

7/22/24

No. 24-84

In the
Supreme Court of the United States

ENRIQUE VAZQUEZ-QUINTANA, MD,

Petitioner,

v.

ISABEL MONTAÑEZ ORTIZ AND OR THE SUCCESSORS OF ISABEL MONTAÑEZ ORTIZ COMPOSED OF A, B, C SO NAMED DUE TO ANONYMITY AND THE SUCCESSORS OF HERMENEGILDO MARTÍNEZ REMIGIO AKA HERMENEGILDO MARTÍNEZ COMPOSED OF LUIS MARTÍNEZ MALDONADO; HERMENEGILDO MARTÍNEZ MONTAÑEZ; MILITZA ISABEL MARTÍNEZ MONTAÑEZ; MARÍA ANTONIA MARTÍNEZ MONTAÑEZ; JULIO MARTÍNEZ MONTAÑEZ; CARMEN NOELIA MARTÍNEZ MONTAÑEZ; CARMEN NOEMÍ MARTÍNEZ MONTAÑEZ; AND ISABEL LUISA MONTAÑEZ ORTIZ,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

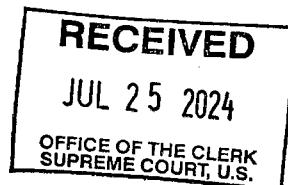
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QUESTIONS PRESENTED

1. How can the Supreme Court of the United States reconcile the substandard judicial practices exemplified by the acceptance of false expert testimony in my case with the stringent requirements of the scientific standard they purported to apply and the principles of equal protection under the U.S. Constitution, as elucidated in Footnote 4 of the *Carolene Products* decision? Furthermore, how does the Court address the broader issue of the *Insular Cases*, which perpetuate a dual system of constitutional application, thereby undermining the foundational principle of equality enshrined in the same Constitution they are sworn to protect?
2. In a case where a lower court's decision is influenced by unscientific testimony and apparent judicial animosity, resulting in a severe violation of constitutional rights, how can the Supreme Court ensure the protection of due process and equal treatment under the law for a medical professional whose career and dignity have been unjustly compromised in the territory of Puerto Rico where the United States Constitution is not fully applied?
3. Should the Supreme Court be allowed to pretend that they know more medicine than the Medical Board of Puerto Rico, a subsidiary of the Secretary of Health that provides the licenses, evaluates, fines and remove from practice the physicians in Puerto Rico and emit a sentence with the only intention to punish an honest citizen that comes to their court looking for justice?

PARTIES TO THE PROCEEDINGS

Petitioner

- Enrique Vázquez Quintana

Respondents

The respondents are *Isabel Montañez Ortiz and her Successors*

- Hermenegildo Martínez Remigio T/C/C
Hermenegildo Martínez Composed of
- Luis Martínez Maldonado
- Hermenegildo Martínez Montañez
- Militza Isabel Martínez Montañez
- María Antonia Martínez Montañez
- Julio Martínez Montañez
- Carmen Noelia Martínez Montañez
- Carmen Noemí Martínez Montañez
- Isabel Luisa Montañez Ortiz

In addition, Petitioner will serve these judges

Puerto Court of Appeals

- Juan R. Hernández Sánchez
- Giselle Romero García
- Beatriz M. Martínez Cordero

Trial Court, Bayamón

- Jaime Fuster Zalduondo

Supreme Court of Puerto Rico,
with service upon Chief Justice:

- Maite Oronoz Rodríguez, Chief Justice
- Eric V. Kolthoff Caraballo
- Roberto Feliberty Cintrón
- Luis Estrella Martínez
- Edgardo Rivera García
- Rafael Martínez Torres
- Mildred Pabón Charneco
- Angel Colón Pérez

LIST OF PROCEEDINGS

Commonwealth of Puerto Rico Court of First Instance
Superior Court of Bayamón

Case No. BY2023CV04533

Enrique Vazquez Quintana, *Plaintiff*, v. Succession
of Hermenegildo Martínez Remigio Ticic as Hermen-
egildo Martínez Composed by Luis Martínez Maldo-
nado, Hermenegildo Martínez Montañez, Militza
Isabel Martínez Montañez, María Anto and Other,
Defendants.

Judgment: October 25, 2023

Puerto Rico Court of Appeals

KLAN202301057

Enrique Vázquez Quintana, *Appellant*, v. Sunc.
Hermenegildo Martinez Remigio/TCC Hermenegildo
Martinez, *Appellees*

Opinion: January 16, 2024

Supreme Court of Puerto Rico

No. CC-2024-0079

Enrique Vázquez Quintana, *Petitioner*, v. Sunc.
Hermenegildo Martínez Remigio/TCC Hermenegildo
Martínez, *Respondents*.

