

SUPREME COURT OF RHODE ISLAND

In re 38 Studios Grand Jury

In re 38 Studios Grand Jury · No. 2017-301-Appeal (PM 17-701) · Decided February 19, 2020

SUMMARY

The Rhode Island Supreme Court affirmed the denial of the Governor’s petition seeking public disclosure of materials from the 38 Studios grand jury. The court considered whether the Superior Court has inherent authority to disclose grand jury materials outside the specific exceptions in Rule 6(e) of the Superior Court Rules of Criminal Procedure, as well as issues concerning standing and particularized need. The opinion discusses the history and purposes of grand jury secrecy.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Associate Justice Francis X. Flaherty; Chief Justice Suttell; Justice Goldberg; Justice Flaherty; Justice Robinson; Justice Indeglia
JURISDICTION	Rhode Island
DECIDED	February 19, 2020
DOCKET	2017-301-Appeal (PM 17-701)
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Governor appealed from a Superior Court judgment denying her miscellaneous petition seeking public disclosure of all materials from the grand jury investigation into the 38 Studios bond transaction.
STANDARD OF REVIEW	Questions concerning the Superior Court's authority to disclose grand jury materials are reviewed de novo. Whether disclosure would be appropriate under an applicable exception is generally discretionary.
PRECEDENTIAL VALUE	precedential
PARTIES	Gina M. Raimondo, in her official capacity as Governor of Rhode Island v. Attorney General of Rhode Island

TOPICS

[grand jury](#)[criminal procedure](#)[appellate procedure](#)[constitutional law](#)[due process](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Governor had traditional standing to petition for disclosure of the 38 Studios grand jury materials.
2. Whether the Supreme Court should overlook the Governor's lack of traditional standing because the controversy presented a matter of substantial public interest.
3. Whether the Superior Court possesses inherent authority to disclose grand jury materials beyond the disclosures permitted by Rule 6(e) of the Superior Court Rules of Criminal Procedure.
4. Whether, even if such inherent authority existed, the Superior Court acted within its discretion in denying the Governor's request for wholesale public disclosure.

HOLDINGS

1. The Governor did not satisfy the traditional standing requirement because she failed to demonstrate a concrete and particularized injury distinct from the generalized public interest in disclosure.
2. The Court may overlook the traditional standing requirement and reach the merits when a case presents a matter of substantial public interest and sufficient concrete adverseness.
3. The Superior Court has no inherent authority to disclose grand jury materials beyond the disclosures permitted by Rule 6(e) of the Superior Court Rules of Criminal Procedure.
4. Even if the Superior Court possessed inherent authority to disclose grand jury materials in special or exceptional circumstances, it would have acted within its discretion in denying the Governor's petition.

KEY QUOTATIONS

"Therefore, we are constrained to answer the question in the negative: There is no inherent authority in the Superior Court to disclose grand jury materials beyond that which is permitted by the Superior Court Rules of Criminal Procedure." (-25-)

"However, after careful consideration of the issues ably briefed and argued by the parties, the judgment of the Superior Court is affirmed." (-31-)

FACTUAL BACKGROUND

In 2010, Rhode Island's Economic Development Corporation issued \$75 million in bonds to guarantee loans for 38 Studios. The company failed in 2012, leaving Rhode Island taxpayers responsible for approximately \$88 million. A statewide grand jury investigated possible criminality for eighteen months and completed its work in 2015; the Attorney General and State Police later announced that they had found no provable criminal violations. After related civil litigation produced more than \$61 million in settlements and its records became public, the Governor sought wholesale disclosure of the grand jury materials.

