

## 2012 RHODE ISLAND ACLU CASE DOCKET

Cases Active January-December 2012

\* indicates case opened in 2012; # indicates case closed in 2012

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 is pending. 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

\*#Beacon Communications v. Kilmartin. FREEDOM OF THE PRESS. Federal lawsuit challenging a state law that bars the media from running advertisements containing the names or photos of public officials without their permission. The General Assembly repealed the statute in response to the suit. Cooperating Attorney: Mark W. Freel

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. 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. Little Compton School District. OPEN RECORDS. Open records lawsuit against a school district for failing to respond to a request for documents relating to certain district policies. The lawsuit prompted release of the records. Cooperating Attorney: Karen Davidson

\*#Brown v. Pawtucket School District. OPEN RECORDS. Open records lawsuit against a school district for failing to respond to a request for documents relating to certain district policies. The lawsuit prompted release of the records. 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. Discovery is proceeding. Cooperating Attorneys: Amato DeLuca, Miriam Weizenbaum

\*#Dowd v. Town of Narragansett. DUE PROCESS. Lawsuit on behalf of three URI students whose town parking permits were summarily revoked because of their student status. The town agreed to reinstate the permits, reimburse fines that had been imposed against them, and pay attorneys' fees. Cooperating Attorney: H. Jefferson Melish

\*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 is being appealed. 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 have also been filed with the Department of Education and Human Rights Commission. Settlement negotiations are proceeding. 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 Fetting

#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

\*#Machado v. City of Cranston. DUE PROCESS. Federal lawsuit on behalf of a resident seeking the return of lawfully possessed weapons that were seized by police in an investigation, but not returned. The city agreed to return the weapons and pay damages and attorneys' fees. Cooperating Attorney: Thomas W. Lyons

\*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. 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 has been filed. 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. Cooperating Attorney: Anthony Miranda

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 is awaiting formal approval 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 local resident who was threatened with arrest for leafleting on a public sidewalk. Motions for summary judgment have been filed. 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. This is an 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 Department of Public Safety. OPEN GOVERNMENT. Lawsuit challenging a police agency’s failure to provide the public an appropriate opportunity to comment on controversial regulations establishing policies for public access to agency records. After suit was filed, the agency withdrew the regulations for redrafting. Cooperating Attorney: Jennifer Azevedo

#R.I. ACLU v. Rhode Island State Police. RIGHTS OF IMMIGRANTS. This is a formal 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. This is a formal 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

#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. The court rejected the plaintiffs' claims of discriminatory treatment, based on various policy changes made by the defendants while the case was pending. 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. The appellate court held the case could proceed, and the suit is pending in the district court. Cooperating Attorneys: Andrew Prescott, Steven Richard

\*#State v. Behm. RIGHTS OF JUVENILES. Representation of a juvenile who was ordered to Truancy Court, and whose parents were subject of a neglect petition, because of the student's repeated tardiness to school. Both the truancy and neglect charges were dropped. Cooperating Attorney: H. Jefferson Melish

\*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. Cooperating Attorney: Jennifer Azevedo

\*#Tobon v. R.I. State Board of Elections. RIGHTS OF VOTERS. Court petition on behalf of a state Representative candidate, seeking a manual recount of ballots in an election that the candidate lost by one vote. In a 3-2 decision, the R.I. Supreme Court ruled that the candidate had no right to a manual recount. Cooperating Attorney: Armando Batastini

#In re: Town of Little Compton v. Little Compton Firefighters Local 3957. ACCESS TO THE COURTS. "Friend of the court" brief challenging a judicial commission decision that representation of unions in grievance proceedings by non-attorney union officials constitutes the unauthorized practice of law. The RI Supreme Court agreed that such representation was allowable. Cooperating Attorney: Peter Margulies

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