

No. \_\_\_\_\_

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In the  
**Supreme Court of the United States**

ASOCIACIÓN DE PERIODISTAS DE PUERTO RICO,  
*Petitioner,*  
v.

COMMONWEALTH OF PUERTO RICO, ET AL.,  
*Respondents*

On Petition for Writ of Certiorari to the  
Supreme Court of Puerto Rico

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**PETITION FOR WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED

1. Whether courts may summarily close judicial proceedings and deny access to the official recordings of those proceedings without determining whether the First Amendment public access right attaches to them.

2. Whether Article 5.005 of Puerto Rico's Judiciary Act of 2003, 4 L.P.R.A. § 25e, as construed by the Puerto Rico Supreme Court to require automatic closure of all domestic violence proceedings and the official recordings of those proceedings, violates the First Amendment public access right under *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596 (1982).

## **PARTIES TO THE PROCEEDING**

Petitioner is the Asociación de Periodistas de Puerto Rico. Petitioner moved in the Caguas Court of First Instance for access to the official audio recordings of proceedings in two cases, *People of Puerto Rico v. Miguel Ocasio Santiago* (Case No. CG2021CR00274), and *Andrea Cristina Ruiz Costas v. Miguel Ocasio Santiago* (Case No. OPA 2021011404).

Respondents are the parties to the two cases in which Petitioner sought access: the Commonwealth of Puerto Rico, Miguel Ocasio Santiago, and Andrea Cristina Ruiz Costas. Mr. Ocasio Santiago and Ms. Ruiz Costas are both now deceased.

## **RULE 29.6 DISCLOSURE**

Petitioner Asociación de Periodistas de Puerto Rico is a non-profit corporation organized under the laws of Puerto Rico. It has no parent corporation and does not issue stock.

## **RELATED PROCEEDINGS**

There are no related proceedings.

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## **OPINIONS AND ORDERS BELOW**

The Petition Appendix contains all opinions and orders referenced below. For each document, certified English translations appear first, followed by the original Spanish.

The May 3, 2021 protective order issued by the Court of First Instance sealing the recordings at issue in Petitioner's access motion is unpublished. App. 47a.

The May 7, 2021 order of the Court of First Instance scheduling a hearing on Petitioner's access motion is unpublished. App. 50a.

The May 10, 2021 *sua sponte* order of the Supreme Court of Puerto Rico asserting jurisdiction over Petitioner's access motion pending in the Court of First Instance and summarily denying that motion is published at 2021 TSPR 64. It is not yet published in the *Decisiones de Puerto Rico*. App. 1a.

The May 10, 2021 order of the Court of First Instance annulling a hearing scheduled in that court for May 11, 2021 is unpublished. App. 59a.

The May 27, 2021 order of the Supreme Court of Puerto Rico denying Petitioner's first motion for reconsideration is unpublished. App. 69a.

The June 4, 2021 order of the Supreme Court of Puerto Rico denying petitioner's second motion for reconsideration is unpublished. App. 76a.

## **JURISDICTION**

The judgment of the Puerto Rico Supreme Court sought to be reviewed was entered on May 10, 2021.

App. 1a. The Puerto Rico Supreme Court issued orders denying Petitioner’s two timely motions for reconsideration on May 27, 2021 and June 4, 2021. App. 69a, 76a. Pursuant to this Court’s Order, 589 U.S. (Mar. 19, 2020) and Order, 594 U.S. (July 19, 2021), this Petition is timely filed within 150 days from the denial of Petitioner’s second motion for rehearing on June 4, 2021.

This Court has statutory jurisdiction under 28 U.S.C. § 1258.

### **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The First Amendment to the United States Constitution provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” U.S. Const. amend. 1.

Article 5.005 of Puerto Rico’s Judiciary Act of 2003, 4 L.P.R.A. § 25e provides in relevant part:

The Judicial Branch shall designate specialized parts with controlled access to the public in all judicial regions to try domestic violence cases.

Domestic violence cases shall be seen in a part specially designated for such cases in each Judicial Region pursuant to §§ 601 et seq. of Title 8, known as the

‘Domestic Abuse Prevention and Intervention Act.’ This part shall have controlled access to the public to safeguard the identity of the victim and the determination of which persons from the public shall have access to enter the same shall be at the discretion of the Judge presiding in the Part.<sup>1</sup>

### **STATEMENT OF THE CASE**

This Petition by the Asociación de Periodistas de Puerto Rico (the Puerto Rico Journalists’ Association, or “ASPPRO”) seeks review of the Puerto Rico Supreme Court’s holding that all judicial proceedings involving allegations of domestic abuse must be closed to the press and public, without exception, pursuant to Article 5.005 of Puerto Rico’s Judiciary Act of 2003. The decision refused a motion for access to the sealed recordings of civil and criminal judicial proceedings in which courts denied a victim of domestic violence protection from her abuser three times over the course of a single week. She was murdered by her abuser soon thereafter.

#### **A. Denial by the Court of First Instance of Andrea Cristina Ruiz Costas’ repeated requests for protection.**

On March 25, 2021, Andrea Cristina Ruiz Costas initiated a civil proceeding, *ex parte*, in the Caguas Court of First Instance seeking a provisional

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<sup>1</sup> An English translation of this provision is available on LexisNexis.



restraining order against her ex-boyfriend, Miguel Ocasio Santiago. The court denied her request for immediate relief and scheduled a hearing for March 31, 2021, so that Mr. Ocasio Santiago could present a defense.<sup>2</sup>

Fearful and desperate for protection, Ms. Ruiz Costas filed a criminal complaint against Mr. Ocasio Santiago the very next day and sought an order for his arrest. Pursuant to Rule 6 of Puerto Rico's Rules of Criminal Procedure, she appeared that day before a municipal judge, who took her statement but found no probable cause to arrest.<sup>3</sup>

Ms. Ruiz Costas appeared in court a third time for the March 31, 2021 hearing on her request for a restraining order, at which the court granted no relief.<sup>4</sup> Shortly thereafter, Ms. Ruiz Costas went missing. Her burned body was found a month later on April 29, 2021.<sup>5</sup> Mr. Ocasio Santiago was promptly

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<sup>2</sup> See also Oscar J. Serrano, *Conspiración de silencio en el Poder Judicial sobre el manejo del caso Andrea Ruiz Costas*, NOTICEL (May 5, 2021), <https://www.noticel.com/tribunales/ahora/top-stories/20210505/conspiracion-de-silencio-en-el-poder-judicial-sobre-el-manejo-del-caso-andrea-ruiz-costas/>.

<sup>3</sup> See *id.*

<sup>4</sup> See *id.*

<sup>5</sup> See *Ciencias Forenses identifica cuerpo hallado en Cayey como el de Andrea Ruiz Costas*, PRIMERA HORA (Apr. 30, 2021), <https://www.primerahora.com/noticias/policia-tribunales/notas/ciencias-forenses-identifica-cuerpo-hallado-en-cayey-como-el-de-andrea-ruiz-costas/>.

arrested and confessed to her murder.<sup>6</sup> He committed suicide on August 1, 2021, while his murder prosecution was ongoing.<sup>7</sup>

### **B. Public reaction to the court’s denial of protection.**

Immediate and intense public anger followed the news that Ms. Ruiz Costas had been murdered after the court’s repeated denial of her pleas for protection, resulting in large protests in San Juan on May 2.<sup>8</sup> The public outrage intensified on May 4, when Telemundo published a voice message Ms. Ruiz Costas had left for a friend shortly after the court had declined to issue a warrant for Mr. Santiago’s arrest.<sup>9</sup> In the message,

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<sup>6</sup> See *Radican cargos por asesinato contra expareja de Andrea Ruiz Costas*, NOTIUNO (May 1, 2021), [https://www.notiuno.com/noticias/radican-cargos-por-asesinato-contra-expareja-de-andrea-ruiz-costas/article\\_efbbf360-aa81-11eb-912a-d7b5ebfc6deb.html](https://www.notiuno.com/noticias/radican-cargos-por-asesinato-contra-expareja-de-andrea-ruiz-costas/article_efbbf360-aa81-11eb-912a-d7b5ebfc6deb.html).

<sup>7</sup> Lester Jiménez, *Ocasio Santiago estaba aislado en una celda al momento de quitarse la vida*, NOTICEL (Aug. 2, 2021), <https://www.noticel.com/ahora/20210802/ocasio-santiago-estaba-aislado-en-una-celda-al-momento-de-quitarse-la-vida/>.

