



ACLU OF WEST VIRGINIA FOUNDATION

DOCKET AS OF JUNE 25, 2011

1. Conley v. Nichols. Our most recent litigation, filed June 10 in the Southern District (USDC) challenges an unlawful night time warrantless arrest on unfounded charges. In the process of arresting Ms. Conley at her home, and transporting and incarcerating her, State Police willfully exposed her breasts and refused to let her cover herself or obtain suitable clothing. The charges, relating to an alleged theft by the Plaintiff's daughter's boyfriend, included obstruction, receiving stolen property, and providing false information – all of which were later dropped and dismissed upon motion by the state. The case seeks damages for deprivation of Ms. Conley's rights under state and federal constitutions, including her right to privacy and to be free from unreasonable search and seizure. Georgia Lee Gates is cooperating attorney.

2. Stanley v. Rubenstein. Complainant, a prisoner, was granted parole in June 2005. He asked to be paroled to his fiancée's home. His request was denied because parolees must agree that they will "not violate any municipal ordinances or laws of this state, any other state, or the United States" and W.Va. Code Section 61-8-4 prohibits cohabitation. On October 26, nearly five months later, he was finally released to a six-month program at a rescue mission. There, the rules required him to attend scheduled classes and complete quizzes in Bible-related subjects, to own and use his own Bible, to go to a church service most mornings, and to attend a memory class (Bible verses), and Bible study. He was expected to attend an approved church in the community.

The challenge to complainant's coerced participation in religious exercises and to the constitutionality of W.Va. Code Section 61-8-4 (the prohibition on cohabitation), was filed in the Circuit Court of Kanawha County on September 18, 2006. Defendant's motion to dismiss without prejudice was granted and plaintiff's petition for appeal was denied. The case was refiled in the Circuit Court of Kanawha County on February 22, 2008. A hearing on defendant's motion to dismiss and/or for summary judgment took place on August 13, 2008. On March 27, 2009 the court denied the motion to dismiss. Discovery is complete and dispositive motions are pending. E. Lavoyd Morgan is the ACLU cooperating attorney.

3. Evans v. Security America, Inc. This case involves an employer's refusal to accommodate an employee's religious beliefs and retaliation for reporting sexual harassment. When complainant was hired, she told her employer her religion prohibits women from wearing men's clothing. She was asked for a copy of the church's teachings, which she provided. She was told that she could wear a skirt instead of uniform trousers. She did so with no problem for about six weeks at one assignment. Then she was transferred to a position where she sat in a booth and answered phones.

At the new work site, she was subjected to sexual harassment. She reported this to her employer, but the employer took no steps to deal with the harassment. Shortly after she complained, she was told that she would be terminated if she did not wear uniform trousers. She offered to pay for a uniform skirt, or have one made to match the uniforms. When she reported for work wearing a skirt, she was dismissed.

A lawsuit alleging discrimination based on religion and gender, and retaliatory discharge, was filed in the Circuit Court of Boone County on May 29, 2007. Defendant answered on July 16, 2007. Discovery is under way. Bradley J. Pyles is the cooperating attorney.

4. Hutchinson v. Lemmon. Plaintiff was taking a shower when law enforcement officers arrived at her home to execute a search warrant. Officers burst into the bathroom and refused to let her cover herself even after it was evident that she was not armed, dragged her into the living room by her hair, and forced her to lie naked on the floor for approximately 30 minutes in the presence of her father, brother, boyfriend, and approximately ten armed and masked male officers.

On July 6, 2007, a complaint was filed in the United States District Court for the Southern District of West Virginia in Huntington alleging failure to train the officers involved and violation of plaintiff's Fourth Amendment right to be free of unlawful search and seizure and her right to privacy. At a pretrial conference on July 26, 2010, the court generally denied defendants' motion for summary judgment. A Memorandum Opinion and Order was issued on August 5, 2010. The Court held that the defendants in their individual capacities were not entitled to qualified immunity. Defendants appealed the ruling as to qualified immunity to the Fourth Circuit Court of Appeals and the proceedings have been stayed pending the appeal. Georgia Gates is the cooperating attorney.