

2021 ACLU OF RHODE ISLAND CASE DOCKET

Active Cases, January-November 2021

* indicates case opened in 2021; # indicates case closed in 2021

* *A.C. v. Raimondo*. STUDENTS' RIGHTS. "Friend of the court" brief supporting an appeal arguing that public school students have a constitutional right to an education that prepares them to effectively participate in a democracy. A decision is awaited. Cooperating Attorneys: Andrew Troop, Jeffrey Meltzer

Aguasvivas v. Pompeo. RIGHTS OF IMMIGRANTS. "Friend of the court" brief challenging the federal government's plans to deport a person back to his native country despite an immigration board's findings that he will likely be tortured if he is returned there. The federal appeals court affirmed a lower court ruling barring the petitioner's extradition. ACLU Attorney: Cody Wofsy Cooperating Attorney: Roberto Gonzalez

Benson v. Raimondo. ABORTION RIGHTS. "Friend of the court" brief in support of the State's motion to dismiss this lawsuit challenging the constitutionality of the Reproductive Privacy Act, which codified *Roe v. Wade* into state law. A judge dismissed the suit, and plaintiffs' appeal is pending in the state Supreme Court, where another brief has been filed. Cooperating Attorneys: Lynette Labinger, Faye Dion

Blanchette v. Town of Narragansett. STUDENTS' RIGHTS. Federal lawsuit on behalf of a high school student with disabilities who was thrown to the ground, handcuffed and arrested by a school resource officer for disorderly conduct after "giving the finger" to the SRO. Discovery is proceeding. Cooperating Attorneys: Amato DeLuca, Matthew Provencher

*# *B.R. and K.R. v. North Kingstown School District*. STUDENTS' RIGHTS. Administrative challenge to school district decision to ban two children from in-school learning because their parents had let them attend school while their father was waiting for the results of a Covid test. A RI Department of Education hearing officer overturned the ban. Cooperating Attorney: H. Jefferson Melish

Brady v. Tamburini. FREEDOM OF SPEECH. Federal lawsuit challenging the two-day suspension of a Johnston detective after he publicly criticized police department officials in his role as president of the police union. The court ruled that the suspension violated the plaintiff's free speech rights, and entered a consent judgment providing for various remedies. Cooperating Attorneys: John Dineen, Elizabeth Wiens

Calderon v. Nielsen. RIGHTS OF IMMIGRANTS. Successful habeas corpus petition, filed by the ACLU of Massachusetts with initial ACLU-RI assistance, that has since been amended into a class-action lawsuit, on behalf of a Providence mother of two who was detained by ICE officials after appearing at an interview to pursue a change in her undocumented immigration status. Numerous protective orders have been issued by the court as the case proceeds. ACLU of Massachusetts Attorney: Adriana Lafaille

Callaghan v. Darlington Plastics. MEDICAL MARIJUANA/WORKPLACE RIGHTS. Lawsuit on behalf of a graduate student who was denied employment as a paid intern at a fabrics company because of her status as a registered medical marijuana user. The court ruled that the company's actions violated the state's medical marijuana law. The company agreed to revise its hiring policy and pay damages and attorneys' fees. Cooperating Attorney: Carly Beauvais lafrate

Caniglia v. Strom. DUE PROCESS. Federal lawsuit challenging both the basis for the police seizure of a homeowner's lawfully owned firearms without a warrant and a police department policy requiring individuals to obtain a court order in order to recover their weapons. The court ruled the policy unconstitutional but upheld the seizure of the weapons. An appellate court affirmed the latter decision, but in a unanimous decision, the U.S. Supreme Court reversed that ruling. The case is back in the district court for further proceedings. Cooperating Attorneys: Thomas W. Lyons, Rhiannon Huffman

Carroll v. Craddock. FREEDOM OF SPEECH. Federal lawsuit challenging a state law giving the Division of Motor Vehicles authority to deny requests for “vanity plates” deemed to be not in “good taste or decency.” The court ruled the statute unconstitutional. Cooperating Attorneys: Thomas W. Lyons, Rhiannon Huffman

City of Cranston v. Morton et al. FREEDOM OF SPEECH. Appellate representation of protesters found guilty of violating an anti-panhandling ordinance for distributing literature to drivers from a roadway median. The charges were dismissed after a separate ACLU challenge led to a ruling that the ordinance was unconstitutional. Cooperating Attorney: Neville Bedford

City of Providence v. Barr. RIGHTS OF IMMIGRANTS. “Friend of the court” brief in the U.S. Court of Appeals in support of a legal challenge by two cities to a U.S. Department of Justice policy conditioning the receipt of federal law enforcement funds on municipal collaboration with immigration officials. The court agreed the requirement was unlawful. ACLU attorney: Cody Wofsy Cooperating Attorney: Nicholas Trott Long

