

2001 RHODE ISLAND ACLU CASE DOCKET

Cases Active January-December 2001

* indicates case opened in 2001; # indicates case closed in 2001

*In re: Ang Souvannaphavoung. RIGHTS OF IMMIGRANTS. Appeal before the Executive Office for Immigration Review to halt deportation removal proceedings against a Laotian immigrant who fears persecution if returned to his native land. An immigration judge ruled that the claimant qualifies for asylum. Cooperating Attorney: Susan Mills

*Bonas v. Town of North Smithfield. VOTING RIGHTS. Federal lawsuit challenging a town's decision not to hold regularly-scheduled local elections in 2001, relying on the results of a 1998 referendum which authorized a change in town elections from odd to even-numbered years "beginning in the year 2002." The district court ruled that the Town had violated plaintiffs' right to vote and ordered that an election be held, and the appellate court agreed. A motion for attorneys fees is pending. Cooperating Attorney: Howard Merten

#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 officers' use of pepper spray. Two days after the suit was filed, the defendant released unedited copies of the documents. Attorneys fees were also paid. 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 use of video surveillance cameras in public street locations and in police cars. A court has ordered their release. Cooperating Attorney: Staci L. Sawyer

*#Croce v. State of Rhode Island. DISCRIMINATION. "Friend of the court" brief opposing the state's position that it has sovereign immunity from suit under the R.I. Civil Rights Act. The Court rejected the state's argument. Cooperating Attorney: Robert Savage.

*#Derek D. v. Cumberland School Committee. STUDENTS' RIGHTS. Administrative appeal of the ten-day suspension of a high school student for "sexual harassment" for writing at home a sexually-explicit song about a former teacher and posting the song on Napster. A hearing officer upheld the suspension. Cooperating Attorney: John W. Dineen

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, the lower court ordered defendants to turn over the records at no cost and to pay attorneys' fees. Defendants filed a second appeal. Cooperating Attorney: Dennis Grieco II

*#Jane Doe v. Foster-Glocester School Committee. STUDENTS' RIGHTS. Administrative "zero tolerance" appeal on behalf of a student barred from going on a school chorus trip based on a suspension she had received a month earlier for allegedly making threats against other students. A hearing officer upheld the school's action. Cooperating Attorney: Dianne Izzo

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

In re Ethics Advisory Panel Opinion No. 2000-05. ACCESS TO THE COURTS. 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. After the petition was filed, the ACLU and the Panel agreed on adoption of a rule change to explicitly allow such a policy. That proposal is pending before the Supreme Court, while the petition is held in abeyance. Cooperating Attorney: Lauren Jones

*Fischbach v. Zurier. FREEDOM OF SPEECH. Lawsuit challenging a Providence School Board policy barring members of the general public from mentioning the name of any person during the public comment portion of School Board meetings. A permanent injunction barring enforcement of the policy was issued, and a motion for attorneys fees is pending. Cooperating Attorney: Amy R. Tabor

*Flowers v. Fiore. RACIAL PROFILING. Federal lawsuit on behalf of an African-American man who was stopped in his car and detained at gunpoint by Westerly police in a case of "racial profiling." The suit seeks declaratory relief and compensatory and punitive damages. Cooperating Attorney: David N. Cicilline

#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. The Court rejected the appeal. 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; attorneys fees were also awarded, but have not yet been paid. Cooperating Attorney: Mark W. Freel

*#Heaney v. Lincoln Housing Authority. ELECTIONS. State lawsuit challenging the cancellation of a resident housing board election because a housing official objected that the plaintiff's candidacy had no opposition. After suit was filed, the defendants agreed to allow the election to proceed as scheduled. Cooperating Attorney: Gary Berkowitz

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. In settlement of the victim's privately-counseled counterclaim, the plaintiffs have agreed to pay \$400,000 in damages, and attorneys fees for the defense of the underlying SLAPP suit. 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 submitted to the court and approved. Cooperating Attorney: John W. Dineen ACLU National Prison Project: Mohamedu Jones

Kessler v. City of Providence. FREEDOM OF SPEECH. Federal lawsuit challenging a Providence police department "gag rule" barring police officers from speaking to the media without approval of the chief. The court struck down the policy; a motion for attorneys fees is pending. Cooperating Attorney: John W. Dineen

*Lonardo v. Town of Smithfield. FREEDOM OF SPEECH. Federal lawsuit challenging a Town's decision to deny a Sunday sales license to an adult video store. The Court ordered issuance of the license. A request for further relief, in the form of monetary damages, is pending. Cooperating Attorney: John W. Dineen

Martinelli v. Hopkins. FREEDOM OF SPEECH. “Friend of the court” brief opposing a Superior Court ruling holding a Town liable for damages for granting an entertainment license to a music 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. Oral argument has been held. Cooperating Attorney: John A. Glasson