<sup>8</sup> See, e.g., Frances Solá-Santiago, *Keishla Rodríguez & Andrea Ruiz Deserved More. This Is How Puerto Rico’s Government Failed Them.*, YAHOO!LIFE (May 3, 2021), <https://www.yahoo.com/lifestyle/keishla-rodriguez-andrea-ruiz-204211194.html>; *Cientos llegan al puente Teodoro Moscoso ante casos de Keishla Rodríguez y Andrea Ruiz*, TELEMUNDOPR (May 2, 2021), <https://www.telemundopr.com/noticias/puerto-rico/convocan-manifestacion-por-la-muerte-de-keishla-rodriguez-y-andrea-ruiz-costas/2209353/>.

<sup>9</sup> *¡De su propia voz! | Audio revela la angustia de Andrea Ruiz Costas*, TELEMUNDOPR (May 4, 2021),

she expressed fear for her safety and deep dismay about how badly the courts had treated her. App. 123a.<sup>10</sup>

Domestic abuse is at epidemic proportions in Puerto Rico. In 2012, the ACLU determined that Puerto Rico “has the highest per capita rate in the world of women over 14 killed by their partners.”<sup>11</sup> This rate doubled after Hurricane Maria devastated the island in 2018, worsening conditions for its already-vulnerable communities.<sup>12</sup> The government promised reform in response, with the Governor campaigning on the issue and declaring a state of emergency on domestic violence shortly after he assumed office this past January.<sup>13</sup> In the face of these

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<https://www.telemundopr.com/noticias/puerto-rico/de-su-propia-voz-audio-revela-la-angustia-de-andrea-ruiz-costas/2210164/>.

<sup>10</sup> *See id.*

<sup>11</sup> *Island of Impunity: Puerto Rico’s Outlaw Police Force*, ACLU, 16 (June 2012), [https://www.aclu.org/files/assets/islandofimpunity\\_20120619.pdf#page=103](https://www.aclu.org/files/assets/islandofimpunity_20120619.pdf#page=103).

<sup>12</sup> *See* Melissa Jun Rowley, *Women of Puerto Rico Unite to Bring Justice to Victims of Domestic Violence and Sexual Assault*, FORBES (May 12, 2021), <https://www.forbes.com/sites/melissarowley/2021/05/12/women-of-puerto-rico-unite-to-bring-justice-to-victims-of-domestic-violence--sexual-assault/?sh=3972f0d7f761>.

<sup>13</sup> *See* Harmeet Kaur & Claudia Dominguez, *Puerto Rico declares a state of emergency due to gender-based violence*, CNN (Jan. 25, 2021), <https://edition.cnn.com/2021/01/25/us/puerto-rico-emergency-gender-violence-trnd/index.html> [<https://perma.cc/U5EH-5BSE>].

promises, the public wanted an explanation for why and how the courts had so failed Ms. Ruiz Costas.<sup>14</sup>

**C. Prior efforts by other members of the press to access the official recordings of the proceedings in which Ms. Ruiz Costas was denied protection.**

On May 3, 2021, Puerto Rican news organization *NotiCel* filed a request with the judiciary to access the official audio recordings of the three proceedings in which the courts had denied her requests for protection.<sup>15</sup> In response, the Court of First Instance immediately and *sua sponte* issued a protective order prohibiting public access to the recordings, and did not release them to *NotiCel*. App. 47a.<sup>16</sup> The *sua sponte* entry of this order raised serious concerns among the press that it may have been intended to

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<sup>14</sup> See, e.g., “*Que sea lo que Dios quiera*”: *Andrea Ruiz Costas ya estaba defraudada por el sistema judicial*, METRO PUERTO RICO (May 4, 2021), [https://www.metro.pr/pr/noticias/2021/05/04/que-sea-lo-que-dios-quiera-andrea-ruiz-costas-ya-estaba-defraudada-por-el-sistema-judicial.html.%20\(May%204,%202021\)](https://www.metro.pr/pr/noticias/2021/05/04/que-sea-lo-que-dios-quiera-andrea-ruiz-costas-ya-estaba-defraudada-por-el-sistema-judicial.html.%20(May%204,%202021)) [https://perma.cc/T4EB-RPKP]; Oscar J. Serrano, *Asesino de Andrea Ruiz Costas es reincidente, pero la fiscalía no tenía expediente*, NOTICEL (July 9, 2021), <https://www.noticel.com/tribunales/ahora/top-stories/20210709/asesino-de-andrea-ruiz-costas-es-reincidente-pero-la-fiscalia-no-tenia-expediente> [https://perma.cc/HUF9-FVJH].

<sup>15</sup> Oscar J. Serrano, *Conspiración de silencio en el Poder Judicial sobre el manejo del caso Andrea Ruiz Costas*, NOTICEL (May 5, 2021), <https://www.noticel.com/tribunales/ahora/top-stories/20210505/conspiracion-de-silencio-en-el-poder-judicial-sobre-el-manejo-del-caso-andrea-ruiz-costas/>.

<sup>16</sup> See *id.*

protect the judges who had denied Ms. Ruiz Costas' pleas for protection, one of whom is the sister-in-law of the president of the Puerto Rican Senate.<sup>17</sup>

Faced with this protective order in the Court of First Instance, the Overseas Press Club ("OPC"), on May 5, 2021, filed a special motion in the Puerto Rico Supreme Court seeking disclosure of the audio recordings of the civil and criminal proceedings. App. 2a. Ms. Ruiz Costas' family publicly stated their support for disclosure of the audio recordings. App. 123a-124a.<sup>18</sup>

The next day, May 6, 2021, a sharply divided Supreme Court denied OPC's motion. With three justices in dissent, the five-justice majority held that OPC used an incorrect procedure to seek access to the recordings. App. 84a. The majority nonetheless reached the merits and, in dicta, found OPC's access motion barred by Article 5.005 of the Judiciary Act of 2003, 4 L.P.R.A. § 25e ("Article 5.005"). App. 84a.

Article 5.005 creates specialized domestic violence courtrooms and provides that "the determination of which persons from the public shall have access to enter the same shall be at the discretion of the Judge." 4 L.P.R.A. § 25e. The majority construed the

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<sup>17</sup> *See id.*

<sup>18</sup> *See La madre de Andrea Ruiz Costas pide la divulgación de las grabaciones del caso*, EL VOCERO DE P.R. (May 7, 2021), [https://www.elvocero.com/ley-y-orden/la-madre-de-andrea-ruiz-costas-pide-la-divulgacion-de-las-grabaciones-del-caso/article\\_ab8a6f12-af74-11eb-bb0d-0badbb4d6699.html](https://www.elvocero.com/ley-y-orden/la-madre-de-andrea-ruiz-costas-pide-la-divulgacion-de-las-grabaciones-del-caso/article_ab8a6f12-af74-11eb-bb0d-0badbb4d6699.html) [<https://perma.cc/3ACF-8JJQ>].

discretionary language of Article 5.005 as a mandate requiring all proceedings involving domestic violence to be closed to the public, without exception, to protect the privacy of victims and to encourage future victims to come forward with their claims. App. 84a. It then concluded that the statutory closure of domestic violence proceedings necessarily meant that recordings of those proceedings must be sealed. App. 84a.

The majority asserted that the closure imposed by Article 5.005 and the privacy interests of victims precluded any possibility of the access sought by OPC. App. 84a. In its view, “the legal mandate” of confidentiality “outweighs the interest of the press to have access to confidential information.” App. 84a. The majority opinion did not cite or purport to apply the First Amendment access right or this Court’s First Amendment access precedent.

In dissent, Justice Estrella Martínez found it “crystal clear” that the authority granted in Article 5.005 for controlled access to domestic violence proceedings did not render them automatically “confidential in a prospective manner and, much less, retroactively,” as the majority held. App. 97a. Dissenting Justice Colón Pérez similarly objected that nothing in the text of Article 5.005 provides for total confidentiality. App. 99a-100a. All three dissenting justices saw no valid reason to refuse to unseal the recordings considering the request by the family of Ms. Ruiz Costas that they be made public. App. 89a-90a, 97a-100a.

