

*March 24 Hearing Will Examine Measure that Would Enable Family of Sgt. Carmelo Rodriguez & Others to Hold Military Accountable for Negligent Medical Care*

Washington, DC - Congressman Maurice Hinchey (D-NY) today announced that the House Judiciary Subcommittee on Commercial and Administrative Law will hold a hearing on Capitol Hill on Tuesday, March 24, 2009 at 2:00pm on a bill the congressman authored that would 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'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 made by military medical personnel.

Sgt. Rodriguez's sister, Ivette, will testify before the subcommittee regarding the impact the tragedy has had on her family and Congressman Hinchey will testify on the merits of his bill. The congressman first introduced the bill last year, and he reintroduced the measure in the current session of Congress last week.

"The legislative wheels are starting to turn and move this very important piece of legislation forward," Hinchey said. "When military service members don't have the same rights as even prisoners do to hold their health care providers accountable for malpractice, it's clear that the current legal system is out of whack. This bill needs to become law for the sake of the family of Carmelo Rodriguez and other military families, who have lost their loved ones due to gross medical negligence and currently have nowhere to turn. I look forward to testifying on the importance of the bill so we can bring some justice to the families of those who bravely served our country only to lose their lives or become seriously ill or injured as the result of negligent health care."

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, 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.

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.

Reporters interested in attending the March 24 hearing on Capitol Hill should contact Jeff Lieberman in Hinchey's Washington office at 202-225-6335.