

2000 RHODE ISLAND ACLU CASE DOCKET

Cases Active January-December 2000

* indicates case opened in 2000; # indicates case closed in 2000

#Ahlburn v. Clark. CHURCH-STATE. This suit challenges a state law which provides a sales tax exemption for Bibles but no other literature. The R.I. Supreme Court held the statute unconstitutional; the state, after considering filing a further appeal, did not do so. Cooperating Attorney: Kevin Brill

#Alexandre v. State of Rhode Island, Division of Public Utilities and Carriers. RIGHT TO TRAVEL. Federal lawsuit challenging a state law requiring state residence to obtain a taxicab drivers' license. While the suit was pending, the General Assembly amended the law to authorize licenses for out-of-state residents. Cooperating Attorney: Amato DeLuca

#In re: Amy L. STUDENTS' RIGHTS. "Friend of the court" brief filed before the Commissioner of Education challenging a high school senior's exclusion from all school-related activities for a year after admitting to taking a sip of alcohol at a private home before a school dance. The Commissioner ordered her reinstated to the sports team, but upheld her exclusion from social activities. Cooperating Attorney: Amy R. Tabor

#Ballard v. Chariho School Committee. STUDENTS' RIGHTS. Administrative appeal challenging a school principal's unilateral withdrawal of money from the students' senior class fund to pay for school repairs caused by student vandalism. The school agreed to adopt policies barring the use of student funds for purposes other than those for which they were collected. Cooperating Attorney: Dianne Izzo

*#Boyd v. R.I. Department of Corrections. PRIVACY. In this case, the Affiliate challenged a subpoena served on it by the state, seeking copies of all Affiliate records relating to the plaintiff, a *pro se* inmate challenging the medical treatment he received at the ACI. The plaintiff authorized release of the documents to the state. Cooperating Attorney: Lynette Labinger

*Brown v. Prignano. OPEN RECORDS/POLICE PRACTICES. Open records lawsuit against the Providence Police Department for releasing only heavily-redacted copies of its policies and procedures governing the Department's use of pepper spray. Two days after the suit was filed, the defendant released unedited copies of the documents; a request for attorneys fees is pending. Cooperating Attorney: Carolyn A. Mannis

*Brown v. Providence Police Department. OPEN RECORDS. Open records lawsuit challenging police department's refusal to release copies of its policies governing the city's use of video surveillance cameras in public street locations and in police cars. Cooperating Attorney: Staci L. Sawyer

Direct Action for Rights and Equality (DARE) v. Gannon. OPEN RECORDS/POLICE MISCONDUCT. Open records lawsuit against the Providence Police Department for refusing to release internal records of police brutality complaints. After the state Supreme Court ruled the records were public and the lower court ordered defendants to turn over the records at no cost and to pay attorneys' fees, the defendants filed a second appeal. Cooperating Attorneys: Michael Sarli, Dennis Grieco II

Doeg v. Ferguson. RIGHTS OF THE POOR. Class-action suit challenging, on due process grounds, the Department of Human Services' procedures in conducting food stamp fraud hearings. A preliminary injunction, preventing the Department from taking action against most class members, has been issued. Cooperating Attorney: Thomas W. Lyons

*#Rowey v. Children's Friend and Services. PRIVACY. "Friend of the court" brief urging review, based on privacy and due process concerns, of a lower court decision requiring a woman who gave up her child for adoption 17 years previously to disclose intimate information about herself to the adoptive family in their "wrongful adoption" lawsuit against the adoption agency. The R.I. Supreme Court denied the petition for review. Cooperating Attorney: Amy R. Tabor

#Rubano v. DiCenzo. GAY RIGHTS. The ACLU joined in a "friend of the court" brief, in response to certified questions from the Family Court, supporting that court's jurisdiction under state law to hear a child visitation petition from a former same sex partner of the biological mother. The state Supreme Court issued a favorable ruling. GLAD Attorney: Mary Bonauto

Solas v. Emergency Hiring Council of the State of Rhode Island. OPEN MEETINGS. Lawsuit challenging the failure of the Governor's Emergency Hiring Council to abide by the Open Meetings Law. A favorable ruling was issued, and the state has appealed. Cooperating Attorney: Howard Merten

#South County Sand and Gravel, Inc. v. The South Kingstown Neighborhood Congress, Inc. SLAPP SUIT. Defense representation of a community group and its members sued for defamation by a developer for statements made at a Town Council Meeting and in an article in the group's newsletter. After appealing a favorable ruling, the plaintiffs dismissed their appeal and agreed to pay attorneys fees to the defendant. Cooperating Attorney: Andrew Prescott

