

No. 24-84

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In the  
Supreme Court of the United States

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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.*

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

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**PETITION FOR REHEARING**

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## **PETITION FOR REHEARING**

**Now comes Doctor Enrique Vázquez Quintana, Pro Se, soliciting a Petition of Rehearing to the Denial of the Writ of Certiorari presented to this Hon. Court on July 22, 2024. By the denial of this certiorari, I will continue to carry the dubious distinction of being the only surgeon in the world that caused dementia on one of my patients**

In examining this case, one cannot overlook the striking parallels to the Insular Cases of the early 1900s, wherein the Supreme Court of the United States rendered decisions that effectively institutionalized a form of discrimination against Puerto Rico as a non-incorporated territory. The Insular Cases established a legal framework that denied full constitutional protections to Puerto Ricans, perpetuating a status of second-class citizenship that reverberates through contemporary judicial proceedings, including the present case.

My plight reflects the enduring consequences of this historical injustice. My assertion that the judicial processes in Puerto Rico are rife with irregularities and biases mirrors the Supreme Court's earlier determinations that relegated Puerto Rican citizens to a legal limbo, where the full weight of U.S. constitutional protections is selectively applied. Just as the Insular Cases allowed for the perpetuation of a colonial mindset, the current judicial landscape demonstrates an alarming continuity of disregard for the rights of Puerto Rican citizens, as exemplified by the failure of

the courts to acknowledge the new evidence exonerating me of any wrongdoing in the case of low calcium.

The crux of this argument lies in the fundamental principle of equality under the law, a tenet ostensibly enshrined in the U.S. Constitution but systematically undermined in the context of Puerto Rico. The Insular Cases articulated a doctrine where the rights of Puerto Ricans were deemed subordinate, allowing for a judicial system that operates with a lesser standard of proof and diminished protections. This systemic inequity is echoed in the case at hand, where I am subjected to a standard of scrutiny that would be unthinkable in the mainland United States.

In conclusion, my case serves as a poignant reminder of the historical and ongoing discrimination faced by Puerto Ricans within the American legal framework. It calls for not merely a reconsideration of the facts at hand but a profound reckoning with the legacy of the Insular Cases, urging the Supreme Court to reaffirm its commitment to the principles of justice and equality, and to rectify the enduring injustices that continue to afflict the citizens of Puerto Rico. The time has come for the Court to acknowledge that the rights of all American citizens, regardless of geographical circumstance, must be upheld with unwavering fidelity to the Constitution.

My case starkly illuminates the persistent inequities within the U.S. judicial system, particularly as they pertain to Puerto Rico—a territory whose citizens have historically faced systemic discrimination under the guise of legal doctrine. This situation is particularly reminiscent of the Insular Cases, which established a precedent for treating Puerto Rico as a legal after-

thought, relegating its residents to a status devoid of full constitutional protection.

I am a highly experienced surgeon with over 10,000 thyroid operations to my name, is emblematic of the tragic consequences of this judicial neglect. Accused of malpractice following a complication inherent to thyroid surgery, I have faced a legal battle that transcends mere malpractice allegations; it is a battle against a judicial system that refuses to apply the same standards of proof and scrutiny that one would expect in the mainland United States. The ruling against myself, which shockingly attributes the onset of dementia to my surgical practice—a claim that contradicts established medical understanding—illustrates the profound disconnect between scientific fact and judicial opinion in Puerto Rico.

In the wake of my conviction, I have presented new evidence exonerating me, notably the Resolution 2023-70 from the Puerto Rico Medical Board, (Appendix 1) which unequivocally states that I committed no wrongdoing. Yet, the Puerto Rican courts, mirroring the dismissive attitudes of the Insular Cases judges, have summarily ignored this critical evidence. Instead of engaging with the scientifically valid assertions presented by myself and my expert witnesses, the judiciary has clung to its original ruling, perpetuating a narrative that reflects an institutional bias against Puerto Rican citizens and their rights. This refusal to reconsider the case in light of new evidence speaks volumes about the judicial system's failure to uphold the principles of justice and fairness.

Furthermore, the context of my legal struggles cannot be divorced from the broader historical narrative of Puerto Rico's colonial status. The Insular Cases

established a framework wherein the territorial status of Puerto Rico justified the denial of fundamental rights, effectively treating its residents as subjects rather than citizens. In this light, my case becomes not just about one man's fight for justice, but a representation of the systemic injustices that Puerto Ricans continue to endure within a legal system that operates under a double standard.

