



128 DORRANCE STREET, SUITE 400
PROVIDENCE, RI 02903
401.831.7171 (t)
401.831.7175 (f)
www.riaclu.org | info@riaclu.org

September 7, 2017

The Hon. Gina Raimondo
State House
Room 224
Providence, RI 02903

BY EMAIL AND MAIL

Dear Governor Raimondo:

On behalf of the ACLU of Rhode Island, I am writing to request that you intervene with the Department of Corrections and ask them to withdraw the position they have taken in a *pro se* civil rights lawsuit pending against the Department in R.I. Superior Court,¹ and to ask them to refrain henceforth from taking that position in any similar cases.

The lawsuit, filed by an inmate serving a life sentence at the ACI, challenges various conditions of his confinement as a violation of his civil rights. Whether those claims ultimately are found to have merit is of no moment to our request. Instead, we were stunned to learn that the DOC recently asked the court to dismiss the case not because the claims were unfounded, but instead on the grounds that the inmate was considered “civilly dead” under state law and therefore had no right to even bring a lawsuit against the State in the first place.

The law at issue, enacted more than a century ago, declares people sentenced to life imprisonment to be “dead” for virtually all legal purposes,² even though most of these inmates are eligible for parole after 20 years or so.³ The ACLU is familiar with the statute because a few years ago we challenged its implementation in the narrow context of a “lifer” seeking to marry. It is astonishing to now see the state attempting to use this law to bar an inmate from even bringing his civil rights claims to a court for adjudication.

Under the DOC’s position, an inmate at the ACI serving a life sentence could be waterboarded, beaten mercilessly by guards, or held in a cell and denied all food and water, but have no access to our state courts to challenge these egregious violations of his constitutional rights. This is a legal argument we might expect to hear from disgraced ex-Arizona sheriff Joe Arpaio, not from the State of Rhode Island.

¹ *Paiva v. Aceto*, C.A. PC 17-1486.

² R.I.G.L. 13-6-1. The statute reads in full: “Every person imprisoned in the adult correctional institutions for life shall, with respect to all rights of property, to the bond of matrimony and to all civil rights and relations of any nature whatsoever, be deemed to be dead in all respects, as if his or her natural death had taken place at the time of conviction. However, the bond of matrimony shall not be dissolved, nor shall the rights to property or other rights of the husband or wife of the imprisoned person be terminated or impaired, except on the entry of a lawfully obtained decree for divorce.”

³ R.I.G.L. 13-8-13.

Rhode Island remains one of only three states with a law like this on the books. These civil death statutes date back to ancient English common law, and Rhode Island's was enacted more than a century ago. As far back as 1976, in ruling unconstitutional a similar Missouri statute, a court noted that "the concept of civil death has been condemned by virtually every court and commentator to study it over the last thirty years."⁴

The ACLU has filed a motion in court seeking to represent the inmate in challenging the State's use of this defense against the lawsuit. But an injustice like this should not await court intervention.

We respectfully ask that you instruct state attorneys to immediately renounce any further attempts to use this statute as a way to stifle prisoners' access to the courts. Its continued use in this context is, we submit, an endorsement of lawlessness at the ACI and a mockery of the principle that all individuals have a right to access the courts to petition for a redress of grievances.⁵

The DOC's actions in this case also highlight the need for the state to repeal this archaic statute at the earliest opportunity, and we hope you will join with us to finally get it rescinded at the next General Assembly session.⁶ In the meantime, though, we ask you to take the action requested above.

I look forward to hearing back from you about this.

Sincerely,

Steven Brown
Executive Director

cc: Claire Richards, Legal Counsel
A.T. Wall II, DOC Director
Kathleen Kelly, DOC Legal Counsel

⁴ *Thompson v. Bond*, 421 F. Supp. 878, 885 (1976).

⁵ Even assuming the statute could constitutionally be used to deny inmates access to the courts – a premise with which we strongly disagree – nothing requires the state to use the statute as a defense in a case like this, or in any other case for that matter.

⁶ The General Assembly has voted at least once to repeal the law, back in 2007, but it was vetoed by then-Governor Donald Carcieri.