

United States v. Vaello-Madero¹⁴² S. Ct. 1539 (2022)

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**United States v. Vaello-Madero
142 S. Ct. 1539 (2022)**

I. INTRODUCTION

When a worker in the United States is unable to maintain full-time employment because of a disability, they are eligible for Supplemental Security Income (SSI).¹ This held true for Jose Luis Vaello-Madero while he lived in New York – that is, until he moved to the U.S. territory of Puerto Rico.² Due to Mr. Vaello-Madero’s return to Puerto Rico, he would not be considered under the umbrella of SSI benefits protection.³ Mr. Vaello-Madero appealed his case all the way to the Supreme Court of the United States.⁴

Because SSI benefits are not a fundamental right, the Court held that as long as there is a rational basis for doing so, Congress may grant SSI benefits to United States citizens living in the continental United States while simultaneously denying SSI benefits to United States citizens living in Puerto Rico.⁵ The basis for this decision was that Puerto Ricans did not pay the full myriad of federal taxes that citizens in the continental United States pay.⁶ The Majority of the Court held that U.S. citizens residing Puerto Rico are not entitled to SSI benefits; however, Justice Sotomayor dissented, explaining that because the majority of SSI beneficiaries don’t pay taxes, then it should not be a rational basis for denying Puerto Ricans SSI benefits.⁷

II. STATEMENT OF FACTS AND PROCEDURAL HISTORY

Jose Luis Vaello-Madero, a United States citizen born in Puerto Rico, received Supplemental Security Income (SSI) benefits when he resided in the state of New York.⁸ In 2013, he moved to Puerto Rico and continued to receive SSI benefits.⁹ Mr. Vaello Madero’s move to Puerto Rico should have

1. *Supplemental Security Income*, SOC. SEC. ADMIN., [https://www.ssa.gov/benefits/ssi/#:~:text=The%20Supplemental%20Security%20Income%20\(S%20SSI,who%20meet%20the%20financial%20qualifications](https://www.ssa.gov/benefits/ssi/#:~:text=The%20Supplemental%20Security%20Income%20(S%20SSI,who%20meet%20the%20financial%20qualifications) (last visited Nov. 27, 2022).

2. *United States v. Vaello-Madero*, 142 S. Ct. 1539, 1542 (2022).

3. *Id.*

4. *Id.*

5. *Fundamental Right*, CORNELL L. SCH. LEGAL INFO. INST., https://www.law.cornell.edu/wex/fundamental_right#:~:text=Fundamental%20rights%20are%20a%20group,been%20found%20under%20Due%20Process (last visited Aug. 24, 2022); *Vaello-Madero*, 142 S. Ct. at 1542-43.

6. *Vaello-Madero*, 142 S. Ct. at 1543.

7. *Id.* at 1544, 1561.

8. *Id.* at 1558.

9. *Id.*

rendered him ineligible for SSI benefits under United States policy.¹⁰ However, for years, the U.S. Government remained unaware of this move and continued to pay Mr. Vaello-Madero his SSI benefits, resulting in an overpayment that totaled \$28,000.¹¹ The U.S. Government, in an attempt to recover the overpayment, sued Mr. Vaello-Madero for restitution.¹² Mr. Vaello-Madero argued that Congress' decision to exclude Puerto Rico from the benefits of the Social Security Income program was a violation of "the equal-protection component of the Fifth Amendment's Due Process Clause."¹³ The District Court found in favor of Mr. Vaello-Madero, as did the Court of Appeals.¹⁴ The Supreme Court of the United States granted certiorari.¹⁵

III. COURT'S DECISION AND RATIONALE

Justice Kavanaugh delivered the majority opinion of the court, joined by Justices Roberts, Thomas, Breyer, Alito, Kagan, and Barrett.¹⁶ Justice Thomas filed a concurring opinion as did Justice Gorsuch.¹⁷ Justice Sotomayor filed a separate dissenting opinion.¹⁸

A. *Majority Opinion by Justice Kavanaugh*

In the 8-1 decision, the Court majority held that while Congress was permitted to include Puerto Rico in the SSI benefit disbursement, Congress was not required to do so.¹⁹ This decision reversed the decision of both the trial court and the First Circuit Court of Appeals.²⁰

The Court found that because Puerto Rico had a unique tax structure that allowed its citizens to avoid paying certain federal taxes, that this factor served as a rational basis and therefore permitted disparate treatment.²¹ The Court cautioned that if they were to interpret the case differently, it would lead to further consequences, such as having to extend other federal benefit programs to Puerto Ricans.²²

10. *Id.* at 1542, 1559.