The judges in my case, much like those in the Insular Cases, have wielded their authority to dismiss the claims of a Puerto Rican citizen, disregarding the established legal standards that would apply were I a resident of any of the fifty states. This is a profound miscarriage of justice, revealing not only a bias against individuals from Puerto Rico but also an alarming trend where expert testimony is disregarded in favor of judicial convenience.

Moreover, the implications of this case extend beyond me; they reflect a broader pattern of judicial misconduct and malfeasance within Puerto Rico's legal framework. The systematic failure to apply the Daubert standard for admissibility of expert testimony in my original trial exemplifies a judicial environment that is not only lenient towards unqualified testimony but also hostile towards qualified practitioners like myself. This creates a chilling effect on medical professionals who may fear unjust litigation, which ultimately exacerbates the healthcare crisis in Puerto Rico.

In conclusion, my case serves as a critical lens through which we must examine the systemic issues within the judicial system of Puerto Rico. It starkly contrasts with the foundational principles of justice and equality that the U.S. judicial system purports to uphold. The Supreme Court has an opportunity—not

merely to rectify the wrongs of my case but to confront the historical injustices that have long plagued Puerto Rican citizens. To deny this petition would not only perpetuate the cycle of discrimination established by the Insular Cases but would also undermine the very essence of American justice, which asserts that all citizens, regardless of their geographical status, are entitled to the full protections and rights afforded by the Constitution. The time has come for the Supreme Court to dismantle this legacy of inequality and reaffirm its commitment to justice for all American citizens.

The denial of my certiorari by this Hon. Court is exerting an unfair and excessive power over the executive (governor) branch of the Puerto Rican government since the Board of Medicine is a subsidiary of the executive branch that provides the license to our physicians, supervise their function, fines and remove them from practice. That function is not the responsibility of the judiciary or legislative branch of the government.

There are at least 23 states that don't allow the death penalty for their citizens. The non-incorporated territory of Puerto Rico also does not permit the death penalty in our Constitution. Nonetheless the FBI and other US government agencies continue to look for a delinquent to whom apply the death penalty, while they do not practice that same policy in the other 23 states. That is demeaning to the colony of Puerto Rico. By refusing to accept my certiorari you are condemning me to the death penalty since I am 87 years old with multiple diseases, some of them acquired while in Vietnam defending the Constitution and liberty of the United States a country whose judiciary is denying me

the equal protection under the law and in fact are applying the death penalty to me. Among the diseases acquired while in Vietnam is Myelodysplasia (Pre Leukemia) and Pancytopenia. I am anemic, my platelets and white blood cells are low. About 30% of patients with myelodysplasia develop leukemia. I control my diabetes mellitus but not my bone marrow. I am presently treated for the anemia.

Let me include this rare event. I was born in a public housing in Ponce, the second largest city in Puerto Rico. I was born on Street 5, Barriada Clausell in Ponce on October 21, 1937, I just turned 87 years old. While in Vietnam on August 13, 1969, I treated a soldier who was also born on Street 5, Barriada Clausell. He sustained a laceration of the right femoral artery. I resected a segment of the artery and did a venous graft. He was improving but on the third postoperative day he was evacuated to Japan and then to the U.S. Recently, I was looking for him to invite him to my 87 birthday, but I could not locate him, he might have died. But it is extremely rare that two American citizens from the same public housing happen to meet at the extreme of the world, one an infantry man killing people and the other a surgeon, trying to save lives.

Although we Puerto Ricans we have fought in all wars where the U.S. had been involved. We are bad citizens but good warriors.

The decision of the local courts in Puerto Rico is a sentence, not an opinion. It is a Machiavellian decision, it does not accumulate jurisprudence, it implies that no other surgeon will be accused of causing dementia after a surgical procedure. It implies that I am the only surgeon in the world that can cause dementia to

a patient. The sentence of the Supreme Court of Puerto Rico is equivalent to malfeasance of law, a sentence made with the only purpose of punishing me for having prevailed over a lady lawyer who presented a frivolous suit against me. It is equivalent to prevarication in the Napoleonic legal system. This lawyer, by an order of the court is supposed to pay me \$184,000 for emotional and economic losses. She has paid nothing. She does not follow the court orders where she is a member of the judiciary system. Apparently, the judicial system favors the delinquent. She was reinstated to the practice of law by lying to the Supreme Court judges, that was a charade. I wrote a letter to the president of the Puerto Rico Supreme, Hon. Maite Oronoz court citing that incident, but since common citizens cannot write to the judges, an assistant answered stating that the decision was final and firm.

