

No. 19-370

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In the  
Supreme Court of the United States

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SAMUEL DAVID SILVA-RAMIREZ,

*Petitioner,*

v.

HOSPITAL ESPANOL AUXILIO MUTUO DE PUERTO  
RICO, INC.: SOCIEDAD ESPANOLA DE AUXILIO  
MUTUO DE PUERTO RICO, INC. ET AL,

*Respondent.*

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On a Petition for Writ of Certiorari to the  
to the Supreme Court of Puerto Rico

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PETITION FOR REHEARING

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DR. SAMUEL DAVID SILVA-RAMIREZ

*PETITIONER PRO SE*

243 PARIS ST. PMB 1834

SAN JUAN, P.R. 00917

(787) 342-5983

SAMUELDAVIDSILVA@HOTMAIL.COM

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## PETITION FOR REHEARING

**Federal Guarantee Loans.** The Hospital Español de Auxilio Mutuo in Spanish, (HEAM hereafter) took Federal Guarantee Loans that prevent them from discriminating by Creed.

HEAM a private corporation organized under the laws of Puerto Rico on April 29, 1992; is non-profit hospital, not affiliated to Church and no religious purpose. (App 76a-78a).

The Hospital has a community of Catholic Sisters who give voluntary work, and no decisions inherent in the operation of HEAM.

The owners of the Hospital is la Sociedad Espanola de Auxilio Mutuo (SEAM, hereafter).

Bylaws of 2008 allows sterilization.

Dr. Samuel D. Silva-Ramirez (Dr Silva), American citizen and residing in Puerto Rico, a Gynecologist that had privileges in HEAM until year 2009, when his privileges were revoked, because Dr Silva sterilized a patient protecting her right to decision (Autonomy) versus a religious illegal protocol. This affront was notified to the NPDB (National Providers Data Bank), indicating non-compliance with the Institutional Protocols (Religious Protocol not included in the bylaws) (App 51a to 53a).

The disposition of the bylaws is contrary to the Congress disposition of law "Health Care Improvement Act of 1986", 42 U.S.C. Sec. 11101-11152 (HCQIA), which expressly regulates this proceedings specifically

HCQIA "42 U.S.S.C.A. § 11111, Professional review action. Constitutionally "Peer review action must comport with due process". And 42 U.S.C. § 11112. According to the HCQIA, 42 U.S.C. 11112(b)(3)(B): "The right to the hearing may be forfeited if the physician fails without cause to appear".

Dr Silva rights were not guaranteed with the bylaws and the proceedings.

HEAM and State Courts of Puerto Rico violated the Constitutional Due Process of law, making this matter unreportable, to the NPDB. The report to Dr Silva is vague and violates the 45 C.F.R. § 60.11, because was not reported to the State Board to do an investigation and because the case is in dispute until this Writ of Certiorari is resolved. 45 C.F.R. § 60.6(b).

Based on Rule 49.2 of Civil Procedure of Puerto Rico, the HEAM was represented as a Catholic Institution before the Courts of Puerto Rico (falsification) equivalent to Federal Code of Civil Procedures Rule 60(b)(4).

HEAM in its Section of the bylaws of 2008 they try to regulate the Constitutional due process Section 11.5 Article XI of 2008 Bylaws (when action occurred):

"11.5-1. Request for evidentiary Hearing

11.5-1(1) The applicant/practitioner must address his/her request for an Evidentiary Hearing to the Medical Director in person or on the alternative must be sent by registered mail to the Medical Director with copy to the Medical Staff Office.

11.5-1(2) The applicant/practitioner written

for request for Evidentiary Hearing must address each of the grounds set forth in the notice as the grounds set in the notice as the basis for the proposed adverse action. Each ground not expressly denied shall be deemed admitted shall not be subject to challenge by the applicant/practitioner at the Evidentiary Hearing.”

Thus, the celebration of the evidentiary hearing requires that the doctor challenged with sufficient specificity all charges against him that motivated the adverse recommendation. Dr Silva requested the view, but he did not specify; he only required the view, so it was denied violating the due process clause of the Constitution of the U.S.A.. Dr Silva ask for the evidentiary hearing plain and simple without denying the grounds and the request was denied.

45 C.F.R. § 87.1(e) Discretionary Grants states:

“An organization that participates in programs funded by direct financial assistance from the Department shall not in providing services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion . . . “

**No discovery was authorized, shared or permitted by HEAM, neither Puerto Rico State Courts .**



## CONCLUSION

The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people. The law of privacy is permeated with conflicts, sometimes these conflicts pit privacy claims against other protected liberties. The greatest test of the Constitution commitment to privacy, arises in the context of governmental protection of Health and safety of people. The most serious threat to the individual's autonomy is the possibility that someone may penetrate the inner zone and learn his ultimate secrets, either by physical or by psychological means.

“Privacy is a special kind of independence, which can be understood as an attempt to secure autonomy in at least a few personal and spiritual concerns, if necessary in defiance of all pressures of modern society.”

*Clinton Rossiter.*

For the above and foregoing reasons, Petitioner request the granting of this Petition for Writ of Certiorari to the Supreme Court of Puerto Rico.

Respectfully Submitted,

DR. SAMUEL DAVID SILVA-RAMIREZ

*PETITIONER PRO SE*

243 PARIS ST PMB 1834

SAN JUAN, P.R. 00917

(787) 342-5983

SAMUELDAVIDSILVA@HOTMAIL.COM

December 20, 2019



**RULE 44 CERTIFICATE**

I Samuel David Silva-Ramirez petitioner pursuant to rule 28 U.S.C. § 1746 declare under penalty of perjury that the following is true and correct:

1. This petition for rehearing is presented in good faith and not for delay.
2. The grounds of this petition are limited to the intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

/s/ Samuel D Silva-Ramirez

San Juan, Puerto Rico

December 20, 2019