Denial of Review: April 19, 2024

Denial of Second Reconsideration: May 17, 2024

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The Opinion of the Puerto Rico Court of Appeals, dated January 16, 2024 is included in the Appendix ("App.") at 12a. The decision of the Court of First Instance, at Bayamon, dated October 25, 2023 is included at App.12a.



JURISDICTION

The Supreme Court of Puerto Rico denied a petition for review on April 19, 2024. (App.1a). A second motion for reconsideration was denied on May 17, 2024. (App. 20a). This Court has jurisdiction under 28 U.S.C. § 1258.



STATEMENT OF THE CASE

A. Introduction

Now comes doctor, Enrique Vázquez Quintana, as Pro Se litigant presenting this petition of certiorari before this honorable Supreme Court of the United States. I have two terrible disadvantages: (1) I come from the non-incorporated territory (Colony) of Puerto Rico, and (2) I do not have a lawyer, since lawyers in Puerto Rico are afraid of judges. By living in Puerto Rico, I am a second class citizen since the Constitution of the United States is only partially applied to the territory of Puerto Rico. If I move to the United States, I automatically become a full American citizen and I

am fully covered by the Constitution of the United States. The constitution follows the flag except in Puerto Rico, our citizenship is incomplete. We American citizens from Puerto Rico and American citizens from the mainland when they move to Puerto Rico they lose their complete citizenship—we all suffer from geographic schizophrenia.

A terrible injustice was made in the lawsuit presented against me in 2001 by a patient and her husband after an operation of the thyroid and parathyroid glands that resulted with hypocalcemia (low calcium), an inherent complication that happens in 3-5% for the cases and has nothing to do with the experience of the surgeon, but with the anatomy of the patient. By the time of the operation, I had performed over 10,000 operations of the thyroid and over 750 operations of the parathyroid. During the trial I was the most knowledgeable about the dementia of Alzheimer since my first wife died on June 15, 2006, after eleven years suffering from that illness. I wrote a book in February 2009 about Alzheimer's disease and made a movie about that illness.

This is a new case presenting as new evidence the Resolution of the Puerto Rico Medical Board after evaluating by law the management of the patient in question. After evaluating the case they emitted Resolution 2023-70 dated April 20, 2023, exonerating me of any wrongdoing in the medical management of the patient in question. (App.15a)

With this new evidence I placed a new lawsuit against the inheritors of the patient Isabel Montañez Ortiz. (App.53a) in the lower court of Bayamón, Puerto Rico. In the suit I state that I am not asking economic compensation from them, I am just requesting from the

courts to annul the evidently wrong sentence emitted against me on December 18, 2015. The case was taken by the Hon. Judge Jaime Fuster Zalduondo.

Judge Fuster Zalduondo did not allow my lawyer Pedro Rivera Zabaater to summon the defendants. We have the last address of the respondents, but the mail was returned. In that case we needed to place notice in the newspapers, but the judge continued to deny us permission to summon the defendants, now called respondents. The Judge did not even allow us to have an evidentiary meeting. Thus, the respondents have not been summoned.

He dismissed the case with prejudice against me, in violation of my civil rights and violating the due process clause. His sentence is written in a single sheet of paper and with capital letters. (App.12a) Capital letters on internet means that he is shouting. I wonder why judge Fuster Zalduondo is shouting. People who shout means that they are afraid. Of whom is Judge Fuster Zalduondo afraid? Is he shouting to me? Is he afraid of me? My lawyer was Mr. Pedro Rivera Sabater.

We went to the Appeals Court and a panel of three judges ratified the lower court sentence. My lawyer quit when I decided to go to the Supreme Court, he was afraid to get an ethics complaint against him. So, I wrote the certiorari again as Pro Se litigant to the Supreme Court of Puerto Rico. (App.34a) A panel of four judges decided not to accept the case. I submitted one and a second Petition of Reconsideration but different panels of only four judges decided not to accept the case. The judges who dissented in the original Sentence of December 18, 2015, now changed and agreed not to accept the case, demonstrating that they behave as a brotherhood (cofradia). Now all the eight

judges of the Supreme Court of Puerto Rico believe that they know more than the medical profession and sustain that they found the cause of dementia. The four dissenters now joined the more knowledgeable in medicine judges and refused to review this case. Their sentence affects more the prestige, respect, confidence and honor of the highest judicial court of the colony of Puerto Rico. They continue to believe that low calcium is the cause of dementia and they reaffirmed that they are infallible, they are superhuman, they are above the Constitution which states that we are all equal within the law. I refuse to accept that judges are confirming that such a statement is a terrible lie.

