

**Congress of the United States**  
**Washington, DC 20515**

February 16, 2021

Honorable Joseph R. Biden  
President  
The White House  
1600 Pennsylvania Ave NW  
Washington DC 20052

Dear President Biden:

On February 4, 2019, the District Court in Puerto Rico, issued a ruling on *United States v. Vaello-Madero*, a legal dispute regarding the application of Supplemental Security Income (SSI) to residents of Puerto Rico. For 28 years, Mr. Jose Luis Vaello-Madero was a New York resident and received monthly SSI disability benefits. He moved to Puerto Rico in 2013 and for 3 years continued receiving SSI payments to his bank account in New York.<sup>1</sup> In 2017, the Social Security Administration initiated a collection process for benefits paid to Vaello-Madero after his relocation to the U.S. territory, where residents do not qualify for the SSI.<sup>2</sup>

Vaello-Madero argued that the exclusion of Puerto Rico from the SSI benefits program violated the Constitution's Fifth Amendment's equal protection guarantees. The U.S. asserted that the denial of SSI disability payments to Puerto Rico does not violate the Fifth amendment. In his ruling, the U.S. District Court in Puerto Rico granted Vaello-Madero's motion for summary judgment, essentially agreeing with the plaintiff. The U.S. appealed the Court's decision to the First Circuit.<sup>3</sup>

On April 10, 2020, Judge Juan Torruella, Judge O. Rogeriee Thompson and Chief Judge Jeffrey Howard from the First Circuit, affirmed the decision of Puerto Rico's District Court.<sup>4</sup> The three-judge panel declined to overrule existing precedent that allows Congress to discriminate against U.S. citizens who reside in Puerto Rico, pursuant to its plenary powers under the U.S. Constitution. The Circuit found that the exclusion of Puerto Rico residents from receiving SSI

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<sup>1</sup> See *United States v. Vaello-Madero*, Harvard Law Review, available at <https://harvardlawreview.org/2021/01/united-states-v-vaello-madero/>

<sup>2</sup> See Rosanna Torres, Impact of the Supplemental Security Income in Puerto Rico, Center for the New Economy, available at <https://grupocne.org/2020/06/25/impact-of-the-ssi-in-puerto-rico/>

<sup>3</sup> Carolina Bolado, Case tests limits on Puerto Rican's access to benefits, available at <http://media.ca1.uscourts.gov/pdf.opinions/19-1390P-01A.pdf>

<sup>4</sup>Torres, *supra* note 2.

benefits is unconstitutional under the equal protection component of the Fifth Amendment's Due Process Clause.<sup>5</sup>

Unfortunately, on August 7, 2020, the Trump Administration appealed the case on behalf of the United States to the U.S. Supreme Court, justifying the historically wrong and constitutionally flawed exclusion of Puerto Rico residents from receiving SSI benefits.<sup>6</sup> The challenge by the previous administration comes after the U.S. District Court for the District of Puerto Rico and First Circuit both ruled that the exclusion of Puerto Ricans from these programs is unconstitutional under the equal protection component of the Fifth Amendment's Due Process Clause. The petition to issue the *writ of certiorari* is currently pending before the Supreme Court.

For decades, the U.S. has arbitrarily discriminated against hundreds of thousands of U.S. citizens that live in Puerto Rico. The Government Accountability Office (GAO) predicted that during FY 2011, 305,000 to 354,000 eligible Puerto Rico residents would have received SSI. Moreover, average monthly SNAP coverage would have ranged from 486,000 households to 1,140,000 households in Puerto Rico. Finally, the GAO estimated that almost half a million (493,984) Medicare beneficiaries on the island would have been eligible for LIS benefits.<sup>7</sup> More recently, Puerto Rico's Center for the New Economy has estimated using 2018 ACS data that potentially 435,886 individuals could qualify for the SSI program in Puerto Rico with an estimated total impact of \$2.58 billion.<sup>8</sup>

I recognize the Administration's commitment to ensuring Puerto Rico receives parity in all applicable federal programs. It is long overdue that Puerto Ricans who qualify for SSI benefits can start receiving their benefits as soon as possible. The Supreme Court is slated to meet for conference on February 19, 2021 where *Vaello-Madero* might be distributed.<sup>9</sup> As such, I urgently ask you to exercise discretion and have the Department of Justice to withdraw the government's petition for *writ of certiorari*. Time is of the essence and we owe it to Puerto Ricans on the island to be able to receive the same SSI benefits they would otherwise be receiving on the mainland. I ask that you give this letter full and fair consideration consistent with applicable law, rules, and regulations.

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<sup>5</sup> See *United States v. Vaello-Madero*, 956 F.3d 12 (1st Cir. 2020).

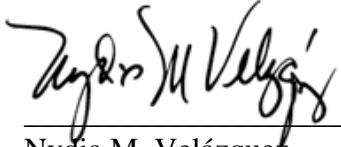
<sup>6</sup> See Petition for Writ of Certiorari by the United States of America, available at <https://www.justice.gov/brief/file/1316581/download>

<sup>7</sup> See United Government Accountability Office Report: Information on how statehood would affect selected federal programs and revenue sources, available at <https://www.gao.gov/assets/670/661334.pdf>.

<sup>8</sup> Torres, *supra* note 2.

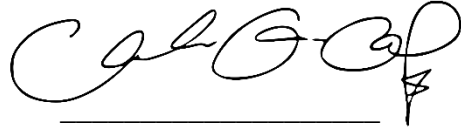
<sup>9</sup> See SCOTUS blog, *United States v. Vaello-Madero* available at <https://www.scotusblog.com/case-files/cases/united-states-v-vaello-madero/>

Sincerely,



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Nydia M. Velázquez  
Member of Congress



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Alexandria Ocasio-Cortez  
Member of Congress



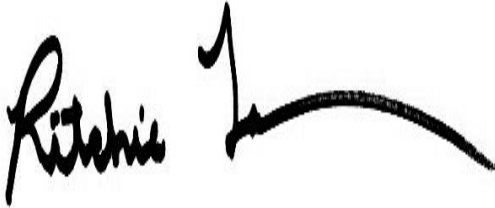
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