

IN THE SUPREME COURT OF THE UNITED STATES

ANGEL RUIZ RIVERA

PETITIONER/APPELLANT

V.

ASSURED GUARANTY V. GARCIA PADLLA
16-2208

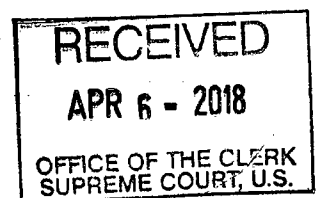
RESPONDENTS/APPELLEES

**ON PETITION FOR A WRIT OF CERTIORARI TO THE
U.S. COURT OF APPEALS FOR THE FIRST CIRCUIT**

ON SUB JUDICE APPEAL
16-2208

FILED BY

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A. QUESTIONS PRESENTED FOR REVIEW

1. Did the Honorable Judges of the U.S. District Court for the District of P.R., and the U.S. Court of Appeals for the First Circuit usurped their authority and did not comply with their ethical and ministerial duties when they balked at and neglected to issue a declaratory judgment ruling that the section 2, Article VI of the Constitution of P.R. is applicable *nunc pro tunc* to P.R.'s contracting of its debt and that Joint Resolution 87-121 of August 3, 1961 by the U.S. Congress is controlling over this issue of law?

B. CORPORATE DISCLOSURE STATEMENT

Since Petitioner is a person and not a corporation, there are no parent corporations nor publicly held company that owns 10% or more of the nonexistent corporation stock.

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D. CITATIONS OF THE OFFICIAL REPORTS OF THE OPINIONS AND ORDERS ENTERED IN THE CASE BY THE COURTS

Assured Guaranty v. Garcia Padilla, 16-2208, USCA1C.

E. A CONCISE STATEMENT OF THE BASIS FOR JURISDICTION IN THIS COURT, SHOWING: (i) THE DATE THE JUDGMENT OR ORDER SOUGHT TO BE REVIEWED WAS ENTERED.

This petition is filed under Rule 11, because an imperative public important issue is pending in appeal 16-2208 before the USCA1C. Heretofore, no Judgement or Order has been entered.

F. THE CONSTITUTIONAL PROVISIONS AND STATUTES, INVOLVED IN THE CASE, SET OUT VERBATIM WITH APPROPRIATE CITATION.

Article VI, section 2 Constitution of Puerto Rico.

Public Law 87-121 August 3, 1961.

G. A CONCISE STATEMENT OF THE CASE.

The Constitution of the Commonwealth of Puerto Rico (P.R.) on its Article VI, section 2, states as follows:

Section 2. Power to impose taxes; to contract debts.

The power of the Free Associated State of Puerto Rico (Commonwealth) to contract and authorize debts will be exerted as the Legislative Assembly disposes, but it will not be surrendered or suspended. The power of the Free Associated State of Puerto Rico (Commonwealth) to contract and authorize debt will be exerted as the Legislative Assembly disposes, but no direct obligation of the Free Associated State of Puerto Rico for money borrowed directly by the Free Associated State of Puerto Rico evidenced through bonds or promissory notes for which obligations the good faith and credit and the power to impose contributions of the Free Associated State were committed shall be issued by the Free Associated State of Puerto Rico if the total of (i) the amount for the concept of the principal and interests over those bonds and promissory notes over the totality of those bonds and promissory notes, until then issued by the Free Associated State and in circulation, payable in any fiscal year immediately preceding the current fiscal year and (ii) whatever amounts paid by the Free Associated State for the fiscal year immediately preceding the current for the concept of principal and interests corresponding to whatever obligations evidenced by bonds and promissory notes guaranteed by the Free Associated State, exceed 15% of the average of the total amount of the annual collections ("rentas") obtained in accordance to the dispositions of the laws of the Free Associated State as income in the Treasure of Puerto Rico during the

two years immediately preceding the current fiscal year; and none of said bonds and promissory notes issued by the Free Associated State for any purpose rather than housing facilities shall be due after a 30 year term from the date of its issuance; and no bond or promissory note issued for housing purposes shall be due after a 40 year term from the date of its issuance; and the Free Associated State shall not guarantee any obligation evidenced through bonds or promissory notes if the total of the amount payable in any fiscal year for the concept of principal and interests over the totality of the previously referred direct obligations until then issued by the Free Associated State and in circulation and the amounts made reference to in clause (ii) exceeded 15 per cent of the average of the total amount of these annual collections.

In simpler words, the amount of debt that could be contracted and issued in any given fiscal year could not exceed 15% of the average of the collections during the preceding two years, after having taken into account and consideration the amount of the principal and interests to be paid for all the bonds and promissory notes until then issued including those pertaining to the fiscal year immediately preceding the given fiscal year for which additional debt was to be contracted or issued plus the amount of principal and interests of the bonds and promissory notes for the given fiscal year.

In still more simpler words, no additional debt could be contracted or issued over the 15% of the average of the collections of the previous 2 years, after having taken care of the payment of both principal and interests of all previously issued debt owed, up to and including the one for the previous year and for the given fiscal year for which additional debt was been considered.

This section of the Constitution of P.R. also clearly, expressly and specifically prohibits contracts for more than 30 years, except for housing facilities.

This section of the Constitution of P.R. was blatantly and overtly violated since at least the 1970's by all the administrators of the territory of P.R., with regards to its no-debt-over- the-15%-of-the-average of the collections for the previous 2 years clause.

This section of the Constitution of P.R., as to its clause limiting contracts to no more than 30 years has also been more recently violated. (See lease of the airport to

Aerostar and of the tollbooths proceeds to Metropistas, both to Mexican entities, the last one where the same Governor (Fortuño-Burset) that violated the Constitution he swore to defend when he contracted for 40 years, is personally profiting on its Board of Directors).

