

**United States Court of Appeals
For the First Circuit**

No. 19-1221 GLENNIS GELABERT-DE-PEGUERO; MELVIN PEGUERO-ROSARIO, Minor;
STACY PEGUERO-ALVAREZ, Minor; MARIA CONFESOR-ROSARIO; NANCY
ORFELINA ALVAREZ
Plaintiffs - Appellees

v.

ISMAEL RIVERA, Police Officer
Defendant - Appellant

MUNICIPALITY OF SAN JUAN; CARMEN YULIN CRUZ, Mayor of San Juan;
GUILLERMO CALIXTO-RODRIGUEZ, Commissioner of the Municipality of San Juan Police;
JOHN DOES, 1-100; CONJUGAL PARTNERSHIP DOE-CRUZ; CONJUGAL
PARTNERSHIP DOE RIVERA; CONJUGAL PARTNERSHIP CALIXTO-DOE; EDWIN
ROSARIO-CORDOVA, as San Juan Municipal Police Officer; JERMARI SERRANO-
BORRERO, as San Juan Municipal Police Officer; LUIS D. VASQUEZ-CRESPO, as San Juan
Municipal Police Officer; LUIS A. BURGOS-NIEVES, as San Juan Municipal Police Officer;
GILBERTO Y. FEBUS-PEREZ, as San Juan Municipal Police Officer
Defendants

and

No. 19-1226 GLENNIS GELABERT-DE-PEGUERO; MELVIN PEGUERO-ROSARIO, Minor;
STACY PEGUERO-ALVAREZ, Minor; MARIA CONFESOR-ROSARIO; NANCY
ORFELINA ALVAREZ
Plaintiffs - Appellees

v.

CARMEN YULIN CRUZ, Mayor of San Juan; GUILLERMO CALIXTO-RODRIGUEZ,
Commissioner of the Municipality of San Juan Police
Defendants - Appellants

MUNICIPALITY OF SAN JUAN; ISMAEL RIVERA, Police Officer; JOHN DOES, 1-100;
CONJUGAL PARTNERSHIP DOE-CRUZ; CONJUGAL PARTNERSHIP DOE-RIVERA;
CONJUGAL PARTNERSHIP CALIXTO-DOE; EDWIN ROSARIO-CORDOVA, as San Juan
Municipal Police Officer; JERMARI SERRANO-BORRERO, as San Juan Municipal Police
Officer; LUIS D. VASQUEZ-CRESPO, as San Juan Municipal Police Officer; LUIS A.
BURGOS-NIEVES, as San Juan Municipal Police Officer; GILBERTO Y. FEBUS-PEREZ, as
San Juan Municipal Police Officer
Defendants

and

No. 19-1227 GLENNIS GELABERT-DE-PEGUERO; MELVIN PEGUERO-ROSARIO, Minor;
STACY PEGUERO-ALVAREZ, Minor; MARIA CONFESOR-ROSARIO; NANCY
ORFELINA ALVAREZ
Plaintiffs – Appellees

v.

EDWIN ROSARIO-CORDOVA, as San Juan Municipal Police Officer; JERMARI SERRANO
BORRERO, as San Juan Municipal Police Officer
Defendants - Appellants

MUNICIPALITY OF SAN JUAN; CARMEN YULIN CRUZ, Mayor of San Juan;
GUILLERMO CALIXTO-RODRIGUEZ, Commissioner of the Municipality of San Juan Police;
JOHN DOES, 1-100; CONJUGAL PARTNERSHIP DOE-CRUZ; CONJUGAL
PARTNERSHIP DOE RIVERA; CONJUGAL PARTNERSHIP CALIXTO-DOE; LUIS D.
VASQUEZ-CRESPO, as San Juan Municipal Police Officer; LUIS A. BURGOS-NIEVES, as
San Juan Municipal Police Officer; GILBERTO Y. FEBUS-PEREZ, as San Juan Municipal
Police Officer; ISMAEL RIVERA, Police Officer

Defendants

**JOINT MOTION FOR ENTRY OF JUDGMENT AND/OR AMENDED JUDGMENT
BY STIPULATION**

TO THE HONORABLE COURT:

COME NOW Plaintiffs, Glennis Gelabert-De-Peguero, Melvin Peguero-Rosario and Stacy
Peguero-Alvarez and Defendants the Municipality of San Juan (the “Municipality”), Police Officer
Ismael Rivera, Former Mayor Carmen Yulín Cruz, Former Police Commissioner Guillermo
Calixto Rodriguez, Police Officer Edwin Rosario-Córdova and Police Officer Jermari Serrano-
Borrero, (collectively, the “Parties”) by and through their respective undersigned counsels, and
very respectfully state and pray:

I. Jurisdiction

1. This Court has jurisdiction of this action pursuant to 42 U.S.C. § 1983.

II. Procedural Background

2. On February 22, 2019, the United States District Court for the District of Puerto Rico entered an Opinion and Order and a Judgment in Glennis Gelabert, et al v. Municipality of San Juan, et al, Case No. 14-1812 (JAG) granting in part and denying in part Defendants' motions for summary judgment. As a result, the only surviving claims were: (i) the excessive force claim against Police Captain Ismael Rivera based on the use of deadly force; (ii) the excessive force claim against the Police Defendants Rosario and Serrano based on the arrest; (iii) the supervisory liability based on training and implementation of the use of force policy; and (iv) the assault and battery claims against Captain Rivera. Partial Judgment was entered accordingly.

