

2009 RHODE ISLAND ACLU CASE DOCKET

Cases Active January-December 2009

* indicates case opened in 2009; # indicates case closed in 2009

*Arrighi v. Cintas Corporation No. 2. PRIVACY. Lawsuit on behalf of numerous employees of a private company who, in the absence of any cause, were ordered to submit to drug testing in violation of state law. Cooperating Attorneys: Carolyn Mannis, Robert Senville, Catherine Sammartino

*#Bennett v. Mollis. RIGHTS OF VOTERS. "Friend of the court" brief supporting an appeal seeking a new election for Smithfield Town Council seats because of defective ballots that thousands of voters used in casting their votes; the appellate court deemed the case moot. Cooperating Attorney: Mel Topf

*#Block v. Mollis. FREEDOM OF ASSOCIATION. Federal lawsuit challenging a state statute that requires a group seeking recognition as a new political party to collect signatures representing 5% of the voter turnout for the previous Gubernatorial election, and bars collections of those signatures in an off-election year. The court ruled the latter provision unconstitutional, and awarded attorneys' fees. Cooperating Attorney: Mark W. Freel

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

*#City of Providence v. Judge. FREEDOM OF ASSEMBLY. Defense representation of a person charged with "loitering on bus line property." A not guilty filing was entered, and a lawsuit to challenge the constitutionality of the ordinance is being considered. Cooperating Attorney: John W. Dineen

*Cook v. Wall. FREEDOM OF SPEECH/RIGHTS OF PRISONERS. Federal lawsuit against the Department of Corrections alleging that correctional officials engaged in a pattern of harassment against an inmate after he publicly criticized Department of Corrections' mail policies and sought legal assistance from the ACLU. The defendants have filed a motion to dismiss. Cooperating Attorneys: Amato DeLuca, Miriam Weizenbaum, Michael Eskey, Matthew Jerzyk

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

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. An appellate court ruling is awaited. Cooperating Attorney: V. Edward Formisano

*Fontes v. City of Central Falls. RIGHTS OF VOTERS. Lawsuit challenging the disqualification of a Mayoral candidate based on a city charter provision barring voters from signing more than one nomination paper for the same political office. The court ruled the provision unconstitutional, and the city has filed an appeal. Cooperating Attorneys: Armando Batastini, Timothy Baldwin

#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 never collected because the company went into bankruptcy. Cooperating Attorney: Mark W. Freel

*#Hatch v. Lappin. FREEDOM OF SPEECH. The Affiliate provided assistance in this unsuccessful habeas corpus petition filed by the ACLU of Massachusetts on behalf of an offender on home confinement who was re-imprisoned for doing media interviews about his case without appropriate permission.

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 approved by the court, and ongoing monitoring of the decree is proceeding. 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 Fetting

*#Irons v. R.I. Ethics Commission. SEPARATION OF POWERS. "Friend of the court" brief challenging the Ethics Commission's position that the state constitution's new "separation of powers" clause trumps the "speech in debate" clause protecting legislators from suit for their legislative votes. The R.I. Supreme Court rejected the Commission's interpretation of the law. Cooperating Attorneys: Mark Freel, Jon Anderson

#Jones v. Town of West Warwick. FREEDOM OF SPEECH. Federal lawsuit challenging a town ordinance that significantly limits the posting of political signs. After a temporary restraining order was issued, a consent agreement was entered in which the town agreed not to enforce the ordinance and paid damages and attorneys' fees. Cooperating Attorney: Richard A. Sinapi

*#Martin v. Langlois. FREEDOM OF SPEECH. Defense representation of a person who was barred by a judge from posting on Facebook any information relating to her brother's pending Family Court case. The ban was rescinded. Cooperating Attorney: H. Jefferson Melish

*Monteiro v. City of East Providence. RIGHTS OF VOTERS. Federal lawsuit challenging City Charter provisions that impose increased signature-gathering burdens, above and beyond what state law requires, on candidates who wish to run for local office. Cooperating Attorney: Angel Taveras

*Phoenix-Times Publishing Company v. Hasenfus. OPEN MEETINGS. Open meetings lawsuit challenging a school committee's discussion in executive session of a proposed breathalyzer policy for school dances. Defendants have filed a motion to dismiss. Cooperating Attorneys: Howard Merten, Keith Fayon

#Qu v. Central Falls Detention Facility Corporation (I). 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. The complaint was voluntarily dismissed after the civil rights suit was filed. Cooperating Attorney: John McConnell, Jr.

*Qu v. Central Falls Detention Facility Corporation (II). RIGHTS OF IMMIGRANTS/RIGHTS OF PRISONERS. Federal lawsuit on behalf of the family of a 34-year-old Chinese detainee who died while in the custody of immigration officials at the Wyatt Detention Facility in Central Falls. Cooperating Attorneys: John McConnell, Jr. Robert McConnell, Fidelma Fitzpatrick, Aileen Sprague

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 during the Governor's absence from the state. The court ordered immediate release of certain documents, and is reviewing whether disclosure of others should also be allowed. Cooperating Attorney: Kathleen Managhan

*R.I. ACLU v. CVS Caremark Corporation. PRIVACY/DISCRIMINATION. Administrative complaint challenging a company's on-line application form that asks questions that could have the effect of discriminating against applicants with certain mental disabilities. Cooperating Attorney: Christopher Corbett

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. Senesco Marine. DISCRIMINATION. Administrative complaint challenging a company's employment application form requiring all job applicants to attest that they are "physically and mentally capable" of performing the essential job duties of the job without any "need for changes or adjustments." The Human Rights Commission has issued a probable cause finding of discrimination. Cooperating Attorney: Michael Feldhuhn

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. An investigation is underway.

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

*Rogers v. Mulholland. CHURCH/STATE SEPARATION. Federal lawsuit challenging a city's preferential treatment of parochial schools over public schools in granting permits for the use of city athletics fields. Cooperating Attorney: Sandra A. Lanni

*Sam M. v. Carcieri. RIGHTS OF CHILDREN. "Friend of the court" brief challenging a lower court's dismissal of a case seeking remedial action against DCYF for the mistreatment of foster children in its care. Oral argument has been scheduled. Cooperating Attorneys: Andrew Prescott, Steven Richard

*Simone v. Town of Johnston. PRIVACY. Federal lawsuit challenging a police department's disclosure of a resident's private driver's license information to a town council member. Cooperating Attorney: James Kelleher

*Spruill v. Alexander. DUE PROCESS/RIGHTS OF THE POOR. Federal lawsuit, filed with a national welfare rights group, challenging the state's failure to process food stamp applications in a timely manner. A detailed settlement agreement, including a requirement that the defendants submit monthly monitoring reports for a year, has been entered. Cooperating Attorney: Lynette Labinger

University of Rhode Island Student Senate v. Town of Narragansett. DUE PROCESS. Lawsuit in federal court challenging on various grounds a town ordinance that authorizes police to charge tenants and landlords for allowing "unruly gatherings," and to place orange stickers on houses that are the site of such alleged activity. A decision is awaited. 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. The court ruled the statute unconstitutional, and attorneys fees were awarded. Cooperating Attorney: John W. Dineen

Young v. Wall. RIGHTS OF PRISONERS. The ACLU took over this *pro se* inmate's federal 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 was refiled, where motions are pending. Cooperating Attorney: Andrew Prescott



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