

2006 RHODE ISLAND ACLU CASE DOCKET

Cases Active January-December 2006

* indicates case opened in 2006; # indicates case closed in 2006

#Abdullah-Odiase v. Begin. VOTING RIGHTS. Appeal on behalf of a legislative candidate for office whose name was stricken from the ballot by the Board of Elections because one of her nomination papers allegedly contained signatures not witnessed by her. At an emergency hearing, a single justice of the Supreme Court ordered her name back on the ballot. Cooperating Attorney: John W. Dineen

ACLU Foundation v. Lynch. ACCESS TO THE COURTS. Federal lawsuit challenging a R.I. Supreme Court ruling that state law and the RI Rules of Professional Conduct bar lawyers from sharing attorneys fees awards with non-profit organizations. At the court's suggestion, the parties agreed to pursue the issue in another pending case where attorneys fees for the ACLU have been withheld due to the ruling. A favorable decision was issued in that case. Cooperating Attorney: Mark Freel

*Agin v. Portsmouth School Committee. STUDENT RIGHTS. Lawsuit challenging a high school principal's decision to ban a student from appearing in medieval garb and holding a prop broadsword for his senior yearbook photo. Cooperating Attorneys: Thomas Connolly, George Lieberman

*#American Friends Service Committee v. U.S. Department of Defense. OPEN RECORDS/FREEDOM OF SPEECH. Freedom of Information Act lawsuit seeking records of documents maintained in a federal "anti-terrorism" database on political protest groups in Rhode Island and a handful of other states. The records were released. National ACLU: Ben Wizner, Ann Beeson

*Association of Community Organizations for Reform Now (ACORN) v. Town of East Greenwich. FREEDOM OF SPEECH. Federal lawsuit challenging a town ordinance barring door-to-door solicitation after 7 PM and requiring licensing of any solicitors, including those of non-profit organizations. The court upheld the restrictions, and an appeal has been filed. Cooperating Attorney: Carolyn A. Mannis

*#Bilodeau v. Daly-LaBelle. SLAPP SUIT. Defense representation of a South Kingstown resident sued for defamation by a political candidate for distributing a political flyer critical of the candidate. Shortly after a counter-claim was filed under the state's SLAPP suit law, the plaintiff agreed to drop the suit. Cooperating Attorney: Karen Davidson

Brown v. Providence Police Department. OPEN RECORDS/POLICE PRACTICES. Open records lawsuit seeking police department's policies governing the use of video surveillance cameras in public street locations and in police cars. A court ordered their release, but denied plaintiff's request for attorneys fees. Following an appeal, the lower court was ordered to reconsider that request. Cooperating Attorney: Staci Kolb

*Brown v. R.I. State Police. OPEN RECORDS/POLICE PRACTICES. Open records lawsuit seeking access to a State Police cruiser camera videotape of a controversial traffic stop and copies of the agency's traffic enforcement policies and procedures. Cooperating Attorney: Thomas W. Lyons

#Caianiello v. Mruk. OPEN RECORDS. Open records lawsuit against the Anthony Fire District in Coventry for failing to provide various documents requested by the plaintiff, inappropriately redacting documents that were provided, and charging various "copying" fees unauthorized by law. The suit was voluntarily dismissed at the plaintiff's request. Cooperating Attorney: Jeanne Scott

#Carlow v. Mruk. FREEDOM OF SPEECH. Federal lawsuit challenging a “gag order” issued by a Coventry fire district chief against two firefighters after they publicly expressed fire-department related concerns about school safety. The defendants agreed to rescind the challenged policies, and attorneys fees were awarded. Cooperating Attorney: John W. Dineen

#Carlow and Perry v. Mruk. FREEDOM OF SPEECH. Federal lawsuit challenging actions by Coventry Fire District officials in banning members of the public from videotaping the District’s annual financial meeting and preventing certain attendees from speaking. The Court upheld the restrictions. Cooperating Attorney: Gary Berkowitz

