

*Washington, DC* - The House Judiciary Committee today approved a bill authored by Congressman Maurice Hinchey (D-NY) that would legislatively overturn a 1950 U.S. Supreme Court ruling known as the Feres Doctrine in order to enable armed service members and their families to hold the military accountable for medical malpractice. Current law prevents any such malpractice lawsuits from being filed against the military regardless of the egregiousness of the situation. Hinchey will now work closely with the Judiciary Committee to bring the bill to the House floor for a vote in the coming months.

Hinchey's bill, the Carmelo Rodriguez Military Medical Accountability Act of 2009, is named after the late Sgt. Carmelo Rodriguez of Ellenville, New York, who died of skin cancer in 2007 after a series of extraordinary mistakes and misdiagnoses made by military medical personnel.

"Members of the military and their families are now a significant step closer to attaining the same right that every other American has to hold their medical providers accountable for negligent care," Hinchey said. "For far too long, the Rodriguez family and other military families have been helpless and unable to hold anyone accountable for the loss of their loved one as the result of gross medical malpractice. I am extremely grateful to the House Judiciary Committee for its consideration of the Carmelo Rodriguez Military Accountability Act of 2009 and for taking the groundbreaking action of passing legislation to overturn the Feres Doctrine."

On March 24, 2009, the House Judiciary Subcommittee on Commercial and Administrative Law held a legislative hearing on the bill. Hinchey testified before the subcommittee on the merits of the bill as did Sgt. Rodriguez's sister, Ivette, who highlighted the impact the tragedy has had on her family. The Subcommittee on Commercial and Administrative Law subsequently passed the Carmelo Rodriguez Military Medical Accountability Act of 2009 on May 19, 2009, moving the bill onto the full Judiciary Committee for consideration.

Rodriguez, a Marine who served in Iraq, died in 2007 at the age of 29. Upon enrolling in the military in 1997, Rodriguez received an initial medical exam that revealed melanoma on his buttocks. The doctor making the diagnosis, however, failed to tell Rodriguez or refer him to a specialist. While serving in Iraq in 2005, Rodriguez was bothered by the area on his buttocks, which was constantly bleeding. A different military doctor repeatedly misdiagnosed the skin cancer as a birthmark or wart.

As the skin cancer worsened, Rodriguez's family was unable to receive a copy of his medical records from the Marines to give to other doctors. The family then asked Hinchey's office for help, but by the time the congressman's office received the medical records from the Marines it was too late. Carmelo Rodriguez had three surgeries and received radiation and chemotherapy, but it didn't save his life. The cancer had spread throughout his body and weakened him to the point that he went from being an athletic 190 pound man to weighing less than 80 pounds. He left behind a loving family, including a son who was seven years-old at the time.

Hinchey's bill would legislatively reverse the U.S. Supreme Court's 1950 ruling in *Feres vs. United States* in which the court ruled that military members and their families have no right or ability to sue the military for negligent medical care given to them during their service. The ruling, which has subsequently been referred to as the *Feres Doctrine*, has left families such as the Rodriguez's with no recourse for addressing the loss of a loved one due to obvious medical malpractice by military doctors and other medical personnel.