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Legal Update

Preliminary Victory in Social Welfare Discrimination Case

Together with the firm of Quinn Emanuel Urquhart & Sullivan, Reichard & Escalera represents several plaintiffs eligible for federal social welfare programs in a lawsuit challenging the disparate treatment in the Congressional allocation of funds for these programs against residents of Puerto Rico. Plaintiffs have challenged their ineligibility for Supplemental Security Income (“SSI”), Supplemental Nutrition Assistance Program (“SNAP”) and Medicare Part D Low-Income Subsidy (“LIS”) under the Equal Protection Clause of the U.S. Constitution. The case was filed in the U.S. District Court for Puerto Rico. The presiding judge is the Hon. William Young, a visiting judge from Boston.

Many years ago, in *Califano v. Gautier Torres*, 435 U.S. 1 (1978) and *Harris v. Rosario*, 446 U.S. 651 (1980), the Supreme Court of the U. S. upheld the disparate treatment for residents of Puerto Rico in social welfare programs. Based to a great degree on those cases, the U.S. government defendants moved to dismiss the complaint for lack of subject matter jurisdiction and for failure to state a claim. On a very well-reasoned and articulated opinion, the District Court refused to dismiss the complaint after oral argument was heard.

The court began by recognizing that, contrary to the government’s position, plaintiffs had standing to sue. The court decided that the plaintiffs had adequately alleged that they would be entitled to receive greater benefits under the challenged programs but for their residency in Puerto Rico. It also dismissed the government’s argument that administrative remedies had not been exhausted since those remedies are not available to residents of Puerto Rico.

Most importantly, although the District Court recognized that it could not overrule the *Califano* and *Harris* rulings, it went deeply into those opinions and decided that whether support for rational discrimination survived the present circumstances in Puerto Rico is a matter that needed to be examined anew. The court took the position that Congress cannot categorically exclude a non-suspect class of people from federal benefits program simply to save money.

The court made clear that its decision did not constitute a total victory for plaintiffs, and that there is a long road ahead in this litigation. But the refusal of the court to accept the U.S. Government’s argument and its decision to deny defendant’s motion to dismiss is an important step forward in the fight for equal treatment for the most underprivileged residents of Puerto Rico.



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