

2018 ACLU OF RHODE ISLAND CASE DOCKET

Cases Active January-December 2018

* indicates case opened in 2018; # indicates case closed in 2018

In Re 38 Studios Grand Jury. OPEN GOVERNMENT. "Friend of the court" brief supporting a motion filed by the Governor to seek the release of records relating to the grand jury's 38 Studios investigation. The court rejected the motion, and an appeal is pending. Cooperating Attorney: Jared Goldstein.

ACLU of Maine et al. v. Department of Homeland Security. OPEN RECORDS/RIGHTS OF IMMIGRANTS. Freedom of Information Act lawsuit over DHS's failure to provide New England ACLU Affiliates documents relating to implementation of the President's first Muslim travel ban. Pursuant to a court schedule, the defendants are processing the documents. ACLU of Maine Attorney: Zachary Heiden.

* *Borrelli v Premier Entertainment*. SEX AND AGE DISCRIMINATION. Lawsuit against the Newport Grand Casino on behalf of a female employee who, for a decade, has been paid significantly less than a younger male employee performing the same duties. Cooperating Attorney: Lynette Labinger.

Brady v. Tamburini. FREEDOM OF SPEECH. Federal lawsuit challenging the two-day suspension of a Johnston detective after he publicly criticized the police department in his role as president of the police union. Discovery is proceeding. Cooperating Attorney: John W. Dineen.

*# *Brown v. Miller*. OPEN RECORDS. Open records lawsuit against a public charter school that failed to provide records regarding its policies on the rights of transgender students. A day after the suit was filed, the school released the documents and paid court costs. Cooperating Attorney: Annie Goldberg.

* *Calderon v. Nielsen*. RIGHTS OF IMMIGRANTS. Successful habeas corpus petition, filed with 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. A motion to dismiss the suit was denied. 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. Cooperating Attorney: Carly Beauvais Iafate.

Caniglia v. Strom. DUE PROCESS. Federal lawsuit challenging a Cranston Police Department policy of requiring individuals to obtain a court order in order to recover lawfully-owned firearms that were seized and retained without a warrant. Discovery is proceeding. Cooperating Attorneys: Thomas W. Lyons, Rhiannon Huffman.

* *Cox v. Goncalves*. OPEN RECORDS/POLICE MISCONDUCT. Open records lawsuit against the Pawtucket Police Department for refusing to release reports of alleged police officer misconduct. Cooperating Attorney: James Cullen.

City of Cranston v. Morton et al. FREEDOM OF SPEECH. Appellate defense representation of a number of protesters found guilty of violating an anti-panhandling ordinance for distributing literature to drivers from a roadway median. Cooperating Attorney: Jason Knight.

Doe v. Providence School District. STUDENTS' RIGHTS/RIGHTS OF IMMIGRANTS. Administrative complaint, filed with R.I. Legal Services, charging the Providence School District with violating laws and regulations that require the provision of appropriate educational services to English Language Learner students. Cooperating Attorney: Ellen Saideman.

Eil v. Drug Enforcement Administration. OPEN GOVERNMENT. Freedom of Information Act lawsuit on behalf of a journalist denied access to thousands of pages of public evidence from a criminal trial. Although the suit prompted release of numerous documents, the appeals court reversed a court order for release of other records in redacted form. Cooperating Attorneys: Neal McNamara, Jessica Jewell.

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 court upheld the ordinance, and an appeal has been filed. Cooperating Attorneys: Jeffrey Levy, Charles Blackman.

Ferragamo and Perreault v. Harmony Fire District. SEX DISCRIMINATION. Consolidation of two federal lawsuits on behalf of two EMT/firefighters who were fired after supporting another female firefighter's claims about discriminatory treatment. Discovery is proceeding. Cooperating Attorney: Sonja Deyoe.

Franchina v. City of Providence. LGBT DISCRIMINATION. "Friend of the court" brief filed by a number of groups, urging that the federal law's ban on sex discrimination be interpreted to cover discrimination on the basis of sexual orientation. The court ruled in plaintiff's favor without addressing that issue. ACLU attorney: Rebecca Tabacco Mar.

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. Cooperating Attorneys: Lynette Labinger, John MacDonald.

Gemmell v. RI Department of Human Services. DUE PROCESS. Federal class-action lawsuit, filed with the National Center for Law and Economic Justice, over the state's failure to provide food stamp benefits in a timely manner. A special master was appointed to oversee compliance with a court-approved settlement agreement, and ongoing monitoring reports are being issued. Cooperating Attorney: Lynette Labinger.

Hunter v. City of Cranston. FREEDOM OF SPEECH. Federal lawsuit challenging the selective enforcement of a city ordinance banning signs on public property. Discovery is proceeding. Cooperating Attorney: Richard A. Sinapi.

*# *J.Y. v Providence School District*. DISABILITY RIGHTS/STUDENTS' RIGHTS. Administrative petition seeking various remedies on behalf of a 12-year-old special education student in a wheelchair who was unable to find transportation to school during a city-wide school bus strike. The district agreed to compensatory remedies and an award of attorneys' fees. Cooperating Attorney: Christine Marinello.

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. Discovery is proceeding. Cooperating Attorney: Richard A. Sinapi.