Professor Erwin Chemerinsky had already coined the term Juridocrasia, synonymous with brotherhood. With a terse No Case, the Supreme Court of Puerto Rico refuses to correct their error.

Since Puerto Rico is a territory of the United States in medico-legal lawsuits the expert medical witness from the United States enter to the colony with impunity to offer medical testimony for money. The standard of proof in the colony of Puerto Rico is much lower than in the other fifty states. The expert surgical witness in the original case was Dr. Stephen A. Falk, an otorhinolaryngologist from Connecticut. He violated all the requirements as stated by the American College of Surgeons (App.109a) to where he and me were members. His testimony would not be allowed in any other of the fifty states, but in Puerto Rico the standard of proof is much lower. In Puerto Rico the Anglosaxon judicial system applies to our courts. Inexplicably the Daubert motion was not applied in my case. Judges apply locally Rule 702 of our civil system. Our Rule 702 covers six factors:

1. The testimony is based on facts and sufficient information.
2. If the testimony is the product of principles and trusty methods.
3. If the witness applied the principle and methods in a trusty manner to the case in question.
4. If the principles as applied to the testimony are generally accepted by the scientific community.
5. The qualifications and credentials of the witness.
6. The partiality or prejudice of the witness.

This court in *General Electric v Joiner*, 552, U.S. 136, December 1997 deals on how to exclude testimony and concludes: "If an expert's conclusion is not supported by valid reasoning, it should be excluded"

In an address to the 1998 Annual Meeting of the American Association for the Advancement of Science the Hon. Justice Stephen Breyer observed that the laws "increasingly requires access to sound science . . . because society is becoming more dependent for its well-being on scientifically complex technology" (*The Role of Science in Making Good Decisions* by Mark S. Frankel of June 10, 1998)

The decision in the original case in 2015 was 5 to four. The most damaging and inhuman vote was that of the judge Anabelle Rodríguez Rodríguez whose mother died in 2012 at age 84 of Alzheimer's disease. She was obliged ethically, morally and legally to orient in a collegial group the other eight judges. Instead, she

voted against me stating that I caused dementia to the patient. There is a genetic or hereditary component in Alzheimer that is been investigated at the present time.

When the state standard of proof is suboptimal, this leads to cases being resolved in the Federal Courts causing an excessive burden and cost to the federal judicial system.

B. Statement of Facts

1. Brief Summary of the Case:

This case involves me as surgeon, who performed surgery on a patient on June 20, 2000, to address a nodule in the left lobe of the thyroid and elevated blood calcium levels. Following the surgery, the patient suffered from hypocalcemia (low calcium), a complication inherent to this type of procedure. The patient and her husband filed a lawsuit against me alleging the complication of low calcium in 2001. The case reached the Court of First Instance of San Juan ten years later, in 2011, where the Lower Court judge sentenced that I caused a dementia to the patient. I was fined \$280,000 and an additional \$284,000 for temerity because the case took ten years to reach the Lower Court. The inefficiency of the courts was charged to me. Despite the lack of scientific evidence supporting that hypocalcemia caused dementia, the ruling was against me. Both the Appellate Court and the Supreme Court upheld the decision, resulting in severe personal and professional consequences. There was also mention of judicial animosity due to a previous frivolous lawsuit I won against a lawyer. (*Vázquez Quintana v. Gladys E. Guemarez Santiago*, Case Num. KLAN 201202013, February 2014). The defendant Guemarez Santiago was supposed to compensate me in the

amount of \$187,820.00, she had paid nothing. She was reinstated to her practice of law by lying to the Supreme Court. In the Federal Court of San Juan, the case was dismissed and later upheld by the Appellate Court of Boston. The Federal Supreme Court on August 21, 2022, refused to accept the case. The Federal court of San Juan and the Appeals court of Boston behaved as a brotherhood entity, they protect the local judges. Remember the movie *The Godfather*, by Mario Puzo; nobody survives a brotherhood.

The Licensing and Medical Disciplinary Board (Medical Board of Puerto Rico evaluated the case and made a Resolution #2023-70 exonerating me of any wrongdoing, but the Supreme Court ruling still stands, and more critical they refuse to evaluate their wrong decision, they seem to be infallible and above the law.

C. Standard of Proof

The federal government should intervene to standardize the levels of proof across all states and territories of the nation and cases should be evaluated according to this new standard.

Standard of Proof: Definition and Examples

Definition: The standard of proof refers to the level of certainty and the degree of evidence necessary for a judge or jury to accept an assertion as true in a legal proceeding. Different legal contexts require different standards of proof, which determine how convincing the evidence must be to meet the burden of proof.