City of Newport v. Ducharme and Roman. FREEDOM OF SPEECH. Defense representation of two exotic dancers charged with violating the city’s “anti-nudity” ordinance at a bachelor party held at a private bar. A motion to dismiss the charges is pending. Cooperating Attorneys: Thomas G. Briody, John W. Dineen

Direct Action for Rights and Equality (DARE) v. Gannon. OPEN RECORDS/POLICE MISCONDUCT. Open records suit against the Providence Police Department for refusing to release internal records of police brutality complaints. The R.I. Supreme Court affirmed a lower court ruling that the records were public and, in a second appeal, an order requiring defendants to turn over the records at no cost and to pay attorneys fees. The fee award remains outstanding. Cooperating Attorney: Dennis Grieco II

*Doe v. Dan’s Donuts. GAY AND LESBIAN RIGHTS. The ACLU is co-counsel in this lawsuit claiming that the plaintiff was fired from his food-serving job after his employer found out that he was gay and HIV-positive. Cooperating Attorney: Lynette Labinger

#Doeg v. Ferguson. RIGHTS OF THE POOR. Class-action suit challenging the 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, was issued, and a settlement agreement, including an award of attorneys fees, has been entered. Cooperating Attorney: Thomas W. Lyons

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 been paid. Cooperating Attorney: Mark W. Freel

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. Ongoing monitoring of the decree is proceeding. The Court has also ruled in this case that the state cannot enforce in federal proceedings local court rules that bar attorney fee awards to the ACLU. Cooperating Attorneys: John W. Dineen, Mark Freel. ACLU National Prison Project: David Fathi

#Maddalena v. State of Rhode Island. EMPLOYMENT DISCRIMINATION. “Friend of the court” brief filed in this federal employment discrimination case, challenging the state’s contention that it has sovereign immunity from suit for claims filed under the Rhode Island Civil Rights Act. The court rejected the sovereign immunity claim, and the case is proceeding. Cooperating Attorney: Robert Savage

*#In re: Todd McElroy. ACCESS TO THE COURTS/PRIVACY. “Friend of the court” brief addressing whether the civil commitment hearing of a convicted sex offender should be public. The brief, citing the quasi-criminal nature of the detention and the state’s questionable use of the mental health statute in this instance, argued that the proceedings should be open at least in part, but that the defendant’s confidential healthcare information deserved privacy protection in the proceedings. The court ruled that the proceedings would be closed. Cooperating Attorney: Katherine Powell

#Narragansett Indian Tribe v. State of Rhode Island. INDIAN RIGHTS. “Friend of the court” brief challenging on various grounds the legality of a state police raid of a smoke shop on Narragansett Indian tribal land. The Court upheld the state’s actions, but the appeals court reversed in part. The full appellate court then upheld the district court’s initial ruling, and a petition for review to the U.S. Supreme Court was denied. National ACLU Attorney: Stephen Pevar

Poe v. State of Rhode Island. RIGHT TO TRAVEL. State court lawsuit challenging a Department of Corrections policy that 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 ordered that some of the claims be returned to state court for resolution, where the matter is pending. Cooperating Attorney: Richard Sinapi

#R.I. ACLU v. Begin. FREEDOM OF SPEECH. Federal lawsuit challenging the constitutionality of various aspects of Rhode Island’s campaign finance law, and the Board of Elections’ interpretations of the law, that impermissibly restrict the rights of individuals and entities to campaign on ballot referenda questions. The court struck down various provisions of the statute, and attorneys fees have also been awarded. Cooperating Attorney: Howard Merten

#R.I. ACLU v. Najarian. DUE PROCESS. Lawsuit challenging the Division of Motor Vehicles’ failure to formally adopt any rules and regulations governing the issuance of drivers’ licenses, such as the eligibility of immigrants to obtain licenses, the documentation required to obtain a license, and the procedures for appealing denials of licenses. In response to the suit, the agency proposed formal rules and held a public hearing on them. The suit was thereupon voluntarily dismissed. Cooperating Attorney: Thomas W. Lyons

R.I. ACLU v. Providence Police Department. RACIAL PROFILING. Lawsuit challenging the Providence Police Department’s failure to comply with the state’s racial profiling data collection law. Comprehensive court orders requiring independent monitoring of the agency, at its expense, were entered. A contempt finding against the Department for non-compliance with those orders was issued, and the City appealed. The case has been remanded to the lower court for further consideration. Cooperating Attorney: Carolyn A. Mannis

R.I. ACLU v. State of Rhode Island [Court Interpreters]. ACCESS TO THE COURTS. This is a formal administrative complaint filed with the U.S. Department of Justice, claiming that the state has failed to provide adequate interpreter services to criminal defendants in state court proceedings. A review has been initiated.

