

Public Justice sues U.S. Government and California for immigrant's penile amputation

The lawsuit seeks to hold the federal and state governments accountable for abdicating their responsibility for an immigration detainee's medical condition

Sarah Dean

Public Justice, the national public interest law firm, filed a federal lawsuit November 2, 2007, against the U.S. Government, the State of California and several federal officials on behalf of a Salvadoran immigrant whose penile lesions were ignored for so long while he was in government detention that a cancer metastasized. As a result, his penis had to be removed to save his life.

The suit, filed in U.S. District Court in Los Angeles, charges that state and federal authorities' refusal to provide reasonable and humane medical care to Francisco Castaneda "was tantamount to torture." It notes that, while in detention from December 2005 to February 2007, the 35-year-old man vainly pleaded for a biopsy, as recommended by state, federal and private doctors. "He was denied medical treatment that would have prevented his penile cancer from spreading and becoming terminal," the complaint says.

"I'm filing this lawsuit today for justice – not just for me – but for all of the detainees who are being ignored when their health or even their lives are on the line," Castaneda said.

Public Justice Staff Attorney, Adele Kimmel, said the lawsuit seeks to hold the federal and state governments accountable for abdicating their responsibility to Castaneda.

"We hope that, by exposing the federal government's inhumane treatment of immigration detainees like Mr. Castaneda, we can help to change a system that is severely broken," said Kimmel. "The policies and practices of the Division of Immigration and Health Services have made it nearly impossible for detainees to get adequate medical care. This lawsuit is a reminder that providing that care is a constitutional requirement."

Castaneda was released from a federal detention center in San Diego in February – just before a scheduled biopsy for which federal officials would have been billed if Castaneda had still been in custody. He took himself to an emergency room and was diagnosed with invasive squamous cell carcinoma of the penis, which was amputated on February 14. Since then, Castaneda has undergone chemotherapy for the cancer, which has spread. His prognosis is poor.

"Government officials imposed a death sentence on Mr. Castaneda, without the benefit of judge or jury, by their failure to provide a simple and inexpensive diagnostic procedure to rule out a life-threatening disease," said Conal Doyle, a Public Justice member attorney and lead counsel in the case. "This is a tragic case that could have been prevented by the exercise of basic human decency."

Castaneda was one of three witnesses who shared their detention horror stories with a House Immigration subcommittee hearing on October 4. The other two were relatives of detainees who died in Immigration and Customs Enforcement (ICE) facilities.

Castaneda, who has a 14-year-old daughter, said that although his situation is dire, he hopes it will bring attention to needed reforms in detainee treatment and care.

"I'm just glad to be in a country where getting justice is possible," he said.

(The full complaint is available at http://www.publicjustice.net/briefs/Castaneda_103007.pdf)

Sarah Dean is the Communications Coordinator for the Public Justice Foundation, the non-profit membership organization that supports the work of Public Justice, P.C. For more information about Public Justice or this case, visit www.publicjustice.net.

Copyright © 2008 by the author.
For reprint permission, contact the publisher: **www.plaintiffmagazine.com**