Clark v. City of Providence. RACE DISCRIMINATION. Federal lawsuit challenging the dismissal of a Black Providence Police Academy recruit who was racially harassed by instructors, in part due to a Christian rap song he had written and posted on social media a year earlier condemning the police killing of young Black men. Discovery is proceeding. Cooperating Attorneys: Sonja Deyoe, Georgi Vogel-Rosen

Cohen v. Brown University. SEX DISCRIMINATION. Reopening of an almost-two-decades-old lawsuit challenging Brown University’s violation of a consent agreement requiring gender equity in the school’s athletic program. After discovery was conducted, the University entered a settlement agreement, reinstating two women’s sports programs that had been cut and subjecting the University to formal monitoring for four years. A group of students then intervened to appeal the settlement, but the appellate court upheld the agreement. Cooperating Attorney: Lynette Labinger

Cox v. Goncalves. OPEN RECORDS/POLICE MISCONDUCT. Open records lawsuit against the Pawtucket Police Department for refusing to release requested reports relating to alleged police officer misconduct. The Department has agreed to turn over the records. Cooperating Attorney: James Cullen

*# *DiPaola v. Town of Portsmouth*. FREEDOM OF SPEECH. Federal lawsuit challenging the constitutionality of a town ordinance banning the posting of political signs on residential property. A consent judgment was entered, permanently barring enforcement of the ordinance. Cooperating Attorney: Richard A. Sinapi

Doe v. Providence School District. STUDENTS’ RIGHTS/RIGHTS OF IMMIGRANTS. Lawsuit, filed with R.I. Legal Services, charging the Providence School District with violating laws and regulations governing the provision of educational services to English Language Learner students. Discovery is proceeding. Cooperating Attorney: Ellen Saideman

*# *Duhamel v. Baldelli-Hunt*. FREEDOM OF SPEECH. Federal lawsuit challenging the Mayor of Woonsocket’s actions in banning some of her critics from her Facebook page. A settlement agreement was entered, under which the plaintiffs were unblocked and the mayor agreed not to block any other people from her page based on their expression of views protected by the First Amendment. Cooperating Attorney: David Cass

Freitas v. Kilmartin. CRIMINAL JUSTICE. Federal lawsuit challenging the constitutionality of a state law barring certain sex offenders from residing within 1,000 feet of a school. A temporary restraining order against enforcement of the law was issued, and discovery is proceeding. Cooperating Attorneys: Lynette Labinger, John MacDonald

Gaines v. State of Rhode Island. DISABILITY DISCRIMINATION. Lawsuit challenging the R.I. Department of Education’s failure to reasonably accommodate the plaintiff’s disability while employed there. Discovery is proceeding. Cooperating Attorneys: Lynette Labinger, Georgi Vogel-Rosen

Hanson v. Jensen. DUE PROCESS/ECONOMIC JUSTICE. Federal lawsuit against the state Department of Labor and Training for freezing unemployment insurance benefits of thousands of eligible residents without notice or explanation. After taking various interim measures, the DLT entered into a settlement agreement requiring the agency to follow detailed due process procedures before withholding benefits, and to be subject to a court-reviewed monitoring process for fifteen months. Cooperating Attorneys: Ellen Saideman, Lynette Labinger

Johnson v. City of Pawtucket. STUDENTS' RIGHTS/RACIAL JUSTICE. Federal lawsuit on behalf of a 13-year-old Black middle school student who was arrested by a school resource officer and detained in jail for allegedly getting in a fight with another girl. Discovery is proceeding. Cooperating Attorneys: Shannah Kurland, Lynette Labinger

In Re Kathleen S. DISABILITY RIGHTS. "Friend of the court" brief, filed with Disability Rights RI, challenging the state's jurisdiction over a Connecticut resident who was involuntarily transferred to a Rhode Island hospital under this state's civil commitment law. Cooperating Attorney: Carolyn Mannis

*# *Koso v. Neronha*. OPEN GOVERNMENT. Open records lawsuit against the state Attorney General, challenging a substantial fee charged the plaintiff in order to obtain copies of public reports that state law requires the AG to annually prepare. The suit was dismissed after the defendant agreed to provide the records at no cost. Cooperating Attorney: Carolyn Medina

Kurland v. City of Providence. FREEDOM OF SPEECH. Federal lawsuit on behalf of two protesters for being forced to move from the site of a political fundraiser where they were picketing. After competing motions for summary judgment were denied, a consent order was entered, awarding the plaintiffs damages and attorneys' fees. Cooperating Attorney: Richard A. Sinapi

Lacoste v. R.I. State Police. DUE PROCESS/POLICE MISCONDUCT. Federal lawsuit challenging state police actions that resulted in the plaintiff's loss of employment at Twin River Casino after she refused to serve as a police informant in a criminal investigation. Discovery is proceeding. Cooperating Attorney: James Musgrave

Liberty v. R.I. Department of Corrections. DISABILITY RIGHTS/RIGHTS OF PRISONERS. Federal lawsuit, filed with the ACLU National Prison Project and Disability Rights RI, challenging the Department of Corrections' use of solitary confinement on individuals with severe and persistent mental illness. Discovery is proceeding. Cooperating Attorney: James Rollins ACLU NPP Attorney: Maria Morris