11. *Vaello-Madero*, 142 S. Ct. at 1542.

12. *Id.*

13. *Id.* at 1541.

14. *Id.* at 1559.

15. *Id.*

16. *Vaello-Madero*, 142 S. Ct. at 1541.

17. *Id.*

18. *Id.*

19. *Id.* at 1544.

20. *Id.* at 1542.

21. *Vaello-Madero*, 142 S. Ct. at 1543.

22. *Id.*

The argument that was brought before the Court was centered around the Territory Clause of the Constitution and the equal protection component of the Fifth Amendment.²³ In *Bolling v. Sharpe*, the Court decided that the Fifth Amendment imposed equal protection requirements on the United States government in its interactions with federal territories.²⁴ Further, the Court determined that rational basis review applies for equal protection claims.²⁵ Rational basis review tests whether “the statute or ordinance . . . [has] a legitimate state interest, and there must be a rational connection between the statute’s/ordinance’s means and goals.”²⁶ Rational basis review was used by the Court in deciding this case.²⁷

Rational basis review is generally used “in cases where no fundamental rights or suspect classifications are at issue.”²⁸ Fundamental rights “have been recognized by the Supreme Court as requiring a high degree of protection from government encroachment.”²⁹ A non-exhaustive list of such rights include, “marriage, privacy, contraception, interstate travel, procreation, custody of one’s child(ren), [and] voting.”³⁰

Suspect classifications are a “class of individuals that have been historically subject to discrimination.”³¹ To determine whether a classification is a suspect classification, the Court will look to whether the individual is a “discrete and insular minority.”³² To be considered a discrete and insular minority, courts look to factors such as “whether the person has an inherent trait, whether the person has a trait that is highly visible, whether the person is part of a class which has been disadvantaged historically, and whether the person is part of a group that has historically lacked effective representation in the political process.”³³ The Court in *Vaello-Madero* determined that neither fundamental rights nor suspect classifications were at issue, therefore rational basis review was to apply.³⁴ The rational basis that the Government offered was that the those who resided in Puerto Rico or

23. *Id.* at 1541.

24. *Id.* at 1544–46 (Thomas, J., concurring) (citing *Bolling v. Sharpe*, 347 U.S. 497 (1954)).

25. *Id.* at 1544.

26. *Rational Basis Test*, CORNELL L. SCH. LEGAL INFO. INST., https://www.law.cornell.edu/wex/rational_basis_test (last visited Aug. 24, 2022).

27. *Vaello-Madero*, 142 S. Ct. at 1543 (majority opinion).

28. *Equal Protection*, CORNELL L. SCH. LEGAL INFO. INST., https://www.law.cornell.edu/wex/strict_scrutiny#:~:text=Equal%20Protection&text=For%20a%20court%20to%20apply,origin%2C%20religion%2C%20and%20alienage (last visited Aug. 24, 2022).

29. *Fundamental Right*, *supra* note 5.

30. *Id.*

31. *Suspect Classification*, CORNELL L. SCH. LEGAL INFO. INST., https://www.law.cornell.edu/wex/suspect_classification#:~:text=Definition,been%20historically%20subject%20to%20discrimination (last visited Aug. 24, 2022).

32. *Id.*

33. *Id.*

34. *Vaello-Madero*, 142 S. Ct. at 1543.

those who are Puerto Rican citizens didn't pay the same federal taxes as other citizens that reside in the fifty states did.³⁵

The Court found that because Puerto Rico had a unique tax structure that allowed its citizens to avoid paying certain federal taxes, that this factor served as a rational basis and therefore permitted disparate treatment.³⁶ The Court cautioned that if they were to interpret the case differently, it would lead to further consequences, such as having extended other federal benefit programs to Puerto Rico.³⁷

The Territory Clause, or Article four section three clause two of the Constitution, grants Congress the power to “dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.”³⁸ Puerto Ricans became citizens of the United States on March 2, 1917 following the signing of the Jones-Shafroth Act.³⁹ For over 100 years, Puerto Ricans have been citizens of the United States.⁴⁰ The Act declared,

All persons born in Puerto Rico on or after April 11, 1899, and prior to January 13, 1941, subject to the jurisdiction of the United States, residing on January 13, 1941, in Puerto Rico or another territory over which the United States exercises rights of sovereignty and not citizens of the United States under any other Act, are declared to be citizens of the United States as of January 13, 1941. All persons born in Puerto Rico on or after January 13, 1941, and subject to the jurisdiction of the United States, are citizens of the United States at birth.⁴¹