**D. Petitioner’s efforts to access the recordings.**

1. Petitioner’s access motion in the Court of First Instance.

Immediately after the Puerto Rico Supreme Court’s ruling criticizing the procedure followed by OPC, Petitioner ASPPRO, on May 6, 2021, submitted a request for access to the Court Administration Office (“OAT” in Spanish), under Puerto Rico’s Transparency Act, 3 L.P.R.A. § 9911 *et seq.* Petitioner sought the audio recordings of both the criminal and civil proceedings denying relief to Ms. Ruiz Costas, and to distinguish its request from the rejected OPC request, Petitioner stipulated that the recordings should be redacted to “omit[] the instances in which [Ms. Ruiz Costas] discloses sensitive information.” App. 104a.

In response, OAT noted “no objection” to disclosure of the recordings, but instructed Petitioner to make a motion for access to the court in light of the *sua sponte* protective order entered on May 3, 2021 and the Supreme Court’s *OPC* decision. App. 111a-112a.

On May 7, 2021, Petitioner filed a motion for access to redacted recordings of the civil proceedings in which Ms. Ruiz Costas sought a restraining order against Mr. Ocasio Santiago and the criminal case in which she sought his arrest. App. 116a-118a. Neither Mr. Ocasio Santiago, the prosecutor in his murder trial, nor any representative of Ms. Ruiz Costas objected to disclosure of the recordings. Even the

Governor of Puerto Rico spoke in favor of disclosing them.<sup>19</sup>

The Caguas court scheduled a hearing on the access motion for May 11, 2021. App. 53a. Petitioner then began preparing its substantive legal arguments for release of the records that, pursuant to Puerto Rican procedures, it would ordinarily present at the May 11 hearing.

On May 10, 2021, Petitioner amended its motion to request complete, unredacted versions of the recordings after the mother of Ms. Ruiz Costas provided an affidavit supporting disclosure of the recordings in their entirety. App. 128a-130a.

2. The Puerto Rico Supreme Court's *sua sponte* certification and immediate denial of Petitioner's access motion.

Shortly before the May 11 hearing was to begin, the Puerto Rico Supreme Court issued a *sua sponte* order taking immediate jurisdiction over Petitioner's motion and annulling the hearing. App. 3a-4a. The court asserted its intra-jurisdictional certification power, which permits it to:

bring forthwith, consider and resolve any matter pending in the Court of First

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<sup>19</sup> The Governor spoke in response to press reports about the leak of a purported recording of one of proceedings denying relief to Ms. Ruiz Costas. See Frances Rosario, *Pedro Pierluisi reitera que el sistema le falló a Andrea Ruiz Costas*, PRIMERA HORA (May 11, 2021), <https://www.primerahora.com/noticias/gobierno-politica/notas/pedro-pierluisi-reitera-que-el-sistema-le-fallo-a-andrea-ruiz-costas> [<https://bit.ly/3GnY3Hf>].



Instance . . . when novel questions of law or of great public interest are raised that include any substantial constitutional issue under the Constitution of the Commonwealth of Puerto Rico or the Constitution of the United States.

P.R. R. CIV. P. 52.2(d), 32 L.P.R.A. App. V.<sup>20</sup>

In the same *sua sponte* order, a majority of the Puerto Rico Supreme Court denied Petitioner's access motion on the merits, without affording Petitioner any opportunity to brief or argue the basis for its request. It invoked P.R. Sup. Ct. R. 50 ("Rule 50") to override P.R. Sup. Ct. R. 26, which gives parties 30 days to file a brief following service of the certification order. Rule 50 reserves to the Puerto Rico Supreme Court the power "to dispense with specific terms, writings, or procedures in order to achieve the fairest and most efficient dispatch of the case or matter in question." App. 204a. In denying Petitioner's motion immediately upon issuance of its certification order, the court apparently decided the matter without even possessing the case file. *See* P.R. Sup. Ct. R. 24 (requiring clerk of originating matter to transfer case file within five days of receiving a certification order).

The majority justified its certification and summary disposition of the motion by stating that "this controversy must be resolved urgently due to the possibility that [Article 5.005] will be violated, and a dire precedent will be created for the protection of the

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<sup>20</sup> An English translation of this provision is available on LexisNexis.

privacy of victims of domestic violence.” App. 4a. The court did not explain why it could not stay the proceedings while the parties briefed and argued the issue under the normal procedures.

The majority denied the motion on the merits by interpreting discretionary language in Article 5.005 as imposing an absolute ban on any public access to domestic violence proceedings. App. 8a. It viewed the statute’s purpose to be “ensur[ing] confidentiality” in all matters discussed in the specialized domestic abuse courtrooms, App. 7a, and concluded that this necessarily required denial of any request to access the recording of a proceeding, “even if it is limited or part of it is omitted, regardless of who requests it,” App. 8a.

The majority said blanket sealing of *all* domestic violence proceedings was necessary because allowing access to even a single record would “inhibit future victims of domestic violence from seeking protection in our courts.” App. 8a. For the majority, this concern outweighed the public demands to know how the courts had failed Ms. Ruiz Costas: “We all want answers, but in the quest for someone to answer, we cannot allow such a dire precedent.” App. 8a.

The majority opinion did not address the extent to which the public’s constitutional right of access to judicial proceedings applied to the civil and criminal proceedings at issue, or even mention the First Amendment. It adverted to the existence of a “jurisprudentially guaranteed” right of access to “information of a public nature,” but it found that

right abrogated by the statutory confidentiality imposed by Article 5.005 and overcome by the right of privacy in the Puerto Rico Constitution. App. 7a.

Three justices vigorously dissented. Presiding Justice Oronoz Rodríguez’s dissent emphasized that the court had a “constitutional mandate to make public information accessible.” App. 15a. The appropriate inquiry, she asserted, was not whether a categorical bar could be imposed in domestic violence cases, but whether the public should be denied access in this instance. She read Article 5.005 literally to permit the judge presiding over a domestic abuse proceeding to restrict access “*if the specific circumstances of the case so require.*” App. 15a (emphasis added). The circumstances of this case, in which “*no one . . . invoke[d] any protection or objects to the disclosure,*” in her view, did not justify sealing the recordings. App. 15a.

Presiding Justice Oronoz Rodríguez noted that Article 5.005 required domestic abuse proceedings to have “controlled access to the public” specifically “*to safeguard the identity of the victim.*” App. 14a. In this case, “[t]here is no identity left to protect” since “[Ms. Ruiz Costas’s] name is already . . . known.” App. 14a-15a.

All three dissenting justices criticized the majority for intervening in Petitioner’s filing before it had matured and the litigants had the opportunity to be heard. App. 12a, 19a, 20a. Justice Estrella Martínez criticized the majority’s decision to terminate the trial court proceeding as “paradoxical[]” given its rejection

of OPC's earlier motion to the Puerto Rico Supreme Court as being directed to the wrong forum. App. 18a.

3. The court's immediate denials of  
Petitioner's two timely motions for  
reconsideration.

Having been deprived of its opportunity to present its constitutional arguments and be heard before the Court of First Instance, and having been given no opportunity to present any arguments to the Supreme Court, Petitioner promptly moved for reconsideration. On May 25, 2021, Petitioner urged the court that its extraordinary ruling violated both the qualified public right of access extended by the First Amendment and the specific holdings of this Court in both *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596 (1982) and *El Vocero of Puerto Rico v. Puerto Rico*, 508 U.S. 147 (1993). App. 146a-149a. Petitioner also objected on due process grounds to the procedure used to intra-jurisdictionally certify its motion and decide it without briefing or argument in either the trial court or the Puerto Rico Supreme Court. App. 143a-145a.

Two days later, on May 27, 2021, the majority denied reconsideration without opinion, and over the same three dissenting votes. App. 69a. The next week, on June 2, 2021, Petitioner filed a second timely motion for reconsideration substantially restating its arguments for access and elaborating on its argument that the summary denial, without briefing or argument, abridged its due process rights. App. 177a. The Court issued a second summary denial without

opinion two days later, on June 4, 2021. Once again, three justices forcefully dissented. App. 76a.