Lombardi v. Raimondo. RIGHTS OF PRISONERS. Federal lawsuit challenging the constitutionality of a state law that declares inmates serving life sentences "civilly dead" with respect to their civil rights. Defendants filed a motion to dismiss, which was denied. Cooperating Attorneys: Sonja Deyoe, Lynette Labinger

Lyssikatos v. King. OPEN RECORDS. Lawsuit against the Pawtucket Police Department over its refusal to release reports of alleged police officer misconduct generated by its Internal Affairs Division. Plaintiff's motion for summary judgment was denied. Cooperating Attorney: James Cullen

Lyssikatos v. Town of Narragansett. OPEN RECORDS. Access to Public Records Act complaint filed with the Attorney General, challenging a police department's refusal to release any records of its investigations of police misconduct. The AG issued a ruling requiring most of the records to be released. Cooperating Attorney: James Cullen

* *Marsh v. McKenna*. FREEDOM OF SPEECH. Defense representation of a person sued for defamation after she posted to a shoreline access Facebook group a summary of an adversarial encounter with a beach property owner while she was sitting on what she believed to be the public shoreline. Cooperating Attorney: Carolyn Mannis

*# *Martinez v. Coyne-Fague*. DUE PROCESS. Habeas corpus petition challenging the Department of Correction's retroactive application of a policy changing the way the Department calculated parole eligibility dates for individuals serving consecutive sentences for their crimes. The court ordered the petitioner's release. Cooperating Attorneys: Lisa Holley, Sonja Deyoe, Lynette Labinger

Medeiros v. Martin. RIGHTS OF IMMIGRANTS. Habeas corpus petition seeking the release of three individuals being civilly detained by ICE at the Wyatt Detention Center, whose illnesses made them vulnerable to serious illness or death if they were to contract Covid-19 while detained. A court ordered their release, and defendants withdrew an appeal of the ruling. Cooperating Attorneys: Deborah Gonzalez, Jared Goldstein

Paiva v. R.I. Department of Corrections. RIGHTS OF PRISONERS. Contempt motion over the DOC's failure to comply with the "Morris Rules," a decades-old consent decree establishing specific procedures for handling disciplinary and segregation matters. Cooperating Attorneys: Sonja Deyoe, Lynette Labinger

* *Patterson v. Bonnet Shores Fire District*. VOTING RIGHTS. "Friend of the court" brief in support of a lawsuit challenging a Narragansett fire district's policy that bars residents from voting if they own less than \$400 of property in the district, while allowing thousands of non-resident beach cabana owners to exercise the right. Cooperating Attorney: James Rhodes

In re R.I. Department of Labor and Training. LANGUAGE DISCRIMINATION. Federal administrative complaint, filed with R.I. Legal Services, challenging the state DLT's failure to provide adequate language interpreter services. Cooperating Attorney: Jennifer Doucleff

R.I. Housing Advocacy Project v. City of Cranston. FREEDOM OF SPEECH/ECONOMIC JUSTICE. Federal lawsuit challenging an anti-panhandling ordinance that bars standing on a roadway to receive anything from, or distribute anything to, a motor vehicle occupant. A temporary restraining order was issued, and a judgment declaring the ordinance unconstitutional was entered. Cooperating Attorney: Lynette Labinger

* *Shepard v. Diniz*. RIGHTS OF PRISONERS/FREEDOM OF SPEECH. Federal lawsuit, filed with the Center for Justice, challenging a person's placement in solitary confinement for eight months after he raised concerns with prison officials about a variety of condition issues. Cooperating Attorney: Brett Baubien

* *Stern v. Weldon*. OPEN GOVERNMENT. Open records lawsuit challenging the Department of Labor and Training's refusal to turn over any documents regarding their potential use of facial recognition technology to process unemployment claims. Cooperating Attorneys: C. Alexander Chiulli, Hilary White

United States v. Jonas. PRIVACY. "Friend of the court" brief filed by all the ACLU Affiliates in the First Circuit, arguing that a judicial warrant is required for law enforcement access to patient information in state prescription drug databases. Oral argument has been held, and a decision is awaited. ACLU Attorney: Nathan Freed Wessler Cooperating Attorney: Robert Mann

Yanes v. Martin. RIGHTS OF IMMIGRANTS. Class-action habeas corpus petition challenging the continued civil detention of ICE detainees at the Wyatt Detention Center in light of the dangers of Covid-19 at prison facilities. The suit has led to the release of dozens of detainees. Settlement negotiations are proceeding. Cooperating Attorneys: Deborah Gonzalez, Jared Goldstein

* *Zab v. Rhode Island Department of Corrections*. RIGHTS OF PRISONERS. "Friend of the court" brief in R.I. Supreme Court in support of a challenge to a state law that declares inmates serving life sentences "civilly dead." Oral argument was held, and a decision is awaited. Cooperating Attorney: Lynette Labinger