The Act granted that all people in Puerto Rico, whether by birth or by declaration, would be citizens of the United States.⁴²

B. Concurring Opinion by Justice Thomas

Justice Clarence Thomas wrote a concurrence with significant reference to the Fifth Amendment.⁴³ In the concurrence, Justice Thomas agreed with the holding, but disagreed with the Majority's interpretation of the Fifth

35. *Id.*

36. *Id.*

37. *Id.*

38. U.S. CONST. art. IV, § 3, cl. 2.

39. Jones Act, LIBR. OF CONG., <https://www.loc.gov/rr/hispanic/1898/jonesact.html#:~:text=On%20March%20%2C%201917%2C%20President,a%20locally%20elected%20bicameral%20legislature> (last visited Aug. 25, 2022).

40. *Id.*

41. 8 U.S.C. § 1402 (1952).

42. *Id.*

43. *See Vaello-Madero*, 142 S. Ct. at 1544 (Thomas J., concurring).

Amendment.⁴⁴ Currently, the Fifth Amendment is interpreted to be parallel to the protections provided by the Fourteenth Amendment.⁴⁵ The Fourteenth Amendment provides equal protection by the states.⁴⁶ The Fifth Amendment was held by the Court to provide equal protection by the federal government.⁴⁷ Justice Thomas did not believe that the Fifth Amendment provided equal protections.⁴⁸ He claimed that there was limited support for such a protection.⁴⁹ Justice Thomas in his discussion did supplement his conclusory claims by asserting that his “conclusions remain tentative.”⁵⁰

C. Concurring Opinion by Justice Gorsuch

Justice Neil Gorsuch wrote in a separate concurrence, agreeing with the majority in current law, but urging the court to abandon the Insular Cases.⁵¹ In his concurrence he discussed that the Court should consider overruling a set of cases known as the Insular Cases.⁵² The Insular Cases further developed the notion that there was a difference in territories.⁵³ This was founded in the idea that there were incorporated territories and unincorporated territories.⁵⁴ Under this idea, in incorporated territories, the U.S. Constitution was to apply in full, whereas in unincorporated territories, only fundamental provisions need apply.⁵⁵ Justice Gorsuch found that there was not sufficient reasoning for such a distinction.⁵⁶ He claimed that it was not in the “original understanding” of the Constitution to hold such a distinction.⁵⁷ He continued that, at the time the set of cases were decided it was based in “ugly [. . .] stereotypes.”⁵⁸ Justice Gorsuch argued that the “Insular Cases rest on a rotten foundation” and that in an appropriate future case, the Insular Cases should be overruled.⁵⁹

44. *Id.*

45. *Equal Protection*, *supra* note 28.

46. *Id.*

47. *Id.*

48. *Vaello-Madero*, 142 S. Ct. at 1544.

49. *Id.* at 1544, 1547.

50. *Id.*

51. *Id.* at 1552, 1556 (Gorsuch, J., concurring).

52. *Id.*

53. *Vaello-Madero*, 142 S. Ct. at 1555-56.

54. *Id.*

55. Mainon A. Schwartz, *Equal Protection Does Not Mean Equal SSI Benefits for Puerto Rico Residents, Says Supreme Court*, CONG. RES. SERV. (Apr. 28, 2022), <https://crsreports.congress.gov/product/pdf/LSB/LSB10737#:~:text=In%20a%20ruling%20that%20reaffirmed,benefits%20to%20Puerto%20Rico%20residents>.

56. *Vaello-Madero*, 142 S. Ct. at 1554.

57. *Id.*

58. *Id.*

59. *Id.* at 1557.

D. Dissenting Opinion by Justice Sotomayor

Justice Sonia Sotomayor provided a passionate and rigorous dissent.⁶⁰ Justice Sotomayor argued that “there is no rational basis for Congress to treat needy citizens living anywhere in the United States so differently from others.”⁶¹ Justice Sotomayor relied heavily in her argument on the foundational argument that the majority of SSI benefit recipients in the continental United States do not pay taxes.⁶² She utilized this factor in order to make a connection between Puerto Rico’s unique tax status and her reasoning for its effect to be indifferent.⁶³ She referred to the exclusion of Puerto Ricans from SSI benefits as “irrational and antithetical to the very nature of the SSI program and the equal protection of citizens guaranteed by the Constitution.”⁶⁴

IV. ANALYSIS

A. Introduction

The relative brevity of the *United States v. Vaello-Madero* opinion does not capture the true effect of its holding. Because of the holding, a number of United States citizens living in U.S. territories will be without the social benefits that their fellow citizens in the continental United States receive.⁶⁵ They are viewed by the Court as second-class citizens.

