

NEWS RELEASE

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COURT DENIES FEDERAL OFFICIALS' ATTEMPT TO EVADE RESPONSIBILITY FOR MEDICAL NEGLIGENCE THAT LED TO IMMIGRANT'S PENILE AMPUTATION AND DEATH

A federal court late Tuesday issued a blistering rebuke of federal officials' motion to dismiss part of a lawsuit Public Justice filed on behalf of a Salvadoran immigrant whose penis was amputated and who eventually died as the result of medical neglect suffered while in detention.

Ruling on federal public health officials' argument that Francisco Castaneda could not assert constitutional claims against them, the U.S. District Court in Los Angeles excoriated the defendants for an "attempt to sidestep responsibility for what appears to be...one of the most, if not the most, egregious Eighth Amendment violations the Court has ever encountered." The Eighth Amendment entitles detainees and prisoners to adequate medical care and prohibits cruel and unusual punishment.

"If [Castaneda's] evidence holds up, the conduct that he has established on the part of Defendants is beyond cruel and unusual," the Court wrote. The ruling added that the government's own records "bespeak of conduct that transcends negligence by miles" and which, if true, "should be taught to every law student as conduct for which the moniker 'cruel' is inadequate." According to the Court, "the care afforded to [Mr. Castaneda] by Defendants can be characterized by one word: nothing."

"Every American should be ashamed by the conduct of our government in this case," said Public Justice cooperating counsel Conal Doyle of Willoughby Doyle LLP in San Francisco. "Mr. Castaneda's death would have been prevented by the exercise of basic human decency."

Castaneda, 36, died in a Los Angeles-area hospice on Feb. 16, almost a year to the day after his penis was amputated in an attempt to stop a spreading cancer and save his life. The amputation followed a biopsy that Castaneda got on his own after authorities repeatedly refused the procedure despite government and private physicians' recommendations.

Just before Castaneda was to get a biopsy belatedly approved by federal officials, they suddenly released him from the immigration detention center in San Pedro where, for months, his worsening condition had been treated with nothing but ibuprofen, antihistamines and clean underwear.

"The Court's ruling is important because it paves the way for holding government officials accountable for their egregious medical neglect of Mr. Castaneda," said Public Justice attorney Adele Kimmel, co-counsel in the case. "By the same token, the ruling serves to highlight that our government's system for providing medical care to immigration detainees is severely broken."

Kimmel further said the case sets an important precedent for asserting constitutional claims against federal Public Health Service officials.

Public Justice filed the federal lawsuit in November 2007, charging the U.S. government and several federal and California state officials with medical neglect and constitutional violations. In addition to Doyle and Kimmel, Public Justice's Goldberg, Waters & Kraus Fellow Amy Radon assisted in opposing the motion to dismiss.

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