Lacoste v. RI State Police. DUE PROCESS. 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. Settlement negotiations are ongoing. Cooperating Attorney: James Musgrave.

* *LMG Rhode Island Holdings v. Rhode Island Superior Court*. OPEN RECORDS/ACCESS TO THE COURTS. “Friend of the court” brief in support of a challenge to a judge’s order blocking the release of a juror form in a high-profile murder case, and temporarily barring members of the public from contacting the jurors. Cooperating Attorneys: Thomas W. Lyons, Rhiannon Huffman.

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. A motion for summary judgment has been filed. Cooperating Attorneys: James Cullen, R. Kelly Sheridan.

* *Marasco and Nesselbush v. Collins*. ACCESS TO THE COURTS. “Friend of the court” brief, filed with other non-profits, in support of a challenge to Social Security Administration practices that make it difficult for successful attorneys in disability hearing cases to recover their attorneys’ fees. The court rejected a motion to dismiss the case. Cooperating Attorney: Carolyn Mannis.

* *Morgan v. Kilmartin*. OPEN RECORDS. “Friend of the court” brief in an open records lawsuit in support of plaintiff’s request for a waiver of fees to obtain thousands of pages of documents pertaining to the Attorney General’s expenditure of \$50M in funds received from a major class-action settlement, and objecting to various redactions made in documents already provided. The court ordered a waiver of fees, but upheld the redactions. Cooperating Attorney: Lynette Labinger.

Town of Narragansett v. Green Acres et al. PRIVACY. Defense representation of more than two dozen homeowners charged under a town ordinance barring more than three unrelated individuals from living together. The Municipal Court dismissed the charges on constitutional grounds. Cooperating Attorney: H. Jefferson Melish.

* *Parkhurst v. State*. RIGHTS OF JUVENILES. Federal lawsuit on behalf of an individual serving a lengthy sentence for a crime committed while a juvenile, challenging Parole Board practices governing the length of time between Board reviews of the inmate’s parole eligibility. The Board has revised its procedures, and proceedings in the case have been stayed. Cooperating Attorney: Miriam Weizenbaum.

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

In re R.I. Department of Labor and Training. LANGUAGE DISCRIMINATION. Federal 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/RIGHTS OF THE POOR. 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 Attorneys: Lynette Labinger, Kizzy Mota.

*# *Rhode Island Housing Advocacy Project v. Raimondo*. RIGHTS OF EX-OFFENDERS. Federal lawsuit challenging a law barring state homeless shelters from having more than 10% of its population consist of registered sex offenders. A settlement agreement was entered, allowing the cap to be exceeded if no other shelter appears available. Cooperating Attorneys: Lynette Labinger, John MacDonald.

* *R.I. Legal Services et al. v. Providence School District*. DISABILITY RIGHTS/STUDENTS' RIGHTS. This class administrative complaint seeks various forms of relief for students with disabilities whose education plans were disrupted as the result of a school bus strike in Providence. Cooperating Attorney: Ellen Saideman. RILS Attorney: Veronika Kot.

R.I. Patient Advocacy Coalition v. Town of Smithfield. MEDICAL MARIJUANA. Lawsuit challenging an ordinance imposing numerous restrictions on the growing of medical marijuana by patients and caregivers. The court ruled that the ordinance violated the state medical marijuana law. Cooperating Attorneys: Alexander Chiulli, John Meara.

Richer v. Parmalee. DUE PROCESS. Federal lawsuit challenging a police department's refusal over the course of six years to return to the plaintiff lawfully owned firearms that were seized from him without a warrant. A court ruled the practice unconstitutional. Cooperating Attorneys: Thomas W. Lyons, Rhiannon Huffman.

* *Richer v. Town of North Smithfield*. DUE PROCESS. Federal lawsuit challenging a police department's refusal to remove from its files a note falsely claiming that the plaintiff is "psychologically unstable" and has numerous weapons at his house. A motion for a temporary restraining order was denied. Cooperating Attorneys: Thomas W. Lyons, Rhiannon Huffman.

* *In re: R.V.* TRANSGENDER RIGHTS. Probate Court petition on behalf of a transgender ACI inmate seeking to change her name to reflect her identity. Cooperating Attorney: Sheila Cooley.

* *Scherwitz v. Beane*. DUE PROCESS/RIGHTS OF THE POOR. Federal lawsuit challenging the lack of proper notice given participants in a state-run Medicaid program before being removed from the program. Settlement negotiations are proceeding. Cooperating Attorney: Ellen Saideman.

* *Sojourner House v. City of Woonsocket*. FREEDOM OF SPEECH/DUE PROCESS. Federal lawsuit challenging City's withholding of grant funds from a social service agency without cause, and then retaliating against the agency after it petitioned other government agencies for help in resolving the dispute. Cooperating Attorneys: Matthew Oliverio, Stephen Prignano.

* *SouthCoast Fair Housing v. Saunders*. ACCESS TO THE COURTS. Federal lawsuit challenging a State Supreme Court rule that bars non-profit organizations from obtaining a license to practice law unless they serve only "indigent" clients and are incorporated in Rhode Island. Cooperating Attorneys: Mark Freel, Jeffrey Ankstrom.

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