

2020 ACLU OF RHODE ISLAND CASE DOCKET

Selected Active Cases, January-November 2020

* indicates case opened in 2020; # indicates case closed in 2020

In Re 38 Studios Grand Jury. OPEN GOVERNMENT. “Friend of the court” brief supporting a motion filed by the Governor seeking the release of records from the grand jury’s investigation of the 38 Studios scandal. The R.I. Supreme Court ruled against disclosure of the records. Cooperating Attorneys: Jared Goldstein, Andrew Horwitz

*# *Acosta v. State of Rhode Island*. VOTING RIGHTS. Federal lawsuit challenging implementation during the Covid-19 pandemic of a state law requiring state Senate candidates to obtain 100 in-person signatures to qualify for the ballot. The court ordered that an alternative electronic signature process be allowed for the 2020 elections. Cooperating Attorney: Armando Batastini

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 court barred the petitioner’s extradition, and the government has appealed. ACLU Attorney: Cody Wofsy Cooperating Attorney: Roberto Gonzalez

Barrington School Committee v. Student E. Doe. STUDENTS’ RIGHTS. Defense in Superior Court of a student sued by his school committee in seeking to reverse R.I. Department of Education rulings that found unlawful a three-day suspension given the student. After ACLU intervention, the school committee withdrew the lawsuit. Cooperating Attorney: Aubrey Lombardo

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 have appealed. Cooperating Attorneys: Lynette Labinger, Faye Dion

*# *Biscayne Entertainment Inc. v. City of Providence Board of Licenses*. FREEDOM OF SPEECH. “Friend of the court” brief challenging the revocation of an adult entertainment facility’s license without any opportunity for prompt judicial review. On reconsideration, the court agreed that the process was constitutionally deficient. Cooperating Attorney: Lynette Labinger

* *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. Cooperating Attorneys: Amato DeLuca, Matthew Provencher

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. Motions for summary judgment are pending. Cooperating Attorney: 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. Discovery is proceeding. Cooperating Attorney: Carly Beauvais lafrate

Caniglia v. Strom. DUE PROCESS. Federal lawsuit challenging a police department policy requiring individuals to obtain a court order in order to recover lawfully owned firearms that were seized and retained without a warrant. The court ruled the policy unconstitutional but upheld the initial seizure of the weapons. An appellate court affirmed, and the U.S. Supreme Court granted a petition for certiorari filed by private counsel on the latter issue. 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” if they are deemed to be not in “good taste or decency.” The court issued a preliminary injunction against enforcement of the statute. 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 appeals are on hold pending the outcome of a separate ACLU challenge to the constitutionality of the ordinance. Cooperating Attorney: Jason Knight

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. 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. 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. The University agreed to reinstate two women’s sports programs that had been cut and to be subject to a revised consent agreement for four years. Cooperating Attorney: Lynette Labinger

*# *Common Cause Rhode Island v. Gorbea*. VOTING RIGHTS. Federal lawsuit challenging the constitutionality of a state law, in the context of the Covid-19 pandemic, requiring two witnesses or a notary in order to cast a mail ballot. Responding to an appeal from the Republican National Committee, the U.S. Supreme Court upheld a settlement agreement reached by the parties, waiving the requirement. Cooperating Attorneys: Michael Keats, Lynette Labinger

*# *Correa v. Hawkins*. DUE PROCESS/ECONOMIC JUSTICE. Federal lawsuit challenging the adequacy of notices sent by the state Department of Human Services to some SNAP recipients, demanding that they reimburse the state for benefits overpayments that they purportedly received years earlier. The suit was resolved through a detailed consent agreement. Cooperating Attorneys: Ellen Saideman, Lynette Labinger

Cox v. Goncalves. OPEN RECORDS/POLICE MISCONDUCT. Open records lawsuit against the Pawtucket Police Department for refusing to release reports relating to alleged police officer misconduct. The suit is on hold pending the outcome of a similar lawsuit. Cooperating Attorney: James Cullen

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. Cooperating Attorney: Ellen Saideman

*# *Enwonwu v. Lyons*. RIGHTS OF IMMIGRANTS. Habeas corpus petition seeking the release of an immigrant detainee who had been awaiting deportation proceedings for over three years. His release was approved. Cooperating Attorney: Susan Church

Federal Hill Capital, LLC v. City of Providence. PRIVACY. Lawsuit challenging an ordinance that prohibits more than three college students from living together in certain areas of the city. The state Supreme Court upheld the ordinance's constitutionality. Cooperating Attorneys: Jeffrey Levy, Charles Blackman

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. The DLT agreed to take interim action to address the issue. Cooperating Attorneys: Ellen Saideman, Lynette Labinger

* *Johnson v. City of Pawtucket*. STUDENTS' RIGHTS. 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. 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 involuntary transferred to a Rhode Island hospital under this state's civil commitment law. Cooperating Attorney: Carolyn Mannis

Kurland v. City of Providence. FREEDOM OF SPEECH. Federal lawsuit on behalf of two protesters, one of whom was arrested for disorderly conduct, for being forced to move from the site of a political fundraiser where they were picketing. Competing motions for summary judgment were rejected, and a trial has been ordered. 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: Amy Fettig

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 have filed a motion to dismiss. 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 some of the records to be released. Cooperating Attorney: James Cullen

*# *McKinney 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, Thomas G. Briody, 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 particularly vulnerable to serious illness or death if they were to contract Covid-19 while detained. A court ordered their release; an appeal is pending. Cooperating Attorneys: Deborah Gonzalez, Jared Goldstein

Narcisi v. Turtleboy Digital Marketing. FREEDOM OF SPEECH. Defense representation of a Massachusetts blogger ordered by a Rhode Island state judge, without prior notice, to delete from his website any posts regarding a person who had sued him for libel. After removal of the case to federal court, a judge ordered dismissal of the suit on jurisdictional grounds. Cooperating Attorney: Lynette Labinger

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

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 discovery is proceeding. Cooperating Attorney: Lynette Labinger

*# *Robbio v. State of Rhode Island*. RIGHTS OF EX-OFFENDERS. Complaint filed with the state Commission for Human Rights challenging the complainant's termination from state employment based solely on a dismissed arrest record. The plaintiff voluntarily dismissed the complaint after finding alternative employment. Cooperating Attorney: David Cass

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, and bail hearings continue. Cooperating Attorneys: Deborah Gonzalez, Jared Goldstein

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