

2022 ACLU OF RHODE ISLAND CASE DOCKET

Active Cases, January-November 2022

* indicates case opened in 2022; # indicates case closed in 2022

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. The court ruled unfavorably, but the state established a task force to consider how to improve the quality of civic education. Cooperating Attorneys: Andrew Troop, Jeffrey Meltzer

Benson v. Raimondo. ABORTION RIGHTS. "Friend of the court" brief opposing this lawsuit challenging the constitutionality of the Reproductive Privacy Act, which codified *Roe v. Wade* into state law. The R.I. Supreme Court upheld the statute's constitutionality, and the U.S. Supreme Court refused to review the case. 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

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 orders have been issued by the court as the case proceeds. ACLU of Massachusetts Attorney: Adriana Lafaille

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 also upheld the weapons seizure, but the U.S. Supreme Court unanimously reversed on Fourth Amendment grounds. An award of attorneys' fees has been made. Cooperating Attorneys: Thomas W. Lyons, Rhiannon Huffman

*# **Champlin's Realty Associates v. Lemont.** OPEN GOVERNMENT. This was a proposed "friend of the court" brief filed with other organizations questioning the Coastal Resource Management Council's resolution of a highly-disputed case without obtaining public input. The request to submit the brief was denied by the R.I. Supreme Court. Cooperating Attorney: Lynette Labinger

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. The suit was voluntarily dismissed after the client declined to further participate in the suit. 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 and the U.S. Supreme Court denied a petition to review the case. Attorneys' fees were awarded. 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 agreed to turn over the records. 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. A court has ruled that the district was in violation of the law. Cooperating Attorney: Ellen Saideman

*# **Doe v. State of Rhode Island.** OPEN GOVERNMENT. This was a motion brought on behalf of two civil rights organizations seeking to intervene in a lawsuit in order to challenge a former state trooper's attempt to proceed anonymously in suing the State Police after he was fired for misconduct. Shortly after the motion was filed, the plaintiff agreed to amend the lawsuit using his name. Cooperating Attorney: Jared Goldstein

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: Georgi Vogel-Rosen, Lynette Labinger

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/RACE DISCRIMINATION. 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. A motion by defendants to dismiss the case was denied, and 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 involuntarily transferred to a Rhode Island hospital under this state's civil commitment law. The appeal was dismissed as moot. Cooperating Attorney: Carolyn Mannis

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. The defendants agreed to allow the plaintiff to return to work, adopted a due process policy governing the removal of persons from the casino, and paid attorneys' fees in settlement of the case. Cooperating Attorney: James Musgrave

*** *Lambert v. State of Rhode Island*.** JUVENILE JUSTICE. “Friend of the court” brief challenging the Department of Corrections’ retroactive application of a policy changing the way it calculates parole eligibility dates for individuals serving consecutive sentences for juvenile offenses. After the court ordered the petitioner’s release, the state filed a petition seeking review by the RI Supreme Court. Cooperating Attorneys: Lisa Holley, Sonja Deyoe, Lynette Labinger

***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. The suit was made moot when the R.I. Supreme Court ruled the statute unconstitutional in another case. Cooperating Attorneys: Sonja Deyoe, Lynette Labinger

***Lyssikatos v. King*.** OPEN RECORDS/POLICE MISCONDUCT. 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. In potential settlement of the case, defendants are preparing release of most of the records. 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. After the defendant agreed to remove a few of the posts, plaintiff dismissed the suit. Cooperating Attorney: Carolyn Mannis

*** *Morelli v. Rhode Island Public Transit Authority*.** PRIVACY. Class-action lawsuit challenging RIPTA and United Healthcare’s negligence in allowing a data breach that compromised the personal and health care information of thousands of current and former state employees, including many with no connection to RIPTA. Cooperating Attorneys: Peter Wasylyk, Carlin Philips

*** *Neves v. State of Rhode Island; Ortega v. State of Rhode Island; Nunes v. State of Rhode Island*.** JUVENILE JUSTICE. These three habeas corpus petitions challenge the Department of Corrections’ retroactive application of a policy changing the way it calculates parole eligibility dates for individuals serving consecutive sentences for juvenile offenses. The court ordered the petitioners’ release, and the R.I. Supreme Court has agreed to hear the cases. Cooperating Attorneys: Lisa Holley, Sonja Deyoe, Lynette Labinger

*Patterson v. Bonnet Shores Fire District*. VOTING RIGHTS. “Friend of the court” brief supporting a challenge to 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. The court ruled the policy unconstitutional. Cooperating Attorney: James Rhodes

*** *Perry v. Spencer*.** RIGHTS OF PRISONERS. This is a “friend of the court” brief filed by ACLU Affiliates in the First Circuit seeking review of a decision granting qualified immunity to corrections officials who placed a person in solitary confinement for over a year without procedural due process. Cooperating Attorney: 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. The U.S. Department of Labor found the DLT in violation of a consent decree and has ordered compliance measures. Cooperating Attorney: Ellen Saideman

* ***Schultz v. Bellamy-Goslin.*** PREGNANCY DISCRIMINATION. Lawsuit on behalf of a newly hired employee at a professional cleaning service who was immediately terminated after the company learned she was pregnant. Cooperating Attorney: Mark Gagliardi

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. City of Providence.*** OPEN RECORDS. Lawsuit challenging the City's refusal to release any documents related to its decision to bar a rapper from performing at a local night club. The court denied the City's motion to dismiss and its subsequent motion for summary judgment. Cooperating Attorney: Jeff Levy

Stern v. Weldon. OPEN RECORDS. 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. The DLT agreed to entry of an order acknowledging a violation of the open records law and paying attorneys' fees. Cooperating Attorneys: C. Alexander Chiulli, Hilary White

* ***Stewart and Cruz v. City of Pawtucket.*** FREEDOM OF SPEECH. Federal lawsuit challenging a city ordinance banning the placement of political signs on residential property more than 60 days before an election. The City agreed to a temporary restraining order against enforcement of the ordinance. Cooperating Attorney: Richard A. Sinapi

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 police to obtain access to patient information in state prescription drug databases. The court ruled otherwise, and a petition for certiorari was denied. ACLU Attorney: Nathan Freed Wessler Cooperating Attorney: Robert Mann

Yanes v. Martin. RIGHTS OF IMMIGRANTS. Class-action habeas corpus petition, filed with National ACLU, 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." The court ruled the statute unconstitutional. Cooperating Attorney: Lynette Labinger