

October 04, 2009

The U.S. Supreme Court has decided to hear the *Castaneda* case, our lawsuit over the medical neglect, penile amputation, and death of immigration detainee Francisco Castaneda. The issue before the Court is whether public health service officials can be sued for damages for violating the Constitution (which has no caps on compensatory damages, allows punitive damages, and allows jury trials) or whether, no matter what these federal officials do, the people they injure or kill can only sue the U.S. government under the Federal Tort Claims Act (which borrows state damages caps, bars punitive damages, and allows only non-jury trials). **The case is critically important to preserving our rights, the Constitution, and access to justice.**



Francisco Castaneda

The defendants contend that, no matter how outrageously they acted, only the federal government can be sued -- for limited damages in a non-jury trial. **The federal district court and the unanimous U.S. Court of Appeals for the Ninth Circuit, however, rejected the defendants' claim of immunity and held that public health officials, like all other federal officials, may be sued for violating people's constitutional rights and held fully accountable in court.**

U.S. District Court Judge Dean Pregerson rejected the defendants' immunity arguments as 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." He wrote, "If [Castaneda's] evidence holds up, the conduct ...of Defendants is beyond cruel and unusual, ... transcends negligence by miles," and "should be taught to every law student as conduct for which the moniker 'cruel' is inadequate." To read his decision, [click here](#).

The U.S. Court of Appeals for the Ninth Circuit unanimously affirmed, describing Castaneda's ordeal as a "Kafkaesque nightmare." To read that decision, [click here](#).

On September 30, the Supreme Court formally granted review and consolidated the public health service defendants' petitions. The cases are now called *Migliaccio v. Castaneda* and *Henneford v. Castaneda*. (The defendants' names are first because we won below and the cases are on appeal.) We expect the *Castaneda* cases to be argued early next year.

With your help, Public Justice's litigation team -- Conal Doyle of Willoughby Doyle in Oakland, CA; Managing Attorney Adele Kimmel; Goldberg, Waters & Kraus Fellow Amy Radon; and Tom Dempsey of Los Angeles -- will continue to fight for Francisco Castaneda, his family, and the Constitution.

Thank you for making this crucial work possible. - Arthur

Arthur Bryant
Executive Director

& the Public Justice Foundation

P.S. Please forward this email to friends and colleagues who'd be interested. (When you do so, delete the information below about unsubscribing, or they could unsubscribe you.) To make a special contribution, renew your membership, or join us, please [click here](#).

email: abryant@publicjustice.net

voice: 510-622-8150

web: <http://www.publicjustice.net>

Public Justice · 1825 K Street, NW, Suite 200 · Washington · DC · 20006