B. Discussion

Puerto Rico does have a program to benefit the disabled, however it differs greatly from SSI benefits.⁶⁶ The program is titled Aid to the Aged, Blind, and Disabled (AABD).⁶⁷ AABD differs from SSI in numerous ways, beginning with how the programs are funded.⁶⁸ SSI is funded by the federal government, whereas the federal government only funds 75% of AABD and 50% of AABD’s administrative costs.⁶⁹ Prior to 1972, there was a “patchwork system of federal grants to states for aid to people who are aged,

60. *Id.* (Sotomayor, J., dissenting).

61. *Vaello-Madero*, 142 S. Ct. at 1557.

62. *Id.* at 1561.

63. *Id.* at 1557.

64. *Id.*

65. *Id.* at 1544 (majority opinion).

66. *Policy Basics: Aid to the Aged, Blind, and Disabled*, CTR. ON BUDGET & POL’Y PRIORITIES, <https://www.cbpp.org/research/aid-to-the-aged-blind-and-disabled> (last updated Jan. 15, 2021) [hereinafter *Policy Basics*].

67. *Id.*

68. *Id.*

69. *Id.*

blind, or disabled.”⁷⁰ In 1972, this all changed when the federal government created SSI.⁷¹ This entailed that the program would be entirely federally funded and not rely on state input.⁷² The second major way in which AABD differs from SSI is that SSI “operates as an entitlement.”⁷³ To operate as an entitlement, as opposed to how AABD operates, essentially means that so long as an individual qualifies for SSI, they will receive SSI benefits.⁷⁴ However with AABD, the number of beneficiaries to the program is limited to the amount of funding.⁷⁵ As Justice Sotomayor mentioned in her dissent, the number of Puerto Ricans, who would be eligible for SSI is substantially more than the number of individuals that actually receive AABD.⁷⁶ Third, and most notably, the greatest difference between the two benefit programs is the amount of funding that the individual is eligible for.⁷⁷ On AABD, the most a beneficiary can receive is \$64 per month and 50% of shelter costs.⁷⁸ However, on SSI, the most a beneficiary can receive is \$794 per month.⁷⁹

As Justice Sotomayor explained in her dissent, those who qualify for SSI are, by definition, low income and likely not making enough to pay taxes.⁸⁰ On SSI, an individual can only make \$1,767 per month.⁸¹ The minimum amount necessary to begin paying taxes was about \$12,000 per year in 2019.⁸² So seemingly by definition, most individuals who are on SSI, don’t pay taxes as they are capped in their ability to make a certain amount of income while still receiving SSI benefits.⁸³

Puerto Ricans are a marginalized group and therefore the Court should have held a stricter scrutiny in its review.⁸⁴ Individuals from United States territories share characteristics of marginalized groups.⁸⁵ People from Puerto

70. *Id.*

71. *Policy Basics*, *supra* note 66.

72. *Id.*

73. *Id.*

74. *Id.*

75. *Id.*

76. *Vaello-Madero*, 142 S. Ct. at 1558; *Policy Basics*, *supra* note 66.

77. *Policy Basics*, *supra* note 66.

78. *Id.*

79. *Id.*

80. *Vaello-Madero*, 142 S. Ct. at 1561.

81. *A Guide to Supplemental Security Income (SSI) for Groups and Organizations*, SOC. SEC. ADMIN. 9 (2022), <https://www.ssa.gov/pubs/EN-05-11015.pdf> [hereinafter *A Guide to SSI*].

82. *What is the Minimum Income for Tax Filing in 2019?*, ATAX, <https://atax.com/blog/26/how-much-money-do-you-have-to-make-to-file-taxes#:~:text=What%20is%20the%20Minimum%20Income,a%20general%20rule%20to%20follow> (last visited Aug. 24, 2022).

83. *A Guide to SSI*, *supra* note 81.

84. Brief of the American Civil Liberties Union Foundation, ACLU of Puerto Rico, Demos, Equally American Legal Defense and Education Fund, and The Washington Lawyers’ Committee for Civil Rights and Urban Affairs as Amici Curiae in Support of Respondent, *Vaello-Madero*, 142 S. Ct. 1539 (No. 20-303), <https://www.aclu.org/letter/united-states-v-vaello-madero-amicus-brief> [hereinafter Brief for Respondent].

