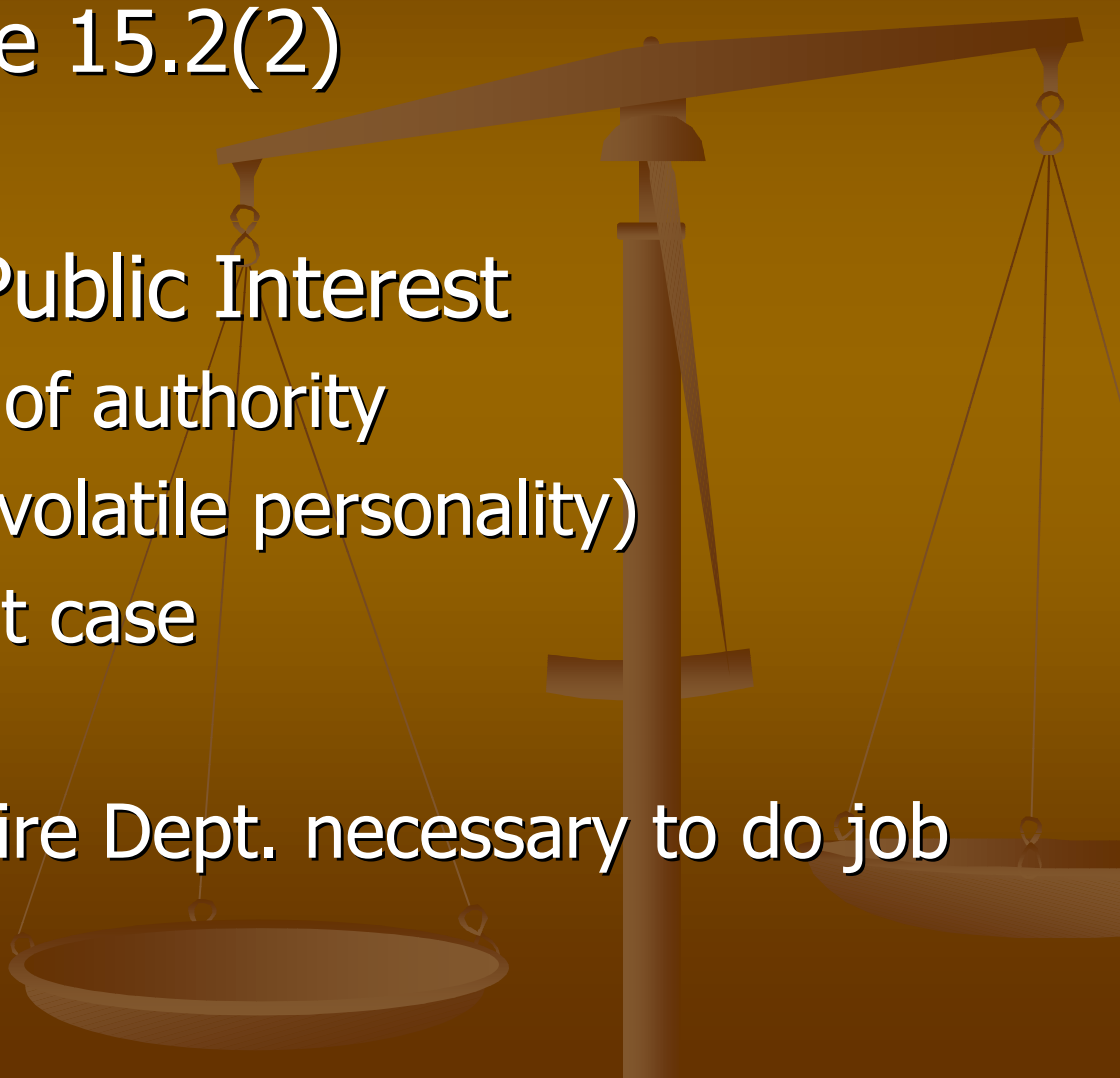


Standard of Review



- District Court felt no authority to modify CSC decision
- District Court review is trial *de novo* v. *de novo* review.
 - Trial *de novo* permits the district court to select remedies available to CSC
- Legislature provide for trial *de novo* did not intend to limit review to record
- Supreme Court entitled to modify CSC decision
 - *De novo* review so no new evidence heard

Appropriate Discipline

- Department Rule 15.2(2)
 - Precedents
 - Detrimental to Public Interest
 - Lack of respect of authority
 - Past discipline (volatile personality)
 - Past harassment case
 - Media coverage
 - Public trust in Fire Dept. necessary to do job
- 

Mitigating Factors



- No vendetta by officers
- Substance abuse rehabilitation significant time lapse
- Good firefighter circumvented by problematic discipline history
- Other cases:
 - Sexual harassment
 - New evidence didn't do misconduct

Summary



- District Court and Supreme Court have same discipline options as City and CSC
- Firefighters treated same as Police Officers regarding standard of conduct and off-duty actions
- Alcohol abuse and rehabilitation most likely not a mitigating factor
- Appropriate discipline dependant on rules and precedents

Remaining CSC issues

- Standard of Conduct for non Public Safety Employees
- Back-pay (Sec. 400.27)
- Seniority (Sec. 400.12)