## **REASONS FOR GRANTING THE WRIT**

### **I. The Puerto Rico Supreme Court’s Failure To Address Petitioner’s First Amendment Access Right Conflicts With Decisions Of This Court, The Courts of Appeals, And State Courts Of Last Resort**

The decision of the Puerto Rico Supreme Court requires all proceedings in domestic violence courtrooms to be closed, and it bars access to all recordings of these proceedings. It does so without addressing the public’s First Amendment access right. Its holding that all public access to the judicial proceedings at issue—both criminal and civil—is barred under Puerto Rican law conflicts with multiple decisions of this Court on the proper application of the First Amendment access right to criminal proceedings and with holdings by the Courts of Appeals and state courts of last resort on the proper application of the First Amendment access right to civil proceedings.

#### **A. The decision contravenes this Court’s repeated holdings on the application of the First Amendment access right to criminal proceedings.**

In *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 580 (1980), this Court held that the First Amendment’s express protections of free speech, freedom of the press, and the right to petition the government carry with them an implied right of public access to certain government proceedings. The

recognition of this constitutional access right was hailed at the time as a “watershed” event, *id.* at 582 (Stevens, J., concurring), that affirmed the structural role the First Amendment plays in our democracy, *id.* at 587-88 (Brennan, J., concurring in the judgment).

Citing an “unbroken, uncontradicted history” of access to Anglo-American criminal trials, *id.* at 573 (plurality), the Court explained that this tradition of public access is “no quirk of history,” but “an indispensable attribute of an Anglo-American trial,” *id.* at 569 (plurality). The presence of the public at a trial helps ensure that proper procedures are followed, encourages those with information to come forward, and creates incentives for all participants to perform well. *Id.* at 569-70 (plurality). Public access also discourages the bias, misconduct, and perjury that thrives in secrecy, *id.*, and thus public access “is an effective restraint on possible abuse of judicial power,” *id.* at 592 (Brennan, J., concurring in the judgment) (citation omitted).

The Court underscored that public access to a judicial proceeding “is a requirement of much broader bearing than its mere effect upon the quality of testimony.” *Id.* at 570 (plurality) (internal marks and citation omitted). “[E]specially in the administration of criminal justice, the means used to achieve justice must have the support derived from public acceptance of both the process and its results.” *Id.* at 571 (plurality). As Chief Justice Burger observed, public access promotes both the quality of justice produced by the court system and the essential perception that the system is fair. *Id.* at 572 (plurality).

The Court reaffirmed the proper scope and application of the constitutional access right in four subsequent cases. *See Globe Newspaper Co. v. Super. Ct.*, 457 U.S. 596, 603, 606-07 (1982); *Press-Enterprise Co. v. Super. Ct.*, 464 U.S. 501, 505-11 (1984) (“*Press-Enterprise I*”); *Press-Enterprise Co. v. Superior Ct.*, 478 U.S. 1, 9 (1986) (“*Press-Enterprise II*”); *El Vocero de P.R. v. P.R.*, 508 U.S. 147, 149-50 (1993) (per curiam). These decisions hold that the First Amendment grants the public a right to attend judicial proceedings and to access the records of what occurs in the courtroom. *See, e.g., Press-Enterprise I*, 464 U.S. at 513 (ordering disclosure of voir dire transcripts); *Press-Enterprise II*, 478 U.S. at 10 (extending First Amendment right of access to preliminary hearings). They also make clear that the First Amendment access right, while not absolute, can only be limited based on factual findings establishing a substantial probability that openness will harm an overriding interest and no alternative to closure will protect against that harm. *See, e.g., Press-Enterprise II*, 478 U.S. at 13-14.

These decisions state clearly the considerations to be used by courts to identify the types of proceedings and records to which the public access right attaches—considerations the Court distilled into an “experience and logic” test. The experience prong assesses “whether the place and process have historically been open to the press and general public.” *Press-Enterprise II*, 478 U.S. at 8. The logic prong considers whether public access “plays a significantly positive role in the functioning of the particular

process in question.” *Id.*; see *El Vocero*, 508 U.S. at 149-50 (per curiam); *Press-Enterprise I*, 464 U.S. at 505, 508-09; *Globe Newspaper*, 457 U.S. at 605-06; *Richmond Newspapers*, 448 U.S. at 589 (Brennan, J., concurring in the judgment).

In *Press-Enterprise II*, for instance, public access to preliminary proceedings in a criminal case satisfied the experience prong since, “[f]rom *Burr* until the present day, the near uniform practice of state and federal courts has been to conduct preliminary hearings in open court.” *Press-Enterprise II*, 458 U.S. at 10. Public access to preliminary hearings also satisfied the logic prong by enhancing both fairness and its appearance, guarding against overzealous or corrupt prosecutors, and deterring “public concern, outrage, and hostility” by making the public “aware that the law is being enforced and the criminal justice system is functioning.” *Id.* at 13.

The Puerto Rico Supreme Court categorically closed judicial proceedings, both criminal and civil, without even mentioning the First Amendment or citing this Court’s precedent defining the scope of the access right. By failing to apply this Court’s experience and logic test, the Puerto Rican court ignored this Court’s holdings and forty years of lower court precedent recognizing the critical role the public access right plays in supporting the functioning and legitimacy of the courts. This substantial departure from settled law governing an important federal constitutional right warrants review by this Court.



**B. The decision disregards this Court’s instruction in *El Vocero* that the access right applies to criminal proceedings in Puerto Rico, despite unique aspects of Puerto Rico’s court rules.**

The Puerto Rico Supreme Court’s decision is particularly disturbing given this Court’s instruction in *El Vocero*, 508 U.S. at 148 n.1, that the First Amendment access right fully applies in Puerto Rico.

In *El Vocero*, this Court addressed the constitutionality of Rule 23(c) of Puerto Rico’s Rules of Criminal Procedure. That rule establishes the procedures for probable cause hearings to determine if an accused felon will be held for trial, and at the time mandated the closure of all such preliminary hearings. *See* P.R. R. Crim. P. 23(c). This Court left no doubt that the experience and logic test must be used to determine if Rule 23(c) hearings are subject to the First Amendment access right and, applying that test, found they were. *See El Vocero*, 508 U.S. at 149-51.

In so holding, this Court rejected Puerto Rico’s claim that closed hearings were compatible with its “unique history and traditions,” which “display a special concern for honor and reputation of the citizenry.” *Id.* at 149. The Court explained that the experience test “does not look to the particular practice of any one jurisdiction, but instead to the experience in that type or kind of hearing throughout the United States.” *Id.* at 150 (internal quotations and citation omitted).

In this case, as in *El Vocero*, the Puerto Rico Supreme Court relied upon a unique Puerto Rican tradition—its strong constitutional protection of personal privacy—in justifying a statutory rule closing domestic violence proceedings. App. 5a-6a. But *El Vocero* unambiguously requires lower court to apply the experience and logic test and determine if the proceedings at issue are subject to the constitutional access right. The refusal to apply the test this Court specifically prescribed for application by Puerto Rico courts is further grounds for issuing the requested writ of *certiorari*.

**C. The decision conflicts with holdings of the Courts of Appeals and state courts of last resort finding a constitutional access right in civil proceedings.**

While this Court has never ruled on whether the right of access applies in a civil proceeding, six of the eight Justices in *Richmond Newspapers* “clearly implied that the right applies to civil cases.” *Huminski v. Corsones*, 396 F.3d 53, 82 n.30 (2d Cir. 2004). Chief Justice Burger went out of his way to note that “historically both civil *and* criminal trials have been presumptively open.” *Richmond Newspapers*, 448 U.S. at 580 n.17 (plurality) (emphasis added). Justices Brennan and Marshall similarly noted the absence of “secret proceedings, criminal *or* civil, having occurred at any time in known English history,” and that “[p]roper factfinding is to the benefit of criminal defendants *and of the parties in civil proceedings*,” *id.* at 590 (Brennan, J., concurring in the

judgment) (quoting *Gannett Co., Inc. v. DePasquale*, 443 U.S. 368, 419, 396 (1979) (Blackmun, J., concurring in part and dissenting in part)) (emphasis added). Justice Stewart stated unambiguously that “the First and Fourteenth Amendments clearly give the press and the public a right of access to trials themselves, civil as well as criminal.” *Id.* at 599 (Stewart, J., concurring in the judgment).