3. Thereafter, the appearing defendants filed Interlocutory Appeals Nos. 19-1221, 19-1226 and 19-1227 before the United States Court of Appeals for the First Circuit.

4. On August 10, 2020, the United States Court of Appeals for the First Circuit issued a Judgment and dismissed Appeal No. 19-1221 and on November 25, 2020, denied a subsequent petition for rehearing *en banc*. Following that, on April 19, 2021, a Petition for *Certiorari* was filed in Case 19-1221 before the Supreme Court of the United States. The Petition for *Certiorari* was docketed as *Ismael Rivera, Petitioner v. Glennis Gelabert-De-Peguero, et al.*, Case No. 20-1519 and is currently pending before the United States Supreme Court. Interlocutory Appeals Nos. 19-1226 and 19-1227 are still pending before the Court of Appeals for the First Circuit.

5. To secure the just, speedy, and inexpensive determination of this action, the Parties agreed to put an end to the litigation between them. Accordingly, the Parties hereby file before the Court of Appeals for the First Circuit a Joint Motion under *Federal Rule of Appellate Procedure* 42 (b) for Dismissal.

6. The Parties respectfully request that the Honorable Court of Appeals for the First Circuit and/or the United States District Court for the District of Puerto Rico, issue Judgment and/or *Amended Judgment* pursuant to the terms of the instant Stipulation.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

7. The Municipality of San Juan acknowledges that Judgment in the Amount of one hundred and fifty thousand dollars (\$150,000.00), pursuant to the instant settlement agreement, is due and payable to the Plaintiffs. Payment will be subject to all legal requirements included those contained in Law No. 66-2014, as amended, Law No. 3-2017, as amended and Municipal Ordinances No. 1 Series 2017-2018 and No. 23 Series 2014-2015 that impose certain requirements for payment of any judicial judgment by the Municipality of San Juan.

8. In consideration to Defendants' collection of the payment of the entire Judgment Amount to be made by the Municipality on behalf of all defendants, the Parties, for themselves, their predecessors, successors, assigns, affiliated corporations, merged successors, officers, directors, shareholders, employees, agents and representatives, **hereby release each other**, their predecessors, successors, assigns, affiliated corporations, merged successors, officers, directors, shareholders, employees, agents and representatives, of and from any claims, actions or causes of action, demands, obligations for payments, demands, costs, judgments, expenses, liabilities, liens, legal fees and costs, whether in law or in equity, whether known or unknown, whether in tort or in contract, of any kind or character which they have now or may have in the future against each other in connection with, relating to, or growing out of Case No. 14-1812 (JAG) before the United States District Court for the District of Puerto Rico and subsequent appellate proceedings. The Parties agree that no costs shall be borne by or paid by any party and that no attorney fees are due

by any party in the instant dismissal agreement. Further, the Plaintiffs agree and attest that there are no other pending claims amongst the parties stemming from the underlying facts and that the instant settlement agreement concludes and terminates all outstanding claims among them. In entering into this Stipulation, the Municipality of San Juan and the appearing defendants do not admit responsibility for any wrongdoing or any civil responsibility for any of the underlying facts.

9. Upon issuance of the Judgment and/or *Amended Judgment*, Defendant-Petitioner Ismael Rivera shall outright file a motion withdrawing and terminating the *Petition for Certiorari* filed with the United States Supreme Court in *Ismael Rivera, Petitioner v. Glennis Gelabert-De-Peguero, et al.*, Case No. 20-1519, without any costs assigned to Plaintiffs.

10. This Stipulation has been approved by the Municipality's Legislature and by its Mayor, as evidenced by **Exhibit A** attached herewith.

11. The Court shall retain jurisdiction over this action between the Parties for the purpose of effectuating and enforcing the Municipality's compliance with the terms of this Judgment and/or *Amended Judgment* by Stipulation.

WHEREFORE, the Parties hereby jointly move this Honorable Court to enter Judgment and/or *Amended Judgment*, dismissing all claims with prejudice, pursuant to the terms and conditions agreed to by the Parties in this Stipulation.

RESPECTFULLY SUBMITTED.

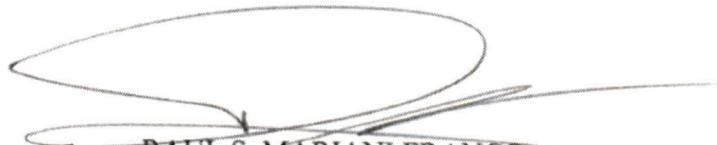
In San Juan, Puerto Rico, this 8th day of July 2021.

IT IS HEREBY CERTIFIED that the foregoing was filed with the Clerk of the Court using the CM/ECF system, which will send notification electronically to all counsel of record.



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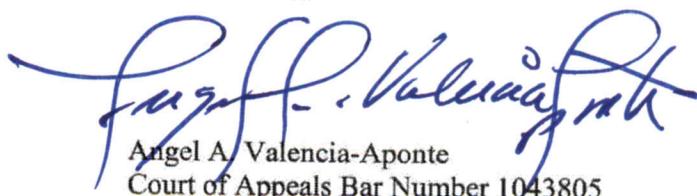
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