This summarizes my case:

Aside from the insular cases the non-incorporated territory of Puerto Rico is existing in a state of exception under the control of the Fiscal Oversight Board imposed by President Obama and Congress. The case of Sánchez Valle illustrates the lack of sovereignty that Puerto Rico endures as an unincorporated territory. In Puerto Rico, this has been used both by the US government as a colonial control mechanism and by the Puerto Rican government to address economic and financial crisis. (Reference 1) The state of exception has been particularly relevant in dealing with issues like bankruptcy, hurricanes, earthquakes and COVID-19 pandemic. It allows for extraordinary measures that wouldn't be permissible under normal circumstances. This situation underscores the urgent need

for a reevaluation of Puerto Rico's political status and a commitment to genuine self-determination for its people.

Judicial Limbo: by refusing to engage with the merits of this case the Supreme Court of Puerto Rico effectively ratifies our status as a colony governed by a Fiscal Control Board, demonstrating a lack of will to escape this judicial limbo. This perpetuates an environment where justice is elusive, and the rights of Puerto Ricans remain unprotected.

Judicial Malfeasance: the ruling of the Supreme Court of Puerto Rico exemplifies judicial malfeasance, wherein the judges acted with awareness that their decision was unjust and unfounded, seeking to impose punitive measures against me for prevailing in a prior legal matter. This is equivalent to prevarication in the Napoleonic legal system.

Judicial Immunity: this petition challenges the application of judicial immunity in Puerto Rico, arguing that it has been misapplied to shield unjust and arbitrary conduct, thereby undermining the principles of justice and accountability. The Anglo Saxon judicial system was established by the colonizer, the United States of America, after the invasion of Puerto Rico on July 25, 1898.

Lack of Applicable Precedent: the ruling of the Supreme Court of Puerto Rico does not establish a valid precedent for other surgeons, illustrating its isolated and arbitrary nature, which contravenes the principle of equality before the law.

Judicial Colonialism: the colonial status of Puerto Rico has significantly impacted the judicial system, resulting in a legal environment where the rights of

Puerto Ricans are consistently undermined, lacking the protection afforded to citizens in the continental United States.

To the Supreme Court of the United States,

Insular Cases: this petition invokes the precedent established in the Insular Cases, which addressed the constitutional status of U.S. territories. These rulings highlight the unequal treatment of territories and the need for reexamination of their legal and constitutional rights. The ongoing application of these cases perpetuates a system that denies Puerto Ricans the same legal protection enjoyed by U.S. citizens.

This case presents perhaps the simplest decision in the history of this Court. By overturning the misguided ruling that stands against sound scientific understanding, you would restore order and rectify a longstanding absurdity perpetuated by egregious and recurring errors. It is imperative that this Court recognizes the gravity of this situation and acts decisively to uphold rationality and justice. This Hon. Court is supposed to adjudicate justice and similarly never to tolerate injustice. I would appreciate it if this Hon. Court utilize the least harm possible doctrine as explained by Squire Aaron Tang in his book Supreme Hubris.

This petition emphasizes the necessity for this Court to recognize the significance of this case, not only for the petitioner but for all citizens of Puerto Rico. It underscores the urgent need for a judicial system that upholds the rights of all individuals. The time has come to set things right.

I respectfully request that this Supreme Court, the highest court of the U.S. and the non-incorporated

territory of Puerto Rico accept this case for review to ensure a fair examination of the ruling by the Supreme Court of Puerto Rico in light of the allegations presented herein.

The time has come to set things right.

Respectfully submitted,

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October 30, 2024

**RULE 44 CERTIFICATE**

I, DR. ENRIQUE VAZQUEZ-QUINTANA, petitioner pro se, pursuant to 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 intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

/s/ Enrique Vazquez-Quintana  
Petitioner

Executed on October 30, 2024

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Resolution 2023-70 - Puerto Rico Medical Board  
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Reh.App.1a

**DECISION,  
PUERTO RICO BOARD OF LICENSING AND  
MEDICAL DISCIPLINE  
(APRIL 20, 2023)**

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DEPARTMENT OF HEALTH  
PUERTO RICO BOARD OF LICENSING AND  
MEDICAL DISCIPLINE  
OFFICE OF REGULATION AND CERTIFICATION OF  
PROFESSIONALS  
HEALTH AND MEDICAL LICENSING AND DISCIPLINE  
BOARD OF PUERTO RICO

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IN RE: DR. ENRIQUE VÁZQUEZ QUINTANA,  
LICENSE NO. 2577  
Q-JLDM-2021-138  
GENERAL SURGERY

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Subject: MEDICAL NEGLIGENCE

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In January 2016, the Board received a report from the National Practitioner Data Bank reporting a payment of the Triple S-Propiedad policy belonging to Dr. Enrique Vázquez Quintana in case CC-12-982 of the Supreme Court of Puerto Rico.