Following *Richmond Newspapers*, Courts of Appeals have consistently applied the experience and logic test in determining that various civil proceedings are subject to the First Amendment access right. *See, e.g., Westmoreland v. CBS*, 752 F.2d 16, 22-23 (2d Cir. 1984) (holding that First Amendment access right attaches to a civil trial); *Publicker Indus. Inc. v. Cohen*, 733 F.2d 1059, 1070 (3d Cir. 1984) (same); *Rushford v. New Yorker Magazine, Inc.*, 846 F.2d 249, 253-54 (4th Cir. 1988) (right attaches to documents filed in support of motion for summary judgment); *Brown & Williamson Tobacco Corp. v. FTC*, 710 F.2d 1165, 1178 (6th Cir. 1983) (right attaches to administrative record and other documents filed by agency in litigation); *In re Cont'l Ill. Sec. Litig.*, 732 F.2d 1302, 1308 (7th Cir. 1984) (right attaches to hearings held and evidence introduced in connection with motion to terminate); *Courthouse News Serv. v. Planet*, 947 F.3d 581, 590-91 (9th Cir. 2020) (right attaches to civil complaints); *Newman v. Graddick*, 696 F.2d 796, 801 (11th Cir. 1983) (right attaches to civil trials, pre-trial hearings, and post-trial hearings concerning release of prisoners). These courts have recognized “a nationwide tradition and practice of

access” to civil proceedings, *Courthouse News Serv. v. Schaefer*, 2021 U.S. App. LEXIS 18863, at \*11 (4th Cir. June 24, 2021), and found that “[p]ublic access to civil trials, no less than criminal trials, plays an important role in the participation and the free discussion of governmental affairs,” *Publicker*, 733 F.2d at 1070.

Many state courts of last resort have reached the same conclusion. *See, e.g., NBC Subsidiary (KNBC-TV), Inc. v. Superior Court*, 980 P.2d 337, 357 (Cal. 1999) (civil trials); *Boston Herald, Inc. v. Sharpe*, 737 N.E.2d 859, 873 (Mass. 2000) (affidavits in abuse prevention order proceedings); *N.J. Div. of Youth & Family Servs. V. J.B.*, 576 A.2d 261, 267 (N.J. 1990) (pre-trial hearing in cases involving termination of parental rights for alleged abuse or neglect); *Ex Parte Capital U-Drive-It, Inc.*, 630 S.E.2d 464, 469 (S.C. 2006) (family court records in divorce proceeding); *Rapid City Journal v. Delaney*, 804 N.W.2d 388, 395 (S.D. 2011) (civil trials).<sup>21</sup>

The decision of the Puerto Rico Supreme Court conflicts with this broad recognition that the

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<sup>21</sup> A few state courts of last resort have found that the access right does not attach to specific types of civil proceedings. But each applied the experience and logic test to reach that conclusion, and none of the proceedings found outside the scope of the right resembles the civil proceedings at issue here. *See, e.g., Morgan v. Foretich*, 521 A.2d 248, 252-53 (D.C. 1987) (evidentiary phase of civil contempt proceedings adjudicating violation of visitation orders); *Minneapolis Star & Trib. Co. v. Schumacher*, 392 N.W.2d 197, 204 (Minn. 1986) (transcripts of settlement hearing); *In re T.R.*, 556 N.E.2d 439, 450 (Ohio 1990) (custody proceedings in juvenile court).

experience and logic test must be used to determine when the First Amendment access right applies to civil proceedings. By rejecting Petitioner’s claimed right of access without applying the test to the civil proceedings at issue, the Puerto Rico Supreme Court’s ruling conflicts with the many courts holding that “[t]he press’s right of access to civil proceedings and documents fits squarely within the First Amendment’s protections.” *Courthouse News Serv. v. Planet*, 947 F.3d 581, 591 (9th Cir. 2020) (quoting *Courthouse News Serv. v. Brown*, 908 F.3d 1063, 1069 (7th Cir. 2018)).

This conflict is brought into sharp relief by comparing this case to *Boston Herald, Inc. v. Sharpe*, 737 N.E.2d 859 (Mass. 2000). As here, *Sharpe* concerned public access to records from a domestic abuse proceeding that was initiated by a woman who was later murdered by her abuser, and whose family did not object to public disclosure of the judicial records. Unlike here, the Massachusetts Supreme Judicial Court applied the experience and logic test and found a First Amendment right of access to affidavits filed in connection with domestic abuse protective order proceedings because these affidavits “have an integral relationship with those proceedings.” *Id.* at 607. The public can now assert its qualified First Amendment right of access to such proceedings in Massachusetts but not in Puerto Rico.

The ruling in this case even contradicts the Puerto Rico Supreme Court’s own precedent. In *Fulana de Tal & Sutana de Cual v. Demandado A.*, 138 D.P.R. 610 (1995), the court applied the

experience and logic test to certain civil proceedings and held that the access right attached to them due to their “tradition of openness” and “the functional purpose of assuring that the citizenry will be adequately informed of what goes on in the courts and that court proceedings are conducted according to law.” *Id.* It found the right to attach even where sexual privacy interests are at stake. It thus upheld a narrow closure order excluding the public from the courtroom during the playing of sex tapes allegedly recorded without the participants’ consent, but requiring the rest of the proceedings to be open. *Id.* The court expressly rejected the blanket no-access rule it has now imposed in this case: “Although it is true that there are circumstances and situations in which public access to judicial proceedings should be restricted, we cannot overwhelmingly state that ‘the right to privacy,’ without more, must prevail over public access.” *Id.*

The decision below thus conflicts not only with this Court’s precedent governing criminal proceedings, but also holdings of the circuits, states, and Puerto Rico itself concerning the existence of the right in civil proceedings. So extensive a conflict warrants review by this Court. *See Whorton v. Bockting*, 549 U.S. 406, 415 (2007) (granting *certiorari* to review a decision that “conflicts with the decision of every other Court of Appeals and State Supreme Court that has addressed this issue”).

**D. The decision conflicts with this Court’s requirement that those asserting a constitutional access right be afforded an opportunity to be heard.**

The First Amendment guarantees parties seeking access to judicial proceedings “an opportunity to be heard on the question of their exclusion.” *Globe Newspaper*, 457 U.S. at 609 n.25 (quoting *Gannett Co. v. DePasquale*, 443 U.S. 368, 401 (1979) (Powell, J., concurring)). This principle also sounds in due process, which requires the same opportunity before the government can deprive persons of their constitutional rights. *See, e.g., Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (“The fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’”) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).

The Puerto Rico Supreme Court denied Petitioner this opportunity by simultaneously exercising its intra-jurisdictional certification power, *see* P.R. R. Civ. P. 52.2(d), and its power to dispense with ordinary procedures, *see* Rule 50, App. 204a. By certifying the case before the hearing scheduled by the Court of First Instance, the court prevented Petitioner from contesting its exclusion in the trial court. By simultaneously dispensing with ordinary procedures to deny Petitioner’s motion, the court foreclosed Petitioner from asserting its constitutional rights before they were denied. The Puerto Rico Supreme Court’s order preemptively denied Petitioner’s access claims before Petitioner could present them.

Worse, the court offered largely nonsensical interests to justify its denial of any opportunity to be heard. *Cf. Eldridge*, 424 U.S. at 335 (holding that the government’s interest in less extensive procedures is relevant to the process a person is due). The court asserted that its summary actions were needed to prevent the Court of First Instance from releasing the recordings. *See* App. 4a (justifying certification because “controversy must be resolved urgently due to the possibility that the law will be violated, and a dire precedent will be created”); App. 8a (justifying dispensing with briefing and argument due to “imminence of the hearing that the Court of First Instance scheduled”). It offered no reason, however, for why any such order could not simply be stayed while the case progressed under the normal appellate rules.

Indeed, so rushed and ill-considered was its action that it is doubtful the Puerto Rico Supreme Court even possessed the trial court record before issuing its decision. Under its rules, the Puerto Rico Supreme Court receives the case file from the lower court clerk, who is required to transmit the record to the high court within five days of receiving the latter court’s certification order. *See* P.R. Sup. Ct. R. 24. In this instance, the Puerto Rico Supreme Court issued its merits determination *at the same time as* its order certifying the matter. The clerk of the Court of First Instance thus lacked an opportunity to transmit the case file, and indeed, the Supreme Court clerk never notified the parties that it received the file as the rule also requires. *See id.*



Petitioner was not permitted the opportunity to be heard before its access motion was rejected by a court that lacked briefing, argument, or the record. *Certiorari* should be granted for this reason as well, and to allow Petitioner to establish its First Amendment right of access to the proceedings at issue.

