

2013 ACLU OF RHODE ISLAND CASE DOCKET

Cases Active January-December 2013

* indicates case opened in 2013; # indicates case closed in 2013

#Ahlquist v. City of Cranston. SEPARATION OF CHURCH AND STATE. Federal lawsuit challenging the constitutionality of a prayer mural addressed to “Our Heavenly Father” displayed in the auditorium of a public high school. The court ruled the display unconstitutional, ordered it removed, and awarded attorneys’ fees. An appeal filed by a group of intervenors has been dismissed by the U.S. Court of Appeals. Cooperating Attorneys: Lynette Labinger, Thomas Bender

Alves 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. Discovery is proceeding, and a handful of plaintiffs have agreed in the interim to monetary settlements. Cooperating Attorneys: Carolyn Mannis, Robert Senville, Andrew Berg

#Boyer v. Jeremiah. DUE PROCESS/STUDENT RIGHTS. Class-action lawsuit charging that the state’s truancy court system is devoid of basic due process protections, and that school districts unlawfully refer students to the court. A number of defendant school districts entered settlement agreements withdrawing from the truancy court. The judicial defendants appealed the denial of their motion to dismiss the lawsuit, and the state Supreme Court ruled the case was moot. Cooperating Attorneys: Thomas W. Lyons, Amy R. Tabor. National ACLU Attorney: Courtney Bowie

*Brown v. Cylke. OPEN RECORDS. Open records lawsuit against a school district for failing to respond to a request for documents relating to its waiver policy governing new high stakes testing graduation requirements. Cooperating Attorney: Karen Davidson

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. Settlement negotiations on plaintiff’s request for attorneys’ fees are pending. Cooperating Attorney: Staci Kolb

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 retaliation against an inmate after he publicly criticized Department of Corrections’ mail policies and sought legal assistance from the ACLU. The court rejected the defendants’ motion to dismiss the case. Cooperating Attorneys: Amato DeLuca, Miriam Weizenbaum

*#Egan v. Rhode Island Board of Education. OPEN GOVERNMENT. Open meetings lawsuit challenging the Board of Education’s plans to hold a private “retreat” to discuss the agency’s “high stakes testing” graduation requirement for high school seniors. A temporary restraining order was issued requiring that the session be held in public. Cooperating Attorneys: Amato DeLuca, Miriam Weizenbaum

#Gesmondi v. State of Rhode Island. CRIMINAL JUSTICE. Lawsuit challenging the constitutionality of a state law barring sex offenders from living within 300 feet of a school. A ruling upholding the statute was appealed; when most of the plaintiffs moved, the suit was voluntarily dismissed. Cooperating Attorney: Katherine Godin

#Gianfrocco v. Cranston School Department. RIGHTS OF EX-OFFENDERS. Lawsuit challenging a school district policy barring parents with any felony drug offenses from serving as school volunteers. Administrative complaints were also filed with the Department of Education and Human Rights Commission. A settlement agreement revising the policy and allowing the plaintiff to volunteer was approved. Cooperating Attorney: Carly Beauvais Iafrate

Inmates of the Rhode Island Training School for Youth v. Lindgren. RIGHTS OF JUVENILES. This long-running class-action lawsuit challenges the constitutionality of conditions at the state Training School. A comprehensive, revised consent decree was approved by the court, and ongoing monitoring of the decree continues. Cooperating Attorney: John W. Dineen. ACLU National Prison Project Attorney: Amy Fettig

#Lavik v. RI Department of Motor Vehicles. DUE PROCESS. Lawsuit challenging the Division of Motor Vehicle’s reliance on an unwritten “policy” to withhold reinstatement of plaintiff’s driving license after he paid the tax obligations that had initially prompted the license suspension. The DMV agreed to reinstate his license, formally adopt a policy in compliance with the law, and pay attorneys’ fees. Cooperating Attorneys: Albin Moser, Melissa Braatz

*#McBurney v. Young. OPEN GOVERNMENT. “Friend of the court” brief in the U.S. Supreme Court on behalf of a Rhode Island resident challenging a Virginia law barring non-residents from invoking that state’s open records law. The court upheld the constitutionality of the statute. National Attorney: Patrick Carome