In case CC-12-982, the Supreme Court of Puerto Rico affirmed the judgment of the trial court and the appellate court, awarding the plaintiffs the amount of \$280,000.00 in damages, plus \$52,983.31 in post-judgment interest of 4.25%, and \$20,947.86 (with a reduction of \$10,000) in costs and legal fees. The total

Reh.App.2a

amount of the judgment was \$343,931.17. Payment was made without admission of negligence.

The patient (a 53-year-old female) was referred to Dr. Vázquez Quintana and other physicians for definitive treatment of hyperparathyroidism. Treatment of her condition included surgery, which was performed by Dr. Vázquez Quintana on July 6, 2000. The patient was informed of the possible risks and complications.

The patient alleged that Dr. Vazquez Quintana deviated from the standard of care by removing three normal parathyroid glands, two of which were normal, and leaving her with only one gland with deficient blood supply. It was also alleged that the patient developed hypoparathyroidism.

**DESCRIPTION OF THE  
PROCEDURE PERFORMED:**

The surgery was performed to remove the left lobe of the thyroid gland and three parathyroid glands, one of which (top right) showed histopathological changes consistent with adenoma (noncancerous tumor) while the other two were normal. The patient developed postoperative hypoparathyroidism that has been treated with calcium and vitamin D. The test performed on the patient showed hypocalcemia, hyperphosphatemia and low levels of parathyroid hormone.

**GROUNDS OF THE CLAIM:**

The plaintiff patient's expert alleged that as a result of the surgery the patient was left with permanent symptomatic hypocalcemia that requires daily calcium and vitamin D intake, frequent medical visits and blood tests to monitor her calcium levels.

Reh.App.3a

That complication was the result of overly aggressive surgery in the form of a near-total parathyroidectomy, which left the patient with a parathyroid with an inadequate blood supply to maintain normal calcium levels.

On the other hand, Dr. Vázquez Quintana's expert maintains that, although unfortunately that patient developed postoperative hypoparathyroidism, the surgery itself was clearly indicated and this is a recognized complication of the procedure. The patient was aware of this complication and decided to proceed with the operation because the primary hyperparathyroidism left untreated for a long time could have resulted in serious health complications for her, including kidney stones and osteoporosis. Dr. Vazquez Quintana followed the accepted standard of care in his handling of the patient's case. In addition, calcium intake is recommended for any older woman 40 years old. In conclusion, the patient did not result in harm from the Dr. Vázquez Quintana intervention.

The Investigative Hearing was held on January 10, 2023, by the Investigating Officer, Lcdo. Carlos José Sánchez Pagán.

After studying the case file and holding the investigative hearing, it is necessary to conclude that the removal of the patient's normal lower parathyroid was an unavoidable uncertainty that is within the concept of the "inherent risk" of parathyroidectomy and lobectomy. Medicine is the science of uncertainty and the art of probability" William Osler. Surgery was indicated according to the clinical picture presented by the patient since the parathyroids were not removed unnecessarily. Therefore, **IT IS RECOMMENDED TO FILE WITH PREJUDICE.**

## CONCLUSION

The report submitted by the Investigating Officer was discussed on its merits by the Board at the Regular Meeting held on January 10, 2023. This is how the Puerto Rico Medical Licensing and Discipline Board resolved DETERMINING THE ARCHIVE WITH PREJUDICE OF THE PRESENT COMPLAINT.

You are advised that Article 27 of Law No. 139 of August 1, 2008, provides that after a Resolution is issued, the adversely affected party may first request the Board to reconsider the Resolution, within ten (10) days of its notification. Once the reconsideration has been resolved, if it is adverse, it may appeal to the Circuit Court of Appeals, in an appeal for review within a period of thirty (30) days after being notified of it. For the purposes of the provisions herein, the Board shall be considered an interested party in the process of review of its decisions.

THE PUERTO RICO BOARD OF LICENSING AND MEDICAL DISCIPLINE signs in San Juan, Puerto Rico today, April 20, 2023.

/s/ Dr. Ramón Méndez-Sexto  
President

/s/ Dr. Jose J. Fuentes Inquanzo  
Secretary

I CERTIFY: That, today, April 21, 2023, I sent the original of this document to DR. ENRIQUE VAZQUEZ QUINTANA through his Legal Representative, LCDO. RUBEN T. NIGAGLIONI, e-mail rtn@nigaglionilaw.com so that the doctor can be notified of the Board's determination.

Reh.App.5a

/s/ Carmen L. Alamo Del Valle

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