## **II. The Puerto Rico Supreme Court’s Decision Relies On The Very Interests That This Court Rejected In *Globe Newspaper* As Insufficient To Support Categorical Courtroom Closures**

The Puerto Rico Supreme Court read Article 5.005 to mandate the closure of proceedings involving domestic violence and upheld this blanket rule as necessary to advance two interests: (1) domestic violence victims’ interest in “confidentiality and the right to privacy,” App. 7a, and (2) the public interest in not “discourag[ing] and inhibit[ing] future victims of domestic violence from seeking protection in our courts,” App. 8a. This Court in *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596 (1982) rejected these precise interests as insufficient to justify a Massachusetts statute mandatorily closing all proceedings during the testimony of a minor victim of an alleged sex crime.

While the First Amendment access right is a qualified right, not an absolute one, this Court has made clear it can be limited only upon judicial findings that (1) public access to a specific proceeding would create a substantial probability of harm to a

compelling interest, (2) no alternative can adequately protect that interest, and (3) the access restriction imposed is narrowly tailored to effectively avoid the demonstrated harm. *See, e.g., id.* at 606-07; *Press-Enterprise Co. v. Super. Ct.*, 464 U.S. 501, 510 (1984); *Press-Enterprise Co. v. Super. Ct.*, 478 U.S. 1, 13-14 (1986). In *Globe Newspaper*, Massachusetts advanced two interests as justification for its mandatory closure rule, and this Court found both insufficient.

Massachusetts first advanced its interest in protecting minor victims' privacy and well-being. *See Globe Newspaper*, 457 U.S. at 607-08. Accepting the compelling nature of this interest, this Court nonetheless held that a mandatory closure rule "cannot be viewed as a narrowly tailored means of accommodating" it. *Id.* at 609. Instead, the public access right requires that courts be permitted to "determine, on a case-by-case basis, whether closure is necessary to protect the welfare of a minor victim." *Id.* at 608. The Massachusetts statute violated the First Amendment because it required judges to close proceedings even when doing so was unnecessary to protect minor victims' privacy and wellbeing. *See id.* at 608-09.

The second interest Massachusetts advanced was "the encouragement of minor victims of sex crimes to come forward and provide accurate testimony." *Id.* at 609. The Court rejected this interest as sufficient to justify mandatory closure because it lacked "empirical support," *id.*, and because it would apply to any party—not just sex crime victims—that may be more likely to come forward under assurance of

confidentiality. Allowing this interest to justify categorical closures would “support an array of mandatory closure rules designed to encourage victims to come forward” and “run contrary to the very foundation of the right of access recognized in *Richmond Newspapers*.” *Id.* at 610.

The Puerto Rico Supreme Court accepted the same two interests rejected in *Globe Newspaper* as justification for the blanket closure it read into Article 5.005. Its reasoning is identically flawed.

*First*, as in *Globe Newspaper*, the mandatory closure rule of Article 5.005 forbids courts from considering whether closure is necessary in a given case to protect the privacy of a victim. In this case, the court did not, and could not, explain why closure was necessary to protect the privacy interests of a deceased victim, whose identity is widely known and whose family supports disclosure.

This Court has relatedly held in the context of jury voir dire that prospective jurors seeking to close proceedings to protect their privacy interests must “make an affirmative request” to the trial judge, who must then “ensure that there is in a fact a valid basis for a belief that disclosure infringes a significant interest in privacy.” *Press-Enterprise I*, 464 U.S. at 510. Here, Ms. Ruiz Costas did not make such a request, and the court refused her family’s request to make the recordings public.

*Second* the Puerto Rico Supreme Court, like Massachusetts in *Globe Newspaper*, offered no empirical support for its speculation that closure in all

circumstances is necessary to encourage future victims of domestic violence to come forward. As in *Globe Newspaper*, there is no limiting principle here to the notion that certain types of victims will testify only if promised confidentiality.

To the extent the First Amendment right attaches to the proceedings here—an issue never addressed by the Puerto Rico Supreme Court—its decision directly conflicts with *Globe Newspaper*. *Certiorari* is warranted to settle this conflict.

### **III. The Puerto Rico Supreme Court Resolved An Important First Amendment Question In A Way That Will Impede The Functioning Of Its Courts And Erode Public Confidence In Them**

The impact of the legal issue presented by this Petition extends beyond the facts of this case and the specific sealed recordings at issue. The decision of the Puerto Rico Supreme Court will impair the functioning of future proceedings involving domestic abuse and undermine the public's confidence that justice is being done in them.

As this Court has recognized, the presence of the public at judicial proceedings helps ensure that proper procedures are followed, encourages those with information to come forward and creates incentives for all participants to perform well. *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 569-70 (1980) (plurality). Public access also discourages perjury, misconduct, and bias that can thrive in secrecy, and in this respect “is an effective restraint

on possible abuse of judicial power.” *Id.* at 592 (Brennan, J., concurring in the judgment) (internal quotations omitted); accord *Sheppard v. Maxwell*, 384 U.S. 333, 350 (1966) (“[T]he press . . . guards against the miscarriage of justice by subjecting the police, prosecutors, and judicial processes to extensive public scrutiny and criticism.”).

Public access to judicial proceedings, in short, “enhances the quality and safeguards the integrity of the factfinding process.” *Globe Newspaper Co. v. Superior Court*, 457 U.S. 606 (1982). Conversely, secrecy of the type imposed by the decision of the Puerto Rico Supreme Court undermines the proper functioning of the judicial process, for example, by “masking impropriety, obscuring incompetence, and concealing corruption.” *Brown & Williamson Tobacco Corp. v. F.T.C.*, 710 F.2d 1165, 1179 (6th Cir. 1983).

In holding that Article 5.005 automatically closes all proceedings involving domestic violence, the Puerto Rico Supreme Court also cut off the primary means for the public to know if the system is protecting victims of domestic violence as intended, and to determine when reform is needed. For example, in 2013 Mr. Ocasio Santiago had been charged with the attempted murder of a previous domestic partner, but because that case was resolved through an alternative diversion program, the court apparently lacked access to this information when it

denied Ms. Ruiz Costas' request for protection.<sup>22</sup> Barring access to the recordings prevents the public from understanding how this informational lapse may have contributed to the tragic outcome for Ms. Ruiz Costas and from advocating for reform on behalf of future victims.

Under the blanket closure imposed by the Puerto Rico Supreme Court, such problems with the judicial process will remain hidden and reforms will be inhibited as the domestic violence crisis continues. *See* Rebecca Hulse, *Privacy and Domestic Violence in Court*, 16 WM. & MARY J. WOMEN & L. 237, 274-78 (2010); (describing the court-monitoring work of domestic violence advocacy organizations and concluding that this work “demonstrates the positive impact of openness and why too much privacy can often work against effective dispensation of [domestic violence] cases”).<sup>23</sup>

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<sup>22</sup> *See* Oscar J. Serrano, *Asesino de Andrea Ruiz Costas es reincidente, pero la fiscalía no tenía expediente*, NOTICEL (July 9, 2021), <https://www.noticel.com/tribunales/ahora/top-stories/20210709/asesino-de-andrea-ruiz-costas-es-reincidente-pero-la-fiscalia-no-tenia-expediente> [https://perma.cc/R82J-Q4CQ].

<sup>23</sup> Other scholars have also emphasized that access to information plays a pivotal role in building public trust in domestic and sexual violence proceedings. *See, e.g.*, Jodie G. Roure, *Immigrant Women, Domestic Violence, and Hurricanes Irma and Mariá in Puerto Rico: Compounding the Violence for the Most Vulnerable*, 20 GEO. J. GENDER & L. 631, 640-42, 687 (2019); *cf.* Zoe Ridolfi-Starr, *Transformation Requires Transparency: Critical Policy Reforms to Advance Campus Sexual Violence Response*, 125 YALE L.J. 2156, 2159-60 (2016)

The denial of access also prevents victims and the community from knowing that domestic abusers are being brought to account and that the courts are adequately protecting victims. See *Richmond Newspapers*, 448 U.S. at 570 (plurality) (discussing the “community therapeutic value” of public trials); *Press-Enterprise I*, 464 U.S. at 509 (observing that publicity can temper the “community urge to retaliate”). Without the therapeutic value provided by access, communities may be more tempted to take justice for victims of domestic abuse into their own hands.