Morales v. Chadbourne. RIGHTS OF IMMIGRANTS. Federal lawsuit on behalf of a local resident who has twice been wrongfully detained and jailed by Immigration and Customs Enforcement as a deportable alien even though she is a U.S. citizen. A hearing on various federal defendants’ motion to dismiss the suit is pending. Cooperating Attorney: Mark W. Freel. National ACLU Attorney: Omar Jadwat, Kate Desormeau

Nelson v. Durfee. SLAPP SUITS. “Friend of the court” brief supporting a person sued for defamation by two Town Council members for making public comments alleging that they had submitted “false” municipal budget documentation to the state. Cooperating Attorney: Karen Davidson

Phoenix-Times Publishing Company v. Hasenfus. OPEN MEETINGS. Open meetings lawsuit challenging the adequacy of school committee agenda notices and the committee's discussion in executive session of a proposed breathalyzer policy for school dances. The court found the agendas were deficient and violated the Open Meetings Act, but upheld the executive session discussion. An appeal is pending. Cooperating Attorney: Howard Merten

#Pleau v. United States. DEATH PENALTY. "Friend of the court" brief supporting the Governor's refusal to turn over a criminal defendant in state custody to the U.S. Attorney for purposes of seeking the death penalty. The U.S. Court of Appeals held the Governor had no authority to refuse the request, and the U.S. Supreme Court refused to review the decision. Cooperating Attorney: Anthony Mirenda

*Providence Student Union v. R.I. Board of Education. OPEN GOVERNMENT. Lawsuit challenging, under both the open meetings law and Administrative Procedures Act, the Board of Education's response to a petition filed by numerous organizations seeking repeal of the agency's "high stakes testing" requirement for graduating seniors. Cooperating Attorneys: Marc Gursky, Elizabeth Wiens

#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. A substantial financial settlement was approved by the court. Cooperating Attorneys: Robert McConnell, Fidelma Fitzpatrick

Reilly v. City of Providence. FREEDOM OF SPEECH. Federal lawsuit charging Providence police with violating the free speech rights of a resident who was threatened with arrest for leafleting on a public sidewalk. The court ruled in plaintiff's favor, and the defendants agreed to pay damages and attorneys' fees to settle the case. Cooperating Attorney: Richard A. Sinapi

R.I. ACLU v. Gifford. PRIVACY. Lawsuit challenging the adequacy of privacy and confidentiality protections in regulations the Department of Health has adopted to implement a centralized database of patient health care records in the state. Settlement negotiations are proceeding. Cooperating Attorney: Frederic Marzilli

R.I. ACLU v. Rhode Island Department of Human Services. RIGHTS OF IMMIGRANTS. Administrative complaint filed with the U.S. Department of Health and Human Services' Office of Civil Rights, claiming that DHS has failed to provide adequate interpreter services to clients with limited English proficiency. A detailed resolution agreement has been entered, the implementation of which is being monitored for compliance.

#R.I. ACLU v. Rhode Island State Police. RIGHTS OF IMMIGRANTS. Administrative complaint filed with the U.S. Department of Justice, claiming that the State Police have failed to provide adequate language interpreter services as required by federal law. The DOJ held that the ACLU did not have standing to pursue the complaint. Cooperating Attorney: Jennifer Doucleff

R.I. ACLU v. State of Rhode Island [Court Interpreters]. ACCESS TO THE COURTS. Administrative complaint filed with the U.S. Department of Justice, claiming that the state courts have failed to provide adequate language interpreter services to criminal defendants. An investigation led to the adoption of an executive order by the judiciary addressing the issue, and its implementation is being monitored.

R.I. Patient Advocacy Coalition v. R.I. Department of Health. MEDICAL MARIJUANA. Lawsuit challenging a Department of Health action summarily reversing a six-year-old policy that allowed physician assistants and nurse practitioners, in addition to doctors, to certify that a patient has a debilitating medical condition that qualifies him or her for participation in the medical marijuana program. Cooperating Attorney: John W. Dineen

#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. The appellate court held the case could proceed, and the suit is pending in the district court. Cooperating Attorneys: Andrew Prescott, Steven Richard

#Thomas v. Flanders. OPEN GOVERNMENT. Lawsuit charging that the Central Falls Receiver unlawfully delegated to an appointed hearing officer certain powers that are afforded only to him under the state law authorizing his appointment. The suit was voluntarily dismissed after the City came out of receivership. Cooperating Attorney: Jennifer Azevedo

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