Examples of Standards of Proof:

1. Beyond a Reasonable Doubt:

Definition: The highest standard of proof used primarily in criminal cases. It requires that the evidence presented by the prosecution be so convincing that there is no reasonable doubt in the mind of a reasonable person that the defendant is guilty.

Example: In a murder trial, the prosecution must prove beyond a reasonable doubt that the defendant committed the crime. This means that the jurors must be almost certain of the defendant's guilt based on the evidence presented.

2. Clear and Convincing Evidence:

Definition: higher standard of proof than the preponderance of the evidence but lower than beyond a reasonable doubt. It requires that the evidence be highly and substantially more likely to be true than not, and that the factfinder has a firm belief or conviction in its truth.

Example: In cases involving the termination of parental rights, the state must show by clear and convincing evidence that the parent is unfit, and that termination is in the best interest of the child.

3. Preponderance of the Evidence:

Definition: The standard of proof most commonly used in civil cases. It requires that the evidence show that it is more likely than not that the claim is true. This means that the party with the burden of proof must present evidence that is more convincing than the evidence presented by the opposing party.

Example: In a personal injury lawsuit, the plaintiff must prove by a preponderance of evidence that

the defendant's negligence caused their injury. If the plaintiff's evidence is more convincing than the defendant's, the plaintiff will win the case.

4. Probable Cause:

Definition: A lower standard of proof used in the context of law enforcement and criminal procedure. It requires a reasonable basis for believing that a crime may have been committed or that evidence of a crime is present in a particular location.

Example: Police need probable cause to obtain a search warrant. If they have a reasonable belief that illegal drugs are present in someone's home, they can seek a warrant to search the premises.

5. Reasonable Suspicion:

Definition: The lowest standard of proof, used primarily in the context of stop-and-frisk situations and other brief detentions by law enforcement. It requires a reasonable belief based on specific and articulable facts that a person is involved in criminal activity.

Example: An officer may stop and briefly detain a person for questioning if they have reasonable suspicion that the person is carrying a weapon based on their behavior and circumstances.

Conclusion: The standard of proof required in a legal case depends on the type of case and the severity of the potential consequences. Criminal cases require the highest standard of proof (beyond a reasonable doubt) due to the serious consequences of a conviction, while civil cases typically use the preponderance of

the evidence standard, reflecting the lesser severity of the outcomes.



REASONS FOR GRANTING THE PETITION

The central conflict revolves around the alleged medical malpractice related to the surgical complication of hypocalcemia and its purported consequences.

The expert they brought in stated that low calcium causes dementia, which is entirely false. Judge Jay García Gregory dismissed the case with prejudice in favor of Doctor Stephen A. Falk. I appealed to the Appeals Court in Boston, and they ordered us to reach an agreement. He entered a confidential agreement to get out of the case. He had another later case, but he failed to come as a witness and the defendant doctor prevailed in court. The Medical Licensing Board also evaluated the case and determined that the expert testimony was false and incorrect. If the standard of proof had been the focus in this case instead of a judge's opinion without corroborating the standard of proof, the outcome would have been different.

If Puerto Rico's judicial system were standardized with that of the United States, this case would have been dismissed from the beginning.

Corruption is the major problem in Puerto Rico and the judiciary is not the exception. In fact, is the epicenter of corruption. Our judicial system is totally politicized. The level of prestige of the judiciary is at 40% among the citizenship, the lowest in many years.

This case cannot be viewed in isolation but must be considered within the broader context of systemic corruption within Puerto Rico's judicial system. Recent years have seen the FBI arrest numerous officials, including judges and mayors, for corruption-related offenses, further eroding public trust in the judicial system. Notably, the conviction of Superior Court Judge Manuel Acevedo-Hernandez for accepting bribes underscores the pervasive nature of judicial corruption on the island.

On April 11, 2007, the judge from the Superior Court of the city of Arecibo, Puerto Rico, José Francisco Báez Nazario was accused of driving under the effect of alcohol, injuring a pedestrian and abandoning the scene of the accident. He accepted that he was guilty to avoid going to prison. He immediately resigned as judge for this same court where he had worked for over twenty years.

I remind you that the first canon of the Code of Ethics of judges says that judges are not above the law and that they are the first to respect that Code of Ethics. But that Code of Ethics does not apply to the Supreme Court judges.

Since 2020, several mayors, former government officials, and contractors have been arrested and charged with public corruption offenses, highlighting the endemic corruption that taints the judicial environment. Some examples are as follow:

1. Julia Keleher—Last July, former Secretary of the Department of Education, Julia Keleher, was released from Alderson Prison in Virginia, also known as “Camp Cupcake,” after serving six months in prison on corruption charges,

based on conspiracy to commit fraud. Since then, she has been serving a one-year sentence under house arrest.