PROCEDURAL HISTORY

A statewide grand jury investigated the 38 Studios transaction from 2012 through 2015. In February 2017, the Governor petitioned the Providence County Superior Court for release of all grand jury records. The Presiding Justice denied the petition, concluding that Rule 6(e) supplied the governing disclosure authority and that, alternatively, the Governor had not shown particularized need or policy factors favoring disclosure. The Supreme Court considered the appeal despite the Governor's failure to satisfy traditional standing requirements because of the substantial public interest and affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Doe, 717 A.2d 1129, 1134 (R.I. 1998)
- United States v. Sells Engineering, Inc., 463 U.S. 418, 423 (1983)
- State v. Guido, 698 A.2d 729, 735-36 (R.I. 1997)
- In re Melvin, 546 F.2d 1, 5 (1st Cir. 1976)
- United States v. Calandra, 414 U.S. 338, 343 (1974)
- Ex parte Bain, 121 U.S. 1, 11 (1887)
- United States v. Providence Tribune Co., 241 F. 524, 526 (D.R.I. 1917)
- Carlson v. United States, 837 F.3d 753, 755-59 (7th Cir. 2016)
- Robinson v. Mayo, 849 A.2d 351, 353 n.2 (R.I. 2004)
- Watson v. Fox, 44 A.3d 130, 135-38 (R.I. 2012)
- Rhode Island Ophthalmological Society v. Cannon, 113 R.I. 16, 22, 317 A.2d 124, 128 (1974)
- McKenna v. Williams, 874 A.2d 217, 225 (R.I. 2005)
- Bowen v. Mollis, 945 A.2d 314, 317 (R.I. 2008)
- Burns v. Sundlun, 617 A.2d 114, 116 (R.I. 1992)
- Sennott v. Hawksley, 103 R.I. 730, 732, 241 A.2d 286, 287 (1968)
- Dellagrotta v. Dellagrotta, 873 A.2d 101, 109 (R.I. 2005)
- In re Young, 755 A.2d 842, 843, 847 (R.I. 2000)
- State v. Ouimette, 110 R.I. 747, 763-64, 298 A.2d 124, 134-35 (1972)
- In re Station Fire Grand Jury, 2006 R.I. Super. LEXIS 193, at *3-*6, *21 (R.I. Super. Ct. Dec. 21, 2006)
- Pittsburgh Plate Glass Company v. United States, 360 U.S. 395, 398-401 (1959)
- United States v. Socony-Vacuum Oil Co., 310 U.S. 150, 233 (1940)
- State v. Briggs, 934 A.2d 811, 815-16 (R.I. 2007)
- State v. DiStefano, 764 A.2d 1156, 1167-68 (R.I. 2000)
- Drago Custom Interiors, LLC v. Carlisle Building Systems, Inc., 57 A.3d 668, 673-74 n.5 (R.I. 2012)
- State v. Dearmas, 841 A.2d 659, 661-62 (R.I. 2004)
- State v. Manocchio, 743 A.2d 555, 557 (R.I. 2000)

- In re Petition of Craig, 131 F.3d 99, 102, 106-07 (2d Cir. 1997)
- United States v. Aisenberg, 358 F.3d 1327, 1347 (11th Cir. 2004)
- McKeever v. Barr, 920 F.3d 842, 843-44 (D.C. Cir. 2019)
- In re Pitch, 275 F. Supp. 3d 1373, 1375-83 (M.D. Ga. 2017)
- Pitch v. United States, 915 F.3d 704, 707 (11th Cir. 2019)
- In re Petition of National Security Archive, 104 F. Supp. 3d 625, 626-27 (S.D.N.Y. 2015)
- In re Petition of Kutler, 800 F. Supp. 2d 42, 43, 49-50 (D.D.C. 2011)
- In re American Historical Association, 49 F. Supp. 2d 274, 277-78, 292, 297 (S.D.N.Y. 1999)
- In re Unseal Dockets, 308 F. Supp. 3d 314, 317-19, 327-34 (D.D.C. 2018)
- Lepore v. United States, No. 18-mc-91539-ADB, slip op. at 1-15 (D. Mass. Feb. 4, 2020)
- In re Opinion to the Governor, 62 R.I. 200, 203, 4 A.2d 487, 488 (1939)
- In re Buxton, 111 R.I. 480, 482, 304 A.2d 350, 352 (1973)
- Lett v. Providence Journal Company, 798 A.2d 355, 365 (R.I. 2002)
- State v. DiPrete, 710 A.2d 1266, 1275 (R.I. 1998)
- Mello v. Superior Court, 117 R.I. 578, 583-84, 370 A.2d 1262, 1265 (1977)
- State v. Perez, 882 A.2d 574, 583 (R.I. 2005)
- State v. Lead Industries Association, Inc., 951 A.2d 428, 479 (R.I. 2008)