*In re: RI ACLU Complaint Against Verizon and AT&T. RIGHT TO PRIVACY. This is an administrative complaint filed with the Division of Public Utilities and Carriers, seeking an investigation as to whether the two phone companies violated state law by providing telephone customer information to the National Security Agency without either a warrant or notice to customers. The phone companies have filed a motion to dismiss. Cooperating Attorney: John McConnell, Jr.

R.I. Parents for Progress v. Board of Elections. VOTING RIGHTS. Lawsuit challenging the Board of Elections' plan to disqualify the "provisional ballots" cast by voters who registered by mail after January 1, 2003 if they failed to provide acceptable identification at the polling place. Shortly after the suit was filed, the Board reversed its position and agreed to count those ballots. A motion for attorneys fees is pending. Cooperating Attorney: John W. Dineen

#Shakur v. Wall. RIGHTS OF PRISONERS. Representation of an inmate, who had initially filed a *pro se* lawsuit, challenging on First Amendment grounds various prison policies governing inmate access to magazines and other publications. In response, the Department of Corrections significantly revised its policies. Cooperating Attorneys: Christopher Corbett, Lynette Labinger

*Spratt v. Wall. RELIGIOUS FREEDOM. Appeal of a federal court ruling upholding a warden's decision to bar an inmate from supervised preaching at religious services even though he had done so for seven years without incident. The appeal argues that the ban violates a federal law guaranteeing religious freedom to institutionalized persons. Cooperating Attorneys: Lynette Labinger, Carly Iafrate

*#State v. McCormick. FREEDOM OF SPEECH. Criminal defense of a person arrested for "disorderly conduct" by the Westerly police after being stopped for speeding and allegedly making profane comments. After his conviction in district court was appealed to Superior Court, the state agreed to dismiss the charges. Cooperating Attorney: H. Jefferson Melish

#State v. Russell. RIGHT TO PRIVACY. "Friend of the court" brief in support of a lower court ruling construing the state's disorderly conduct statute as being inapplicable to purely private conduct in the home that does not disturb others outside the home. The R.I. Supreme Court reversed the lower court. Cooperating Attorney: H. Jefferson Melish

*#United States v. Perry. DUE PROCESS. The ACLU prepared a "friend of the court" brief in this criminal appeal, supporting the ability of sentencing judges to take into account the discriminatory nature of federal sentencing guidelines which treat crack cocaine much more severely than powder cocaine. The appeals court ruled that the disparity could not be taken into account, and remanded the case for further proceedings.

Vono v. Capaldi. FREEDOM OF SPEECH. Lawsuit challenging a state ban on industrial zone outdoor advertising unless the advertising relates to "on premises" activity. Discovery is proceeding. Cooperating Attorney: John W. Dineen

*Women's Studies Organization of Rhode Island College v. Rhode Island College. FREEDOM OF SPEECH. Federal lawsuit challenging both the college's censorship of a campus sign display supporting reproductive freedom that was sponsored by a student women's rights group and the constitutionality of a new sign policy that the college adopted in response to the incident. Cooperating Attorney: Jennifer Azevedo

Young v. Wall. RIGHTS OF PRISONERS. The ACLU took over this *pro se* inmate's lawsuit challenging, as an unlawful taking of property without just compensation, a prison policy eliminating the right of inmates to obtain interest on their inmate accounts. The suit was dismissed on procedural grounds, but is expected to be refiled. Cooperating Attorney: Andrew Prescott

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