2. María Milagros Charbonier The former pro-statehood representative was responsible for reviewing the Civil Code of Puerto Rico. But meanwhile she was accused of getting money from her employees. She involved her husband and a son. She was convicted and sentenced to 5 years and three months in jail. Her husband was sentenced to 3 years in jail. Both will start their term in jail in a few months. Both cases were seen in the Federal Court of San Juan. The review of the Civil Code is in a sort of limbo.
3. Former governor Ricardo A. Rosselló Nevares was removed from his position by public protest on July 24, 2019. This is the first time that a governor is removed from his position in Puerto Rico.
4. Wanda Vázquez, a former governor, remains free on bail pending trial also in the Federal Court for corruption by accepting money for her campaign from private investors. This case involves a banker and an English citizen. The trial will start in 2025. Her husband is a former judge from the Appeals Court.

Pope Francis decreed that during the month of May 2013 prayers be prayed for—"Those who administer justice should always act with integrity and an upright conscience". Dedicating a month to praying for the moral integrity and upright conscience of judges cannot go

unnoticed, particularly since such intentions do not refer to the role of other servants of the state.

Establishing a standard rule to standardize the quantum of proof at the state level with the federal level would help in combating the crime of corruption. Standardizing the test of proof among the medicolegal suits will improve a fairer legal system. Such improvements in the judicial process would ultimately enhance the quality of life and would reduce the immigration of our physicians to the United States. Presently our physician population is reduced, getting an appointment takes at times more than six months.

Judicial misconduct, malfeasance or prevarication occurs when a judge intentionally acts contrary to established legal principles, typically out of bias, or another improper motive. In my case, the evidence strongly suggests such misconduct occurred. Despite the lack of scientific evidence supporting the claim that a sudden drop in calcium levels causes permanent dementia, the courts ruled against, disregarding my expert witness testimony, that is not even included in the lower court sentence.

Now with the new evidence provided by the Resolution of the Puerto Rico Medical Board the courts again refuse to reevaluate their decision that affects even more their prestige, credibility and honor among the Puerto Rican Population. By so doing they continue to claim that they are infallible, they do not make mistakes. The old ruling of December 18, 2015, and the recent ruling by the three courts indicates that both rulings were influenced by unsubstantiated medical claims and personal biases, which were evident during the proceedings. This deviation from a fair and impartial judicial conduct not only contradicts legal stan-

dards but also resulted in severe personal and professional consequences for me. The consistent refusal to acknowledge the expert Resolution from the Puerto Rico Medical Board, combined with the apparent animosity from certain judicial figures, indicates a clear case of judicial misconduct.

The judges of the three court levels both in their original sentence of December 18, 2015, and their recent refusal to evaluate the new lawsuit violated my constitutional rights for a rapid and fair judicial trial. The three courts of justice were vicious against me, imposing extraordinary punishment that violates Article 8 of the United States Constitution. The Supreme Court has made me the laughingstock of the medical profession and all of Puerto Rico. The constitution of Puerto Rico states that the dignity of all human beings is inviolable. All humans are equal among the law. Discrimination must not be allowed because of race, color, sex social condition or political or religious belief. But the inviolability of the human dignity is not included in the United States Constitution. This Hon. Court has refused to accept my certiorari. But the judges exerted an abuse of power against me, they violated my constitutional rights. The case was held in Puerto Rico utilizing the Anglosaxon legal system. If this case had happened in Spain under the Napoleonic legal system, the judges would have been in jail. But my case was seen in the oldest colony of the world, we have been over 500 years a colony of Spain and 126 years a colony of the United States. The United States the most democratic country of the world refuses to solve our colonial status. In the territory of Puerto Rico we live in fear, we are afraid of killing on the streets, carjackings, feminicides, killing of old people

and children, killing of young transgenders, corruption, poor medical services, poor education and lately lack of electricity.

The Insular Cases should be eliminated, since their decisions are racist and the United States was founded under the standard of equality, justice and the pursuit of happiness. Under the Insular Cases the US Constitution is not applied fully to the non-incorporated territory of Puerto Rico. In March 2024, 43 congressmen claimed to the Department of Justice to reject the racist doctrine of the Insular Cases and to end the colonial situation of the territories such as Puerto Rico. The Hon. Justices Sonia Sotomayor and Neil Gorsuch made expressions favoring the elimination of the jurisprudence of the Insular Cases. The 22 Insular Cases were decided by the Supreme Court of the United States, so this court should consider the revocation of such racist decisions. Then Puerto Rico will fall back to a territory, still under the absolute power of Congress; but then there are, only two options, Statehood or Independence. The concept of non-incorporated territory was an invention of a law professor of Harvard University who transmitted the idea to the Supreme Court during the first Insular Case—*Downes v Bidwell*, 1901; where it is stated that Puerto Rico belongs to but is not part of the United States. After the Spanish-American War the United States became an imperial country. The most democratic country in the world still holds colonies.

