

SUPREME COURT OF RHODE ISLAND

Downey v. Carcieri

996 A.2d 1144 (R.I. 2010) · No. No. 2009-79-Appeal · Decided June 16, 2010

SUMMARY

The Rhode Island Supreme Court affirmed a Superior Court judgment involving requests for state-agency privatization records under the Access to Public Records Act and the Government Oversight and Fiscal Accountability Review Act. The court held that plaintiffs were not required to exhaust administrative remedies before seeking judicial relief, interpreted “services heretofore provided” to include services performed by agency employees at any reasonable time in the past, and upheld an award of attorneys’ fees.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Chief Justice Suttell; Justice Goldberg; Justice Flaherty; Justice Robinson
JURISDICTION	Rhode Island
DECIDED	June 16, 2010
DOCKET	No. 2009-79-Appeal
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed from a Rule 54(b) partial final judgment of the Rhode Island Superior Court granting plaintiffs declaratory relief under the Access to Public Records Act and the Government Oversight and Fiscal Accountability Review Act and awarding attorneys' fees.
STANDARD OF REVIEW	Declaratory-relief decisions are reviewed with great deference; factual findings are given great weight and will not be disturbed absent clear error or a misconception of material evidence; questions of law and statutory construction are reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Governor Donald L. Carcieri, Directors of twelve state agencies v. Michael Downey, Rhode Island Council 94, A.F.S.C.M.E., AFL-CIO

TOPICS

administrative law

exhaustion of remedies

statutory interpretation

plain meaning rule

attorney fees

PRACTICE AREAS

administrative law

statutory interpretation

public records

civil procedure

attorney fees

QUESTIONS PRESENTED

1. Whether the Access to Public Records Act required plaintiffs to exhaust the statute's administrative remedies before filing an action for declaratory or injunctive relief in Superior Court.
2. Whether GOFARA's definition of a privatization contract, including services "heretofore provided" by agency employees, applied to services performed by agency employees at any time in the past.
3. Whether plaintiffs were entitled to attorneys' fees under the Access to Public Records Act despite the absence of a knowing and willful violation.

HOLDINGS

1. Section 38-2-8 establishes permissive administrative remedies and does not require a requester to pursue those remedies before bringing an action for declaratory or injunctive relief in Superior Court.
2. Under the 2006 version of R.I. Gen. Laws § 37-2.3-3(5), the phrase "services heretofore provided" encompasses services performed at any time in the past by regular employees of a state agency, subject to an element of reasonableness.
3. A prevailing plaintiff in an APRA action is entitled to reasonable attorneys' fees and costs without proving that the public body or official knowingly and willfully violated the statute.

KEY QUOTATIONS

"It is an axiomatic principle of statutory construction that the use of the term "may" denotes a permissive, rather than an imperative, condition." (996 A.2d at 1151)

"We are satisfied, therefore, that by the plain and ordinary meaning of its terms, the phrase "services heretofore provided" encompasses all services performed at any time in the past by regular employees of a state agency." (996 A.2d at 1152)

*"This interpretation gives effect to the legislative intent that a "prevailing plaintiff be awarded attorneys' fees * * * with the inquiry focusing only on whether the plaintiff is successful, not the defendant's subjective intent.'" (996 A.2d at 1153)*

FACTUAL BACKGROUND

The General Assembly enacted GOFARA in 2006, requiring state agencies to include privatization-contract addenda in budget requests and to disclose specified information about contracted private employees and consultants. Plaintiffs requested these addenda, but the Governor's office and the Department of Administration responded that they did not possess the requested records. Plaintiffs then sued, and the Superior Court ordered the defendants to compile and release addenda concerning contracts for services previously performed by agency employees and awarded attorneys' fees.

PROCEDURAL HISTORY

Plaintiffs requested state-agency privatization-contract budget addenda from the Governor's office and the Department of Administration. After the requests were denied on the ground that the records were not in the agencies' possession, plaintiffs filed a Superior Court action seeking mandamus, injunctive relief, declaratory relief, and fees. The Superior Court ruled for plaintiffs, ordered production of the records, awarded attorneys' fees, and entered a corrected partial final judgment under Rule 54(b). The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Providence Lodge No. 3, Fraternal Order of Police v. Providence External Review Authority, 951 A.2d 497, 502 (R.I. 2008)
- Fleet National Bank v. 175 Post Road, LLC, 851 A.2d 267, 273 (R.I. 2004)
- Casco Indemnity Co. v. O'Connor, 755 A.2d 779, 782 (R.I. 2000)
- State v. LaRoche, 925 A.2d 885, 887 (R.I. 2007)
- Brennan v. Kirby, 529 A.2d 633, 637 (R.I. 1987)
- Berthiaume v. School Committee of Woonsocket, 121 R.I. 243, 247, 397 A.2d 889, 892 (1979)
- Almeida v. Plasterers' & Cement Masons' Local 40 Pension Fund, 722 A.2d 257, 259 (R.I. 1998)
- Doe v. East Greenwich School Department, 899 A.2d 1258, 1266 (R.I. 2006)
- State v. Germane, 971 A.2d 555, 592 (R.I. 2009)
- Quality Court Condominium Association v. Quality Hill Development Corp., 641 A.2d 746, 751 (R.I. 1994)
- Carlson v. McLyman, 77 R.I. 177, 182, 74 A.2d 853, 855 (1950)
- In re New England Gas Co., 842 A.2d 545, 551 (R.I. 2004)
- Providence Journal Co. v. Sundlun, 616 A.2d 1131, 1134 (R.I. 1992)
- Raso v. Wall, 884 A.2d 391, 395 (R.I. 2005)
- Napier v. Epoch Corp., 971 A.2d 594, 598 n.4 (R.I. 2009)
- Direct Action for Rights and Equality v. Gannon, 819 A.2d 651, 660 (R.I. 2003)
- Holden v. Salvatore, 964 A.2d 508, 512 n.6 (R.I. 2009)
- Rhode Island Federation of Teachers, AFT, AFL-CIO v. Sundlun, 595 A.2d 799, 801 (R.I. 1991)