The decision in this case threatens public confidence in the judiciary more generally. In first articulating the constitutional access right, Chief Justice Burger famously noted that “[p]eople in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing.” *Richmond Newspapers*, 448 U.S. at 572. When judicial proceedings are open to the public, he explained, “there is at least an opportunity both for understanding the system in general and its workings in a particular case.” *Id.*

Public access preserves “the appearance of fairness” that is “so essential to public confidence in the system.” *Press-Enterprise Co. v. Superior Ct.*, 478 U.S. 1, 9 (1986) (internal quotations omitted); see *Press Enterprise I*, 464 U.S. at 508 (same). It “fosters

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(linking the opacity of sexual assault disciplinary procedures to mistrust of the system).

the important values of quality, honesty and respect for our legal system.” *In re Providence Journal Co.*, 293 F.3d 1, 9 (1st Cir. 2002). Simply put, public access is

pivotal to public perception of the judiciary’s legitimacy and independence. The political branches of government claim legitimacy by election, judges by reason. Any step that withdraws an element of the judicial process from public view makes the ensuing decision look more like fiat and requires rigorous justification.

*United States v. Aref*, 533 F.3d 72, 83 (2d Cir. 2008) (internal quotations omitted).

The impact of the decision here is indeed eroding public confidence in ways that are already manifest. A woman was denied protection from the courts three times in one week and then promptly murdered. The blanket sealing of the records of the judicial proceedings has left many to wonder how secrecy is serving the best interests of the victims—especially in such a high-profile case where the entire island knows Ms. Ruiz Costas’ identity. Many worry that the records of Ms. Ruiz Costas’ proceedings may have been sealed *sua sponte* to protect the judges who denied her requests, one of whom is the sister-in-law of the president of the Puerto Rican Senate.<sup>24</sup>

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<sup>24</sup> See Oscar J. Serrano, *Conspiración de silencio en el Poder Judicial sobre el manejo del caso Andrea Ruiz Costas*, NOTICEL



Similar concerns arise from the procedures used in this case by the Commonwealth’s highest court, which has repeatedly acted to stymie press attempts to report on what has happened in the closed domestic violence courtrooms. The Puerto Rico Supreme Court dismissed OPC’s motion as not properly before it, then four days later *sua sponte* certified and decided Petitioner’s motion without briefing or argument. In so doing, it cited a need “to safeguard the effectiveness” of the OPC ruling—a decision issued after a day of deliberation, containing only minimal dictum on the meaning of Article 5.005, and no constitutional analysis—to justify “dispens[ing] with any subsequent procedure” under Rule 50. App. 204a. When Petitioner exercised its post-decision right to seek to be heard on the First Amendment access argument at the heart of the matter, the court brushed the constitutional issue aside with two summary denials of reconsideration without opinion.

If allowed to stand, the ruling of the Puerto Rico Supreme Court will undermine both the functioning of the courts and “the appearance of fairness so essential to public confidence in the system.” *Press-Enterprise I*, 464 U.S. at 508. A decision that so disregards the Constitution neither commands nor deserves the public’s trust, which only this Court can now restore.

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(May 5, 2021 12:26 PM),  
<https://www.noticel.com/tribunales/ahora/top-stories/20210505/conspiracion-de-silencio-en-el-poder-judicial-sobre-el-manejo-del-caso-andrea-ruiz-costas/>  
[<https://perma.cc/T83U-S2N2>].

## CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant *certiorari*.

Respectfully submitted,

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<sup>25</sup> This Petition does not purport to represent the institutional views of Yale Law School, if any.

## **APPENDIX**

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**APPENDIX A**

IN THE SUPREME COURT OF PUERTO RICO

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CT-2021-0008

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THE PEOPLE OF PUERTO RICO

*Appellee*

v.

MIGUEL OCASIO SANTIAGO

*Appellee*

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**JUDGMENT**  
(Rule 50)

In San Juan, Puerto Rico, on May 10, 2021.

It is up to us to decide whether we should disclose the audio of the views of a case that was carried out in a specialized courtroom for domestic violence. By this, we certify the above-captioned matter and conclude that the processes in the domestic violence courtrooms are of a sensitive nature that require by law a controlled access and, therefore, are not compatible with the possibility that the recording may later be made public, even if it is limited or part of it is omitted, regardless of who requests it. It is a contradiction for a process to have controlled access, by law, but for the audio of that same process to be distributed, in whole or in part, for everyone to access it.

The following facts are not in controversy and are public knowledge, so we take judicial notice of them. Rule 201 of Evidence, 32 LPRA App. VI. See also *UPR v. Laborde Torres y otros I*, 180 DPR 253, 276-279 (2010).

On May 3, 2021, the administrative judge of the Caguas Judicial Region, Hon. Ricardo G. Marrero Guerrero, issued a Protective Order in which he prohibited, under threat of contempt, to listen to or disclose the content of the recordings of the case hearings of *Pueblo v. Miguel Ocasio Santiago*, Num. CG2021CR00724 Rel: OPA 2021011403.

On May 5, 2021, the *Overseas Press Club* presented to us an *urgent and special request*, in which it requested that we order “the disclosure to the active general press the recordings of the hearings held on the case of the People of Puerto Rico vs. Miguel Ocasio Santiago, Case No.: CG2021 CR00274, Rel: OPA 2021011403, by [sic] Art. 3.1 of Law 54, as well as any audiovisual document or material related to it.” *Urgent and special request from the Overseas Press Club*, p. 4.

The following day, through Resolution, we denied the disclosure request presented by the *Overseas Press Club*. As part of the grounds for said denial, we expressed:

In the balance of interests present in this request for information, the legal mandate to safeguard the confidentiality of the proceedings, as protection for victims of domestic violence, outweighs the interest of the press to have access to confidential information. We also consider in our analysis that a related criminal proceeding is pending and

the request for information without the accused being a party could affect their right to a fair and impartial process. *Ex Parte: Overseas Press Club*, 2021 TSPR 62, p. 2 (Resolution) (Emphasis Supplied).

Then, on May 7, 2021, the Puerto Rico Journalists Association (ASPPRO) filed a Motion to request recording in the Court of First Instance, Superior Chamber of Caguas. In short, it requested the disclosure of the judicial proceedings held on March 25, 26 and 31, 2021 in the case of *Pueblo v. Miguel Ocasio Santiago*, *supra*. In its petition, the ASPPRO argued that its request differs from what was ruled by this Court in *Ex Parte: Overseas Press Club*, *supra*, because now they requested that the sensitive parts of the testimony of Andrea Ruiz Costas be removed from the recordings. In addition, they emphasized that the relatives of Ruiz Costas have publicly expressed themselves in favor of the disclosure of the audio. In response, the primary forum designated a hearing for May 11, 2021, at 9:30 a.m., in Room 301 of the Caguas Judicial Center.

## II.

### A. Intrajurisdictional certification

The Intrajurisdictional certification is a discretionary procedural mechanism, which we can issue on our own initiative or at the request of a party, to immediately raise any pending matter before the Court of First Instance or Court of Appeals for consideration by this Court. Rule 52.2 (d) of Civil Procedure, 32 LPRA App. V. See also Art. 3.002 of Act No. 201-2003, known as the Puerto Rico Judiciary Act of 2003, 4 LPRA sec. 24s (f); Rule 24 of the Regulations of the Supreme Court, 4 LPRA Ap. XXI -B. See also, R.

Hernández Colón, *Puerto Rico Legal Practice: Civil Procedural Law*, 6th ed., San Juan, Ed. LexisNexis, 2017, Sec. 5623, p. 574. We have used this mechanism “to attend to matters that require urgent solution, either because the administration of justice is affected or because the matter is of such importance that it requires prompt attention.” *Pierluisi-Urrutia v Comisión Estatal de Elecciones*, 204 DPR 841, 854 (2020), citing *PIP v. ELA et al.*, 186 DPR 1, 9 (2012).

However, due to its extraordinary and discretionary nature, when evaluating this type of appeal, we must analyze the following factors: (1) if questions of public interest arise that could include substantial matters under the Constitution of Puerto Rico or the USA; (2) the stage of the case; (3) the urgency and complexity of the controversy and (4) the need that may exist to present evidence. *Rivera Schatz v. ELA y C. Abo. PR II*, 191 DPR 791, 849 (2014). The present controversy meets all the criteria.