Regardless of their place of residence, all citizens should enjoy the full rights and protections guaranteed by the US Constitution, including those outlined in the Equal Protection Clause. The Hon. Supreme Court of the United States should accept my case to apply

the Constitution fully to Puerto Rico and make justice in my case which is obviously an abuse of power and evidencing unscientific facts against a citizen that went to the court looking for justice.

As an American citizen I served in the US Army serving time in the Republic of Vietnam where I acquired several illnesses related to Agent Orange exposure. I defended the Constitution and democracy of the United States, but presently the judicial system of the United States fails to provide me with an adequate justice and fails to accept my petition for an adequate solution to the colonial courts judicial mistake. But life is unfair. I am 86 years old; I might die with the fatal decision that I caused dementia to one of my patients. That decision is totally erratic and false.

This new trial is presented after the Puerto Rico Board of Medicine evaluated the case and exonerated me of any wrongdoing in the case.

In addition to the Resolution of the Puerto Rico Medical Board the following is also evidence that rejects the association of low calcium with dementias:

1. Communication from the American Alzheimer Research Foundation stating that there is no evidence that hypocalcemia causes Alzheimer's disease.
2. Document sent by Triple-S Insurance to the NPDB in which states that I did no harm to the patient Isabel Montañez Ortiz. (App.101a).
3. Document from the Surgeon General of the United States that recommends that all ladies over 50 years should get calcium and Vitamin D to prevent osteoporosis and frac-

tures. That was the only inconvenience the patient had following the surgical procedure I performed upon her. *The Surgeon General's Report on Bone Health and Osteoporosis*, 2012.

4. Letter from José Carlo, a prominent neurologist, former chancellor of the Medical School Campus of the University of Puerto Rico where he states that the cause of dementia is not known. (App.114a, App.116a).

The US Congress know that the cause of the dementias is unknown since in 2010 with President Barack Obama assigned millions of dollars to investigate the cause of Alzheimer and come up with an effective medication; still no new medications have been produced in more than 20 years. In 2013 Congress assigned more millions to make a brain map to study Alzheimer, Parkinson, amyotrophic lateral sclerosis (Lou Gehrig disease), multiple sclerosis, autism and epilepsy—all six diseases of the nervous system with unknown causes. Several universities such as UCLA, Columbia, University of Massachusetts and others are working on brain mapping. I am surprised why this Hon. Court refuses to make justice to me. I am 86 and have multiple diseases some of them acquired in Vietnam such as diabetes mellitus with neuropathy, hypertension, pancytopenia (low platelets, low red blood cells, anemia and low white blood cells) and myelodysplasia or preleukemia. I have had four bone marrow biopsies, the last in November 2023. I had coronary bypass surgery on March 2, 2018, by one of my disciples in surgery.

I never refused to do surgery if indicated to any patient. I did surgery to judges, wife of judges, lawyers, wife of lawyers and other relatives of judges or lawyers.

I am a respected surgeon in the academic community, chair of surgery, Secretary of Health and 40 years at the University of Puerto Rico educating medical students and residents in general surgery. But in your court, I am a stranger and a loser. (See *THE PROCESS* by Franz Kafka) Once the machine of justice starts, the possibility of innocence disappears, all the processed are guilty.

My civil rights were significantly compromised during a judicial process in Puerto Rico.

The key elements and arguments for this case hinge upon the application of Footnote 4 from the *United States v. Carolene Products Company*, 304 U.S. 144 (1938), and the failure to apply the Daubert standard for expert testimony.

A. Background

As previously explained, I am a respected surgeon, and I was involved in a case where my medical practice was unjustly scrutinized due to allegedly false expert testimony. The expert witness claimed that low calcium levels could cause dementia, a statement lacking scientific validity. The lower court's failure to apply the *Daubert* standard led to the acceptance of this unreliable testimony, resulting in a significant miscarriage of justice.

B. Application of Footnote 4**1. Violation of Civil Rights:**

- Footnote 4 suggests that a stricter standard of review is warranted when a law or judicial decision appears on its face to violate constitutional rights. In this case, my rights to a fair trial are compromised due to the lower court's reliance on false expert testimony.
- The erroneous application of standards by the lower court led to a decision that undermined my civil liberties, which necessitates a higher level of judicial scrutiny.

2. Fundamental Rights and Fair Processes:

- The Daubert standard, which governs the admissibility of expert testimony, was not applied. This standard requires that the testimony be both relevant and reliable, based on scientifically valid reasoning and methodology.
- By failing to adhere to this doctrine, the court allowed unsubstantiated and misleading information to influence the outcome of the case, thereby violating my right to due process under the Fifth and Fourteenth Amendments.