85. *Id.*

Rico “lack access to the political system that makes many of the laws they must follow; are largely people of color and suffer from a long history of subordination, in turn experiencing disfavor as perceived second-class members of the U.S. polity; and suffer disproportionately from economic disadvantage.”⁸⁶ Residents of United States Territories are predominantly people of color, especially in Puerto Rico where 99% of the population is Hispanic.⁸⁷ In the United States, forty-seven out of fifty states are majority non-Hispanic whites.⁸⁸ This could have an adverse effect as, by excluding Puerto Rico, may be discriminating against people of color.⁸⁹ Puerto Ricans are historically economically disadvantaged.⁹⁰ For example, in Puerto Rico, 43% of residents live in poverty.⁹¹ Because of these factors, “[r]esidents of the Territories bear the hallmarks of a group requiring the Court’s careful scrutiny in assessing a legislative classification.”⁹² They are people that have been historically disadvantaged and should be given an equal opportunity for benefits as every other citizen in the United States is granted.⁹³

C. *Loose Ends*

What does it say for us as a nation that we do not support all our citizens with the same branch of equality as is granted to another? This reigns true especially when an underprivileged citizen, such as a minority, is not granted the same right as his fellow man.⁹⁴

Extending SSI benefits to Puerto Rico would have been a step in the direction of equity and the fairer treatment of people who have been on the receiving end of discriminatory practices since the Island became a U.S. territory, 124 years ago. We must start putting people, their economic stability, and their well-being at the center of our tax and broader economic systems.⁹⁵

86. *Id.*

87. *Id.*

88. *Id.*

89. Brief for Respondent, *supra* note 84.

90. *Id.*

91. *Id.* (statistic as of 2019).

92. *Id.*

93. *See id.*

94. *See* Brief for Respondent, *supra* note 84.

95. *Statement by The Rockefeller Foundation on United States v. Vaello-Madero*, ROCKEFELLER FOUND. (Apr. 29, 2022), <https://www.rockefellerfoundation.org/news/statement-by-the-rockefeller-foundation-on-united-states-v-vaello-madero/#:~:text=Extending%20SSI%20benefits%20to%20Puerto,U.S.%20territory%2C%20124%20years%20ago.>

There is not a difference that lies between two persons that share a disability.⁹⁶ Take for example a blind man living in the United States. Whether that citizen resides in Puerto Rico, or whether that citizen resides in New York, he is still a blind citizen. Why should borders between territories and states determine whether or not that citizen is worthy for benefits? The majority makes the case that because this citizen, based on his location, wouldn't pay the same federal taxes, that was a rational basis for excluding him from SSI benefits.⁹⁷ It doesn't seem apparent why this would be the case when the majority of citizens on disability are also not paying taxes because they don't have a substantial income.⁹⁸ This does not mean that Congress gets to decide that only states that pay the most in taxes or a certain amount of taxes, receive the most amount of benefits.⁹⁹ So why is it such that with a territory that distinction gets to be made? If all citizens are to be treated equally, then the citizens that are most vulnerable should not be deprived of basic access to such a beneficial program.

V. CONCLUSION

The decision implies that due to Puerto Rico's unique tax payment plan, that the United States may treat Puerto Rican's differently merely because of their tax plan.¹⁰⁰ This appears to be in direct violation of the Fifth Amendment's equal protection guarantee that the Court has granted the Fifth Amendment to hold.¹⁰¹ All citizens are to be treated equal and with the same benefits and consequences that the government provides for.¹⁰² The Court based their decision on Puerto Rico's tax exemptions.¹⁰³ The Court determined that because Puerto Rican's were not paying the same amount in taxes that differential treatment could be permitted.¹⁰⁴ As Justice Sotomayor referenced in her dissent, this decision provides problematic predicaments for other citizens that don't pay, what the Court may determine to be, sufficient taxes.¹⁰⁵ Why should one Citizen be treated with such blatant discrimination when the mere difference between himself and a fellow American is where

96. Brief for Respondent, *supra* note 84.

97. *Vaello-Madero*, 142 S. Ct. at 1543.

98. *Id.* at 1561.

99. *Equal Protection Does Not Mean Equal SSI Benefits for Puerto Rico Residents*, Says Supreme Court, CONGR. RES. SERV. (April 28, 2022), <https://crsreports.congress.gov/product/pdf/LSB/LSB1073>; *Vaello-Madero*, 142 S. Ct. at 1562.

100. *Vaello-Madero*, 142 S. Ct. at 1543.

101. Schwartz, *supra* note 55.

102. *Id.*

103. *Vaello-Madero*, 142 S. Ct. at 1543.

104. *Id.*

105. *Id.* at 1561.

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the soil beneath his feet is located? Why are we treating some as second-class citizens?

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