#Theberge v. Rocco. SEARCH AND SEIZURE. Federal lawsuit challenging police officers' warrantless entry into, and search of, a house in order to arrest a person seen to have engaged in underage drinking. A settlement agreement was entered, in which the defendants revised their search policies to meet constitutional standards and paid damages and attorneys fees. Cooperating Attorney: Merlyn O'Keefe

*#Vinagro v. Reitsma. SEARCH AND SEIZURE. "Friend of the court" brief challenging the constitutionality of plans by the Department of Environmental Management to search and seize ground samples from the plaintiff's property without a warrant or consent. After a court hearing in which the Affiliate participated, the Department indicated it no longer had any plans to search the property, and the suit was voluntarily dismissed. Cooperating Attorney: Andrew Horwitz

#Westenfelder v. Ferguson. RIGHTS OF THE POOR. Federal lawsuit challenging a state law providing reduced welfare benefits to residents who have not lived in Rhode Island for the immediately preceding twelve months. A favorable ruling was issued, and attorneys' fees awarded. Cooperating Attorney: David Cicilline

*#Whitehouse v. DeAscentis. RIGHTS OF EMPLOYEES. Representation of a water department employee who is the subject of a court petition seeking his removal as a school committee member, based on a law barring municipal employees, except teachers, from holding public office in the city or town where they are employed. The General Assembly favorably amended the statute, making the case moot. Cooperating attorney: Mary E. Levesque

Whitehouse v. Moran. RIGHTS OF EMPLOYEES. State court representation of a school teacher who is the subject of a court petition seeking his removal from the local Board of Canvassers based on a state law barring Board members from being employed by any branch of government. Cooperating Attorney: Mary E. Levesque

*In re Ethics Advisory Panel Opinion No. 2000-05. ACCESS TO THE COURTS. This is a petition for review of a Supreme Court Ethics Advisory Panel opinion which held that the R.I. ACLU's fee-sharing policy with cooperating attorneys violates a Rule of Professional Conduct that bans the sharing of fees with non-lawyers. Cooperating Attorney: Lauren Jones

#Farrell v. Whitehead. RIGHTS OF WHISTLEBLOWERS. "Friend of the court" brief filed in this whistleblower's case on behalf of a local firefighter Union President and two other officers who were ordered to face a disciplinary hearing before the Union's International Board after they filed a state ethics complaint against a former union official. A temporary restraining order was granted, and defendants thereafter agreed not to proceed with a disciplinary hearing. Cooperating Attorney: Christopher P. Corbett

*Garcia v. Immigration and Naturalization Service. RIGHTS OF IMMIGRANTS. "Friend of the court" brief in this federal appeal in support of a juvenile challenging his mandatory deportation after being found guilty in adult state court of an offense which, due to his age, would not have constituted a deportable conviction under federal law. Oral argument has been held. Cooperating Attorney: Randy Olen

Garcia-Nunez v. Reno. RIGHTS OF IMMIGRANTS. Habeas corpus petition filed on behalf of an immigrant facing mandatory deportation for a criminal offense committed before the federal law requiring such deportation was enacted. Proceedings are pending. Cooperating Attorney: Randy Olen

Global Waste Recycling, Inc. v. Mallette. SLAPP SUIT. Defense representation of a couple sued for defamation for statements they made to the media expressing environmental concerns about the plaintiff's recycling activities. A ruling dismissing the suit under the state's anti-SLAPP suit law was upheld by the state Supreme Court; a motion for attorneys fees is pending. Cooperating Attorney: Mark W. Freel

Heal v. Heal. ACCESS TO THE COURTS. "Friend of the court" brief challenging a Family Court judge's summary imposition of monetary sanctions on an attorney for filing a "frivolous" request for a change in custody on behalf of his client. The R.I. Supreme Court agreed that the judge's imposition of the fine without notice violated due process, and ordered that the attorney be given a hearing. Cooperating Attorney: Amy R. Tabor

Hometown Properties v. Fleming. SLAPP SUIT. Successful defense representation in R.I. Supreme Court of a SLAPP suit victim who was sued for defamation based on a letter she had sent the Department of Environmental Management raising concerns about a local landfill. An award of attorneys fees is pending, as is defendant's privately-counseled counterclaim. Cooperating Attorney: Amelia Edwards