3. Protection Against Judicial Misconduct:

- Footnote 4 also emphasizes the need for judicial protection when the political process is restricted, potentially impeding the repeal of an undesirable law. In this context, the fail-

ure to disqualify the expert witness under the Daubert standard reflects a broader issue of judicial misconduct and lack of accountability.

- This case underscores the necessity for courts to rigorously evaluate the credibility and relevance of expert testimony to protect individuals' rights and maintain the integrity of the judicial system.

C. Arguments for the Supreme Court

1. Ensuring Judicial Integrity:

- The integrity of the judicial process must be upheld by applying rigorous standards for expert testimony. The Daubert standard exists to prevent unreliable and unscientific testimony from influencing judicial outcomes.
- By failing to apply this standard, the lower court's decision set a dangerous precedent, undermining public trust in the judicial system and potentially affecting future cases similarly.

2. Upholding Civil Rights:

- My civil rights were violated through the acceptance of false expert testimony. This violation calls for strict scrutiny under Footnote 4, ensuring that the judicial process protects individuals' constitutional rights.
- The Supreme Court's intervention is necessary to correct this miscarriage of justice and to reinforce the application of proper judicial

standards across all courts, including those in U.S. territories like Puerto Rico.

3. Broad Impact on Judicial Practices:

- Rectifying this case could have a broader impact on ensuring judicial integrity and protecting civil rights nationwide. It would set a precedent for the rigorous application of the Daubert standard, ensuring that only scientifically valid testimony influences judicial outcomes.
- This case highlights the need for reforms in judicial procedures and expert witness qualifications, advocating for a more standardized approach that aligns with constitutional protections.

Conclusion: My case presents a clear instance where judicial standards were not adequately applied, leading to a significant violation of civil rights. The application of Footnote 4 calls for a stricter standard of review to address this miscarriage of justice. We urge the Supreme Court to review this case, ensuring that judicial integrity and the protection of civil rights is upheld.

In addition, I have been a member of the American College of Surgeons for the last 51 years, I have passed the American Board of Surgery, and I can apply for work in any of the 50 states. But nevertheless, I cannot be an expert surgical witness unless I obtain a special permit case by case, from the Medical Board of a particular state.

Although in the Anglosaxon judicial system the article of prevarication is absent it has Articles 5, 14,

and the Section 242 of Title 18, and Article 1802 from the Puerto Rico Civil Code, all of which were violated in my case.

- Section 242 of Title 18 makes it a crime for a person acting under color of any law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States.

For the purpose of Section 242, acts under "color of law" include acts not only done by federal, state, or local officials within their lawful authority, but also acts done beyond the bounds of that official's lawful authority, if the acts are done while the official is purporting to or pretending to act in the performance of his/her official duties. Persons acting under color of law within the meaning of this statute include police officers, prisons guards and other law enforcement officials, as well as judges, care providers in public health facilities, and others who are acting as public officials. It is not necessary that the crime be motivated by animus toward the race, color, religion, sex, handicap, familial status or national origin of the victim.

The offense is punishable by a range of imprisonment up to a life term, or the death penalty, depending upon the circumstances of the crime, and the resulting injury, if any.

D. Application of Rule 30 of the Puerto Rico Supreme Court

This case involves several aspects that merit scrutiny under the criteria established to determine

the issuance of writs. Below is a detailed analysis of how each criterion could apply in this context:

1. Contrary to Law (Criterion 1):

Application: I could argue that the decision under review is contrary to law, particularly if it can be demonstrated that the judgment was based on expert testimony that did not meet the standards of the Daubert doctrine and, consequently, is considered unreliable and irrelevant.

2. Novel Issue (Criterion 2):

Application: * * If this case presents novel aspects regarding the application of the Daubert doctrine in Puerto Rico or the assessment of expert witnesses, it could form a basis for this Hon. Court's intervention.

3. Importance to Public Interest (Criterion 3):

Application: Clarifying the standards for the admissibility of expert testimony is of great public interest as it affects the integrity of judicial proceedings and public confidence in the justice system.

4. Most Suitable Situation for Analysis (Criterion 4):

Application: The facts presented in this case provide an ideal situation to analyze the application of the Daubert doctrine and how expert testimonies should be evaluated in medical malpractice cases.

5. Redefinition or Variation of Existing Norm (Criterion 5):

Application: It may be necessary to redefine or modify the existing norm regarding the admissibility and evaluation of expert witnesses in Puerto Rico to prevent future judicial errors.

