

The Washington Post

Immigrant's survivors cannot sue federal health officials, Supreme Court rules

By Robert Barnes
Washington Post Staff Writer
Tuesday, May 4, 2010; A04

As soon as he arrived at the San Diego Correctional Facility, Francisco Castaneda complained of a medical problem. Despite advice from three specialists who recommended a biopsy of the lesion on Castaneda's penis, U.S. Public Health Service doctors called the procedure "elective" and refused to approve it.

He was treated with ibuprofen, antibiotics and an extra ration of boxer shorts.

A biopsy was performed 10 months after Castaneda's original complaint. But before the results came back, federal authorities freed the illegal immigrant. Castaneda went to an emergency room, was diagnosed with cancer and had his penis amputated. But the cancer had spread and he died a year later.

The Supreme Court [ruled](#) Monday that Castaneda's relatives cannot sue the federal health officials responsible for Castaneda's care. Federal law states that such lawsuits may be filed only against the government, not against individual health officials, when the officials are performing their duties, the court said.

"We are mindful of the confines of our judicial role," Justice Sonia Sotomayor wrote for a unanimous court. "We are required . . . to read the [statute](#) according to its text."

Sotomayor said the court's analysis "begins and ends" with a 1970 law that gave immunity to USPHS personnel who treat immigrants in custody. Under the law, suits can be brought only under the Federal Tort Claims Act, which does not allow for punitive damages and jury trials, and limits economic damages. Sotomayor noted that the government has admitted liability for medical negligence.

A federal judge and the U.S. Court of Appeals for the 9th Circuit had said Castaneda's suit, taken up by family members after his death, could go forward.

Castaneda, a Salvadoran, was convicted in 2005 of possession of methamphetamine with intent to distribute and sentenced to prison. He said in a lawsuit that it eventually took four outside specialists and the intervention of the American Civil Liberties Union before a biopsy was scheduled, and that he was released from custody 11 days after the procedure because the government did not want to pay for his treatment.

The court noted that Castaneda's supporters at the Supreme Court said that the policy of immunity for USPHS personnel might be contrary to the public interest, and that there was no reason they should receive more protection than other federal employees who perform similar duties. But the court said the law passed by Congress was clear.

The case is [Hui v. Castaneda](#).