*Inmates of the Rhode Island Training School for Youth v. Lindgren. RIGHTS OF JUVENILES. The ACLU has taken over this long-running class-action lawsuit challenging the constitutionality of conditions at the Training School. A comprehensive revised consent decree was recently submitted to the court and approved. Cooperating Attorney: John W. Dineen ACLU National Prison Project: Donna Lee

*Kessler v. City of Providence. FREEDOM OF SPEECH. Federal lawsuit challenging the constitutionality of a Providence police department "gag rule" barring police officers from speaking to the media without approval of the chief. Cooperating Attorney: John W. Dineen

*Martinelli v. Hopkins. FREEDOM OF SPEECH. "Friend of the court" brief challenging a Superior Court ruling holding a Town liable for damages for granting an entertainment license to a musical festival at which a person was injured. The brief argues that imposing unreasonable investigatory burdens on towns before the issuance of such licenses would likely lead to inquiries, and license denials, that violate the First Amendment. Cooperating Attorney: John A. Glasson

*#Martinez v. Pawtucket Housing Authority. RACE DISCRIMINATION. Racial discrimination complaint

filed on behalf of a Puerto Rican temporary custodian at a local housing authority who was passed over for a permanent position after he “failed” a newly-devised written test, and who was the victim of other bias-related incidents. Settlement negotiations ensued, and the defendant offered the complainant a full-time position. Cooperating Attorney: Noelle Clapham

Maynard v. Hibbard. OPEN RECORDS. Open records lawsuit filed against the Town of Charlestown for refusing to make public the billing records from, and payments to, attorneys representing the Town in a zoning case. The Court dismissed the suit, and an appeal has been filed. Cooperating Attorney: Staci L. Sawyer

*#In re Miceala C. ACCESS TO THE COURTS. “Friend of the court” brief challenging the constitutionality of a state law declaring that inmates serving life sentences are “civilly dead” for almost all legal purposes. After the parties were asked to address the applicability of the statute in this termination of parental rights case, and briefs were filed on the issue, the R.I. Supreme Court, in an amended order, indicated it would address the merits of the appeal without relying on the “civil death” statute. Cooperating Attorney: Thomas Mirza

*#Parent v. School Committee of the Town of Johnston. STUDENTS’ RIGHTS. Federal lawsuit challenging, on First Amendment and due process grounds, the summary and indefinite suspension of a high school student based solely on the content of an English class composition. In the midst of a suspension hearing ordered by the court, the school agreed to reinstate the student. Cooperating Attorney: John W. Dineen

#Parker v. School Committee of the Town of Westerly. STUDENTS’ RIGHTS. Administrative challenge to the suspension of a high school student for wearing a rock band T-shirt with the numerals “666” on it, which administrators claimed was “disruptive.” The Commissioner of Education ruled the suspension invalid. Cooperating Attorney: John W. Dineen

*#Perry v. East Providence School Committee. SEX DISCRIMINATION. Challenge to a school district’s conduct in limiting the selection of a special education aide position to men only. A settlement agreement was entered in which the district agreed to no longer advertise openings for these positions as gender-restricted without formal approval from the state Human Rights Commission. Lynette Labinger

Pontbriand v. Sundlun. PRIVACY. State lawsuit challenging the Governor’s release to the media of information about depositors with more than \$100,000 in accounts at closed credit unions. The state Supreme Court ordered that a trial be held on the plaintiffs’ privacy claims. Cooperating Attorneys: John Glasson, Edward Pepe.

*#Reitsma v. Vinagro. SEARCH AND SEIZURE. “Friend of the court” brief challenging an injunction sought by the Department of Environmental Management to allow the agency to search the defendant’s property at any time without a warrant. The ACLU has been granted intervenor status in the case. Cooperating Attorney: Andrew Horwitz

#R.I. Association of Realtors v. Pine. FREEDOM OF SPEECH. Federal lawsuit challenging the constitutionality of a state law which bars any use of public records for commercial purposes. A ruling striking down the statute was affirmed on appeal, and attorneys’ fees were also awarded. Cooperating Attorney: Mark W. Freel

Rhode Island Medical Society v. Whitehouse. REPRODUCTIVE FREEDOM. Federal lawsuit challenging the constitutionality of a state law banning so-called “partial birth abortions.” A favorable ruling was appealed by the state. Cooperating Attorney: Lynette Labinger. ACLU Reproductive Freedom Project Attorneys: Catherine Weiss, Talcott Camp, Caitlin Borgmann