The no-debt-over-15%-of-the-average of the collections of the previous two years clause in this section of the Constitution of P.R. **came about as a result of a Constitutional amendment that took place on December 10, 1961, and which had been pre-authorized by the U.S. Congress by way of a Joint Resolution on August 3, 1961, Public Law 87-121.** (Emphasis added).

Section 2 of Pub. L. 87-121 provided that: "Section 1 of this Act [amending this section] shall take effect upon a majority of the qualified electors of Puerto Rico having voted in a referendum pursuant to section 1 of article VII of the constitution of the Commonwealth of Puerto Rico, **to include provisions in the Commonwealth constitution, in lieu of the provisions of section 3 of the Puerto Rican Federal Relations Act [this section] specified herein, limiting the debt-incurring capacity of the Commonwealth and of its municipalities** (as proposed in the concurrent resolution of the legislative assembly of the Commonwealth)." {Emphasis added}.

A referendum was approved in P.R. on September 29, 1961, which was held on December 10, 1961, with over 82% of the voters approving same. For all legal purposes this federal law 87-121, allowed and provided for the amendment of section 3 of the Federal Relations Act, **limiting the debt-incurring capacity of Puerto Rico by way of this amendment to the Constitution**, inserted as its section 2, Article VI and which all the administrators of P.R., the Puerto Rican and federal courts' judges have heretofore ignored, adding insult to the \$73 billion dollars plus injury suffered by the People of P.R. and its residents.

A fortiori then, this clause is not only an amendment to the Constitution of P.R. but what is more pertinent, relevant and significant for your analysis, consideration and evaluation it was first a federal law, which has not been derogated, nor declared null or

void by any competent court of law with subject matter jurisdiction over this matter, ergo, valid.

This both federal law, first, and Constitutional amendment, second; in strict chronological order, was timely invoked by the Appellant in support of a Complaint (intended as a qui tam action) and a petition for declaratory judgment in the following civil actions:

1. Complaint and Request For Declaratory Judgment Petition (CRDJP) filed at the Tribunal of First Instance (TFI), Superior Court of San Juan (SCSJ) in Angel Ruiz Rivera v. Rafael Hernandez Colon, Et Al., KDP-2015-1158 (808), where it was dismissed without prejudice.
2. Timely appealed to the Tribunal of Appeals (TA), San Juan Judicial Region, in Angel Ruiz Rivera v. Rafael Hernandez Colon, Et Al., KLAN2016-00523, where it was denied for want of jurisdiction after a clearly erroneous 30 instead of 60 days time frame to appeal was applied.
3. Closely related Mandamus Petition at the Supreme Tribunal of P.R., (STPR) in MD-2016-002; MD-2017-003
4. Mandamus Petition at the STPR in Angel Ruiz Rivera v. Ricardo Rosello Nevarez, Gob. De P.R. ELA, MD-2017-005 object of an intimately related Petition For Certiorari collaterally filed to this HUSSC.

Eventually, the original CRDJP was incorporated and made part of a Motion To Intervene and Requesting Declaratory Judgment (MIRDJ) at the U.S. District Court for the District of P.R. (USDCDPR) in the following civil actions, where same was denied in all of them and timely appealed to the U.S. Court of Appeals for the First Circuit (USCA1C) where they are awaiting final judgment:

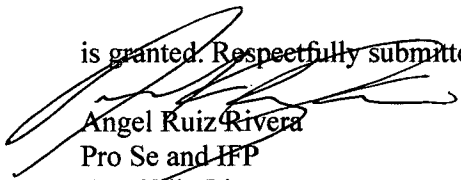
1. Assured Guaranty v. Garcia Padilla, 16-1037(FAB) at the USDCDPR; appeal 16-2208 at the USCA1C.
2. Lex Claims LLC v. Financial Oversight Management Board, 16-02374(FAB) at the USDCDPR; appeal 17-1337, at the USCA1C.
3. In Re Commonwealth of P.R.; 17-01578(LTS) initially at the USDCDPR, later transferred to the U.S. Bankruptcy Court for the District of P.R. (USBCDPR) as 17-BK-03283 (LTS); appeal 17-1743 at the USCA1C.

A DIRECT AND CONCISE ARGUMENT AMPLIFYING THE REASONS RELIED ON FOR ALLOWANCE OF THE WRIT.

Heretofore, all of the judges in the above *fora*, as in the STPR, (see related Certiorari, Angel Ruiz Rivera v. Ricardo Rosello Nevarez, Gob. De P.R. ELA); have callously, egregiously and wantonly failed to recognize the full force and effect of this federal law- Constitutional amendment, by neglecting to issue a declaratory judgment that was timely requested in all of the above legal recourses. There are no justifications in law, reason or logic for this unfathomable dereliction.

It is at least incomprehensible, shameful and unconscionable that both Puerto Rican and federal judges balk at issuing a mere declaratory judgment order, in view of the *fait accompli* that there is undisputable, unquestionable and irrefutable evidence proving that this section of the Constitution of P.R. which was explicitly, expressly and specifically pre-approved, pre-authorized and pre-legislated by Congress by way of a federal law, ergo, controlling here, was blatantly and consistently violated by all the administrators of the Puerto Rican fisc who contracted debt in excess of its limits since at least the 1970's. This was the reason why the insurmountably onerous and ergo, unpayable debt of the government of P.R., lost all sense of proportionality with respect to P.R.'s capital, capacity of repayment, collateral, conditions of loans, character and credit (full faith and credit). [What I denominate as the 6 c's of Credit Indebtedness].

CONCLUSION. PRAYER. For the above reasons, I respectfully pray that this Petition is granted. Respectfully submitted, today November 6, 2017.



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APPENDIX