

2008 RHODE ISLAND ACLU CASE DOCKET

Cases Active January-December 2008

* indicates case opened in 2008; # indicates case closed in 2008

#Arnold v. Lebel. DUE PROCESS. “Friend of the court” brief, filed with the R.I. Disability Law Center, challenging, on due process grounds, the reliance by Department of Human Services hearing officers in Medicaid eligibility cases on *ex parte* evidence obtained outside the hearing process. The R.I. Supreme Court overturned the practice on non-constitutional grounds. RIDLC Attorney: Anne Mulready

#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 all solicitors, including those for non-profit organizations. The court preliminarily upheld the restrictions. On appeal, the appellate court remanded the case for further hearings. The suit was thereafter voluntarily dismissed. Cooperating Attorney: Carolyn A. Mannis

*#Becker v. State of Rhode Island. DUE PROCESS/PRIVACY. Lawsuit challenging a Division of Motor Vehicles policy requiring people to present their Social Security card in order to renew their drivers’ license. The Division agreed to rescind the policy and pay court costs. Cooperating Attorney: James Kelleher

Brown v. Providence Police Department. OPEN RECORDS/POLICE PRACTICES. Open records lawsuit seeking police department policies governing the use of video surveillance cameras 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. Settlement negotiations are proceeding. Cooperating Attorney: Staci Kolb

Brown v. Esserman. OPEN RECORDS/POLICE PRACTICES. Open records lawsuit seeking police department’s policies governing the use of video surveillance cameras in public street locations. Settlement negotiations are proceeding. Cooperating Attorney: Staci Kolb

Brown v. R.I. State Police. OPEN RECORDS/POLICE PRACTICES. Open records lawsuit seeking both 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

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

*Damiani v. City of East Providence. DISABILITY DISCRIMINATION. Federal lawsuit challenging the city's "physical examination" requirement for the position of assistant harbor master, imposed for the first time only after the plaintiff, with a known disability, applied for the position. Cooperating Attorney: Carolyn A. Mannis

#Driver v. Town of Richmond. FREEDOM OF SPEECH. Federal lawsuit challenging a town's actions in repeatedly removing a political candidate's signs from private property. The court ruled unconstitutional the statute under which the actions were purportedly taken, and the defendants thereafter agreed to an award of damages and attorneys' fees. Cooperating Attorney: Richard A. Sinapi

Estrada v. R.I. State Police. RACIAL PROFILING. "Racial profiling" lawsuit challenging the legality of the stop, hour-long detention, and transporting to immigration officials of fourteen Guatemalans; the suit argues that the stop and detention were based solely on the ethnicity of the driver and passengers. Extensive discovery was conducted, and a motion for summary judgment is pending. Cooperating Attorney: V. Edward Formisano

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

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, and further action is being contemplated in light of lengthy delays by the state in opening new facilities. Tangentially, the Court also ruled in this case that the state could not enforce in federal proceedings local court rules that barred attorney fee awards to the ACLU. Cooperating Attorney: John W. Dineen. ACLU National Prison Project: Amy Fettig

#In re Kenneth K. RIGHTS OF JUVENILES. "Friend of the court" brief opposing DCYF's appeal of a Family Court ruling requiring court oversight of 18-to-21 year olds who are in the Department's care as dependent, neglected or abused children. The suit was dismissed as moot. Cooperating Attorney: Maureen Conroy

*Jones v. Town of West Warwick. FREEDOM OF SPEECH. Federal lawsuit challenging both a town ordinance that significantly limits the posting of political signs, and the town's discriminatory enforcement of the ordinance against the plaintiff. A temporary restraining order was issued. Cooperating Attorney: Richard A. Sinapi

*Lin Li Qu v. Central Falls Detention Facility Corporation. RIGHTS OF IMMIGRANTS/RIGHTS OF PRISONERS. This is a complaint filed to obtain documents in preparation for a civil rights lawsuit against various defendants who were responsible for the prison death of an immigrant detainee while he was awaiting deportation proceedings. Cooperating Attorney: John McConnell, Jr.

*#Lynch v. Lead Paint Industries. FREEDOM OF SPEECH. “Friend of the court” brief opposing the imposition of fines on the Attorney General for violating a “gag rule” issued during the highly-publicized “lead paint nuisance case.” The R.I. Supreme Court overturned the sanctions. Cooperating Attorney: Amy R. Tabor

*#Pehrson v. Reynolds. OPEN RECORDS/POLICE PRACTICES. Open records lawsuit challenging a police department’s refusal to release a copy of the arrest report of car passengers who may have been victims of racial profiling. A day after the suit was filed, the defendants turned over the requested documents. Cooperating Attorney: Gary Berkowitz

*R.I. ACLU v. Carcieri. ACCESS TO PUBLIC RECORDS. Open records lawsuit against the Governor for refusing to release documents relating to the chain of command for state governance during the Governor’s absence from the state. Cooperating Attorney: Kathleen Managhan

R.I. ACLU v. Rhode Island Department of Human Services. RIGHTS OF IMMIGRANTS. This is a formal administrative complaint filed with the Office of Civil Rights of the U.S. Department of Health and Human Services, claiming that DHS has failed to provide adequate interpreter services to clients with limited English proficiency. An investigation is proceeding.

*R.I. ACLU v. R.I. State Board of Elections. RIGHTS OF VOTERS. Lawsuit challenging a Board of Elections’ regulation allowing municipalities to conduct same-day registration and voting for President and Vice-President in places instead of city or town hall, despite a statutory mandate to the contrary. Orders were entered requiring restoration of appropriate voting arrangements at each of the municipalities involved. Cooperating Attorney: Angel Taveras

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 language interpreter services to criminal defendants. A review has been initiated.

#In re: R.I. 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. As the result of passage of a federal law granting telecommunications companies immunity from suit for cooperating with the NSA, the complaint was voluntarily dismissed. Cooperating Attorney: John McConnell, Jr.

*R.I. Coalition Against Domestic Violence v. Carcieri. DUE PROCESS/OPEN GOVERNMENT. Lawsuit challenging on a variety of grounds a provision in a Gubernatorial executive order requiring all vendors and contractors doing business with the state to register with the federal government's E-Verify work authorization program. A temporary restraining order was denied. Cooperating Attorney: Randy Olen

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

*#State v. Hernandez. RACIAL PROFILING. Criminal defense representation of two car passengers, in a racial profiling incident, who were charged with possessing fictitious identification cards despite providing a police officer, upon request, a valid, though non-official, identification document. Prior to formal arraignment, the town agreed to drop all the charges. Cooperating Attorney: Lise Gescheidt

*#State v. Rhodes and Freitas. FREEDOM OF SPEECH. Criminal defense representation of two members of the advocacy group "People to End Homelessness," who were arrested for disorderly conduct for using a bullhorn at a demonstration in front of the State House. The charges were dismissed. Cooperating Attorney: Thomas G. Briody

*University of Rhode Island Student Senate v. Town of Narragansett. DUE PROCESS. Lawsuit challenging on various grounds a town ordinance that authorizes police to charge tenants and landlords with allowing, and to place orange stickers on houses that have allegedly been the site of, "unruly gatherings." Discovery is proceeding. Cooperating Attorney: H. Jefferson Melish

Vono v. Capaldi. FREEDOM OF SPEECH. Federal lawsuit challenging a state ban on industrial zone outdoor advertising unless the advertising relates to "on premises" activity. Motions for summary judgment were filed, and a decision is awaited. Cooperating Attorney: John W. Dineen

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 initially on procedural grounds, but has been refiled, where motions are pending. Cooperating Attorney: Andrew Prescott

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