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## **Court: Jail Docs Not Liable for Immigrant Death**

### **Salvadoran Immigrant in Custody in California was Denied Treatment for Cancer; Gov't Can Be Sued, but Not Individuals**



Vanessa Castaneda, the daughter of Francisco Castaneda, talks in front of the Supreme Court March 2, 2010. The government has admitted negligence in doctors' poor treatment of the elder Castaneda, an immigrant who died after his untreated penile cancer spread to the rest of his body. (AP Photo/Haraz N. Ghanbari)

**(AP)** The Supreme Court ruled Monday that the family of a now-deceased immigrant who was denied medical care for cancer while in custody cannot sue federal medical officials for damages.

The law clearly states that the federal government, not individual federal medical personnel, must be the defendant in lawsuits arising out of claims of harm by federal employees during the course of their official duties, the high court ruled in an unanimous decision.

"We are required ... to read the statute according to its text," said Justice Sonia Sotomayor, writing for a unanimous court.

Salvadoran immigrant Francisco Castaneda was denied a biopsy for a painful penis lesion while in prison in California, despite outside specialists' recommendations.

According to his attorneys, Castaneda was treated with ibuprofen, antihistamines and antibiotics and was given extra boxer shorts for a penis lesion that bled and festered. His penis later was amputated but by then the cancer had spread and he died.

The federal government has admitted liability for medical negligence. But Castaneda and his estate also sued individual U.S. Public Health Service medical officials for damages.

The government says its medical personnel have absolute immunity against lawsuits for their official actions.

Congress in 1970 passed a law gave immunity to Public Health Service doctors who treat immigrants in detention. Under that law, Castaneda's survivors can only sue the federal government under the Federal Tort Claims Act, which bars jury trials and punitive damages and limits economic damages to those allowed under state law.

A federal judge and the 9th U.S. Circuit Court of Appeals in San Francisco refused to throw out the lawsuit, however. The high court on Monday reversed that decision.

Castaneda spent eight months in state prison after being convicted in 2005 of possessing methamphetamine with intent to distribute. He complained about the lesion while at the San Diego Correctional Facility, and again when he was transferred to immigration custody in San Pedro, Calif., because he was in the United States illegally.

Castaneda informed Immigration and Customs Enforcement staff in 2006 that a "lesion on his penis was becoming painful and growing," a federal judge said. But a government doctor would not admit him to a hospital, calling a biopsy "an elective outpatient procedure."

After the American Civil Liberties complained in 2007, a doctor performed a biopsy and said Castaneda likely had cancer.

ICE decided to release him 11 days later. Castaneda went to a hospital and was diagnosed with metastatic squamous cell carcinoma. Less than a week later, his penis was amputated.

He died a year later.

The case is Hui v Castaneda, 08-1529.