6. Conflict Between Decisions (Criterion 6):

Application: If there is a conflict between decisions of different Trial Court divisions or Appellate Court panels on the evaluation of expert testimonies, the Supreme Court may intervene to unify criteria.

7. Bias, Prejudice, or Manifest and Gross Error (Criterion 7):

Application: If it can be demonstrated that there was bias, prejudice, or a manifest and gross error in the evaluation of evidence and sham expert witness testimony evaluated by the trial court, this would justify the issuance of a writ.

8. More Thorough Consideration (Criterion 8):

Application: This case may require more thorough consideration due to the complexity of the facts and the importance of establishing a clear precedent on the admissibility of expert testimony.

9. Most Appropriate Stage for Consideration (Criterion 9):

Application: If the case is at a stage where Supreme Court intervention is appropriate to clarify

the norm and prevent future injustices, this would justify the issuance of the writ.

10. Undue Fragmentation and Undesirable Delay (Criterion 10):

Application: The issuance of the writ should not cause undue fragmentation of the litigation or undesirable delay in the final resolution of the case. In this instance, intervention could resolve crucial issues without causing significant delays.

11. Vindication of Law and Setting Legal Precedent (Criterion 11):

Application: The issuance of a writ would contribute to the Supreme Court's functions of vindicating the law and setting legal precedents in Puerto Rico, especially regarding the evaluation of expert testimonies.

12. Compliance with Other Requirements (Criterion 12):

Application: If all other requirements established by the Court's Rules have been met, this would strengthen the justification for the issuance of the writ.

13. Preventing a Failure of Justice (Criterion 13):

Application: The issuance of the writ could prevent a failure of justice by correcting any judicial error that has prejudiced the rights of myself ensuring a fair and equitable trial.

The Supreme Court of Puerto Rico fails to apply their own Rule 30 in my case, amazing.



CONCLUSION

My case presents multiple arguments that could justify the issuance of a writ by the Supreme Court of USA. Rigorous application of these criteria would help ensure the integrity and justice of the judicial process, protecting my civil rights and establishing clear standards for future medical malpractice cases.

At the very end the important thing is the sense of justice of the Justices versus that of their brotherhood (cofradia) in protecting the judges of the Supreme Court of Puerto Rico, particularly when they emitted a wrong sentence, not an opinion that applies exclusively to me. For the Supreme Judges of Puerto Rico, according to that court I am the only surgeon who can produce the disease of Alzheimer by an operation. Is this a joke? Is this Honorable Court willing to accept this failure of justice as true?

I just completed the reading of the book, Supreme Hubris by squire Aaron Tang. As he says he was legal clerk for the Hon. Justice Sonia Sotomayor. He recommends, "The least harm principle of judicial decision making" My case is not a difficult case. For this Court have two options: Refuse to see the case or accept it for a final solution. The first option is very easy, it will leave me stranded in my worst thoughts with the heavy weight in my shoulders of producing a terrible disease to one of my patients, a disease that is much terrible than cancer, diabetes, or heart disease. All the latter three can be cured, but the cause as well as the treatment of the dementia of Alzheimer are unknown, nobody survives the dementia of Alzheimer. My first

wife died from Alzheimer after eleven years of suffering. My second wife is suffering also from Alzheimer. This disease is not transmitted sexually. Alzheimer cause the death of 500,000 American citizens each year and 2,000 Americans from the island of Puerto Rico with a population of barely 3.1 million.

If this Hon. Court accepts the case the less harm is done by deciding in my favor. But the Supreme Court of Puerto Rico will continue to exist and will benefit by improving their processes of decision making and better evaluation of the scientific evidence presented in court. And the people of Puerto Rico will get a better judicial service and the judiciary will get a better scrutiny from the public. If you decide against me, you will leave me with no options, after the Supreme Court of the United States there is no other options for the American citizens of Puerto Rico except the celestial court. So, the best option for you is the one promoted by Aaron Tang in his book.

There are some notorious cases decided utilizing the less harm principle of judicial sentence; this includes *Cruzan v. Missouri Department of Health* (1990), DACA (Deferred Action for Childhood Arrivals), *Plyler v. Doe*, *Bostock v. Clayton County (LGBTQ)*, *Trump v. Mazars* (2020), *Vance v. Trump* and even *Nixon v. Department of Justice*. President Justice John Roberts participated in some of the last decisions of these cases.

Nevertheless, there are some artistic ways of dealing with the aberrant sentences, abuse of power and injustice of the courts.

Respectfully I ask this Hon. Court to accept this petition of Certiorari from a citizen from the territory of Puerto Rico, provide a profound evaluation of this

petition and annul the mistaken judicial sentence of the Supreme Court of Puerto Rico.

Respectfully submitted,

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