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

*Multnomah County Public Library v. USA. FREEDOM OF SPEECH. Federal lawsuit filed by the National ACLU, in which a Rhode Island-based web site is a named plaintiff, challenging the constitutionality of a federal law requiring libraries receiving federal funds to install “technology protection measures” on all their Internet access terminals in order to block access to sites that are “harmful to minors.” Trial is scheduled for February 2002. ACLU Attorneys: Ann Beeson, Christopher Hansen

#Parent v. School Committee of the Town of Johnston. STUDENTS’ RIGHTS. Federal lawsuit challenging 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. In settlement of the case, the school also expunged all records relating to the suspension and paid attorneys fees. Cooperating Attorney: John W. Dineen

*Poe v. State of Rhode Island. RIGHT TO TRAVEL. State court lawsuit challenging a Department of Corrections policy which bars most out-of-state travel by sex offenders on probation, including casual in-and-out trips to neighboring states. The state removed the case to federal court, but that court has ordered that some of the claims be returned to state court for resolution. Cooperating Attorney: Richard Sinapi

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 Attorney: John A. Glasson

#Reitsma v. Vinagro. SEARCH AND SEIZURE. The Affiliate intervened in this case, challenging an injunction sought by the Department of Environmental Management to allow the agency to search the defendant’s property without a warrant. The Court rejected DEM’s request. Cooperating Attorney: Andrew Horwitz

*R.I. ACLU v. Providence Police Department. RACIAL PROFILING. Lawsuit challenging the Providence Police Department’s failure to comply with the state law requiring police to collect data on all traffic stops for the purpose of determining whether racial profiling is occurring. A comprehensive preliminary order requiring independent monitoring of the Police Department’s compliance, at the Department’s expense, has been entered. Cooperating Attorney: Carolyn A. Mannis

*R.I. Brotherhood of Correctional Officers v. R.I. Airport Corporation. FREEDOM OF SPEECH. Federal lawsuit challenging the airport’s censorship of an issue-oriented advertisement on the grounds that it was “political” and “negative.” Settlement negotiations are proceeding. Cooperating Attorneys: Lynette Labinger, Christopher Corbett

Rhode Island Medical Society v. Whitehouse. REPRODUCTIVE FREEDOM. Federal lawsuit challenging the constitutionality of a state law banning so-called “partial birth abortions.” A court ruling striking down the statute was affirmed on appeal. Attorneys fees motions are pending. Cooperating Attorney: Lynette Labinger. ACLU Reproductive Freedom Project Attorneys: Catherine Weiss, Talcott Camp, Caitlin Borgmann

*Sarro v. Donald Wyatt Detention Center. RIGHTS OF PRISONERS. “Friend of the court” brief arguing that prison guards at the Wyatt Detention Center are “state actors” who can be sued for violating inmates’ constitutional rights. Cooperating Attorney: Diana Hassel

#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 upheld on appeal, and attorneys fees awarded. 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. The court dismissed the suit. After appealing the ruling, the plaintiffs dismissed their appeal and agreed to pay attorneys fees. Proceedings to obtain payment have been instituted. Cooperating Attorneys: Andrew Prescott, Lynda Laing

*#State v. Fulcher. PRIVACY. Criminal defense representation of an individual charged with pandering for prostitution, based on his driving three exotic dancers to perform at a bachelor party that was raided by police. The charge was dismissed. Cooperating Attorney: Thomas G. Briody

*#State v. Waweru, Andino and Hollenbeck. PRIVACY. Criminal defense representation of three exotic dancers charged with disorderly conduct after police raided a private bachelor party at which they were performing. The charges were dismissed. Cooperating Attorney: John W. Dineen

*State of Rhode Island v. United States. RIGHTS OF WHISTLEBLOWERS. “Friend of the court” brief supporting three Department of Environmental Management employees who filed whistleblowing and retaliation complaints with the U.S. Department of Labor. After a DOL Administrative Law Judge ruled in favor of one employee, the state filed this federal lawsuit arguing that the DOL proceedings violated “sovereign immunity,” which the brief challenges. Cooperating Attorney: Jonathan Gutoff

*United States v. Brown. SEARCH AND SEIZURE. The ACLU has joined in a “friend of the court” brief filed by the Federal Defender in this appeal, seeking to limit the circumstances under which a no-knock entry by police is lawful when drugs and guns are allegedly present. Cooperating Attorney: John A. MacFadyen

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.

*#Williams v. City of Warwick. FREEDOM OF SPEECH. Federal lawsuit challenging a city ordinance barring the posting of political signs on residential property more than 60 days before, or 14 days after, an election. A consent judgment barring the City from enforcing the ordinance, and awarding attorneys fees, was entered. Cooperating Attorney: Richard Sinapi

American Civil Liberties Union Foundation of Rhode Island
128 Dorrance Street, Suite 220 - Providence, RI 02903
401-831-7171