In the first place, the controversy for our consideration is sheltered by the highest public interest since the right to privacy and dignity of every human being is at stake — in our case of victims of domestic violence within judicial proceedings — enshrined in our Constitution. See, Const. P.R., Art. II, Sec. 1 and Sec. 8, LPRA, Volume 1. Second, the appeal is in a stage of easy disposition. Third, this controversy must be resolved urgently due to the possibility that the law will be violated, and a dire precedent will be created for the protection of the privacy of victims of domestic violence. Fourth, and finally, the controversy before us does not require proof to be presented. With the mere application of law, it is available.

B. Right to privacy and access to information in domestic violence cases

The Secs. 1 and 8 of Art. II of the Constitution of Puerto Rico, *supra*, protect the fundamental right to privacy and dignity of people. As pertinent, Sec. 8 of the Bill of Rights provides that “every person has the right to [the] protection of [the] law against abusive attacks on his honor, reputation and the private or family life.” For its part, Sec. 1 of Art. II of the Constitution, *supra*, establishes that “[t]he dignity of the human being is inviolable.”

In accordance with the foregoing, we have stated that “the right to privacy, a component of the right to personality, enjoys the highest protection under our Constitution and constitutes an exempt area capable of preventing or limiting the intervention of third parties.” *López Tristani v. Maldonado*, 168 DPR 838, 849 (2009).

In *Arroyo v. Rattan Specialties, Inc.*, 117 DPR 35, 58-59 (1986), we state:

In relation to Sec. 1, the Report of the Bill of Rights Commission rendered to the Constitutional Convention indicated that ‘the purpose of this section is to clearly establish as a substantial basis for everything that follows the principle of the dignity of the human being.’ Regarding Sec. 8 it was said that ‘it deals with personal inviolability in its most complete and comprehensive form (and that) honor and privacy are values of the individual that deserve full protection, not only against attacks originating from other individuals, but also against abusive interference by the authorities. The formula proposed in section



8 covers both aspects . . . The inviolability of the person extends to everything that is necessary for the development and expression of the same.’ (Emphasis supplied)

Similarly, in *P.R. Tel. Co. v. Martinez*, 114 DPR 328, 339 (1983), when discussing the primacy of the right to privacy in our legal system, we express:

So transcendental is this right in our society that, on the occasions when it has been opposed to others of a similar hierarchy, it has emerged gracefully from the constitutional confrontation. Thus, for example, it has prevailed over the following fundamental rights: of free expression, *Hermandad de Empleados, supra [E.L.A. v. Hermandad de Empleados*, 104 DPR 436 (1975)] (picket in front of the residence of the Secretary of Labor); freedom of worship, *Sucn. de Victoria, supra [Sucn. de Victoria v. Iglesia Pentecostal*, 102 DPR 20 (1974)] (religious services that transcended the neighborhood); and property, *Torres v. Rodríguez*, 101 DPR 177 (1973) (funeral home establishment in residential area). It has also prevailed against the legislation limiting the decision of the spouses who by mutual agreement choose to end their marriage. *Figueroa Ferrer, supra [Figueroa Ferrer v. ELA.*, 107 DPR 250 (1978)]. (Emphasis supplied).

On the other hand, the legislature provided in Article 5.005 of the Law of the Judiciary of 2003, *supra*, an additional protection to the privacy of victims of domestic violence, by ordering the creation of specialized rooms “to attend with *controlled access* to the public the cases of domestic violence in all

judicial regions.” (Emphasis supplied). When reading the aforementioned article, it is clear that when the legislature ordered to control access to the public, it ensured confidentiality in the matters discussed in the specialized chambers on domestic violence.

However, we have stated that in our system the right of the people and the press to access information of a public nature is jurisprudentially guaranteed. *Engineering Services International, Inc. v. Autoridad de Energía Eléctrica de Puerto Rico*, 205 DPR, 2020 TSPR 103, 105 (2020). However, that public access yields when: (1) a law declares it so; (2) the communication is protected by some of the evidentiary privileges that citizens can invoke; (3) revealing the information may harm the fundamental rights of third parties; (4) it is the identity of a confidential informant and (5) it is “official information” in accordance with Rule 514 of Evidence of 2009, 32 LPRP App. VI. (Emphasis supplied). *Bhatia Gautier v. Gobernador*, 199 DPR 59, 82-83 (2017).

There is no doubt about the legitimate interest of the press in obtaining information about the cases that are heard in the courts, especially those that have to do with the social evil that shakes us: domestic violence. However, as we express in *Ex Parte: Overseas Press Club, supra*, in the balance of interests, the desire of the press to have access to confidential information on judicial processes related to domestic violence matters gives way to the protection of confidentiality and the right to privacy that all future victims have. See, Const. P.R., art. II, Sec. 8, *supra*; Art. 5.005 of the Judiciary Law of 2003, *supra*.

There is no distinction between ASPPRO’s request and what this Court decided last week in *Ex Parte: Overseas Press Club, supra*. In the first place, the

determination we reached then and today we reaffirm is not limited to the case of Ruiz Costas. Quite the opposite. We come to it, first, because it is required by law and, second, to avoid creating a dire precedent that serves to discourage and inhibit future victims of domestic violence from seeking protection in our courts. To eliminate the sensitive or intimate parts of the audio does not safeguard the confidentiality mandate that the law reverts to these matters. On the contrary, it would open the debate of what is sensitive or intimate and what is not. The victim of domestic violence who comes to court for help should not face the fear that the recording of what is spilled in that process could be disclosed to any person or medium, in whole or in part, to share it with the public. This is precisely what the law seeks to avoid.

When we shared our resolution in *Ex parte: Overseas Press Club, supra*, we took all those scenarios into account and weighed all of those possibilities. However, we come to only one conclusion: these, due to their sensitive nature — which require controlled access by law — are not compatible with the possibility that the recording may later be made public, even if it is limited or part of it is omitted, regardless of who requests it. We all want answers, but in the quest for someone to answer, we cannot allow such a dire precedent. The imminence of the hearing that the Court of First Instance scheduled obliges us to resolve immediately, dispensing with all ordinary procedures.

On some occasions, disputes contain aspects that transcend the remedy requested by the parties. This is one of those occasions. We cannot act on the basis of mere convenience, wishes or sympathy. Judicial ethics prohibit judges from acting “out of public outcry, [nor]

out of considerations of popularity or notoriety . . . .” Canon 8 of Judicial Ethics, 4 LPRA App. IV-B. As top interpreters of the Constitution and the law, we intervene today to protect and sustain the effects of our opinion last week in *Ex parte: Overseas Press Club, supra*, and we made this decision with the express purpose of protecting life, safety, the dignity, and privacy of future victims of domestic violence.

However, we must make it absolutely clear that what was resolved today has nothing to do with the investigation that the Office of Administration of the Courts (OAT) is carrying out on what happened in the disputed hearings. We are confident that, upon completion of the investigation, the findings will be released along with appropriate corrective actions that may be recommended. However, with the foregoing, and as we have indicated in the past, we warn that every citizen who considers that the action of a judge has been based on considerations outside the legal system has available the procedure that the Rules of Judicial Discipline provide for these purposes, 4 LPRA.Ap. XV-B.

### III

For all of the above, the certification order is issued to bring to the consideration of this Court the case *Pueblo v. Miguel Ocasio Santiago*, No. CG2021C R00724. In accordance with Rule 50 of the Regulations of the Supreme Court, 4 LPRA Ap. XXI -B, we dispense with any subsequent procedure and due to the urgent nature of the ASPPRO’s request, as well as to safeguard the effectiveness of our *Ex parte ruling: Overseas Press Club, supra*, we resolve that the request for information presented by the aforementioned association is not appropriate, and we deny it. Consequently, the hearing set by the Court of First

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Instance for tomorrow, Tuesday, is annulled. Once this matter has been resolved, the case is returned to that forum so that the procedures can continue in a manner compatible with what was resolved here.

Notify immediately.

It was agreed by the Court and certified by the Secretary of the Supreme Court. Presiding Judge Oronoz Rodríguez disagrees and issued a Dissenting Opinion. The Associate Judge, Mr. Estrella Martínez, disagrees and issued a Dissenting Opinion. The Associate Judge, Mr. Colón Pérez, disagrees and issued Dissenting Opinion.

/s/ Jose Ignacio Campos Pérez  
Jose Ignacio Campos Pérez  
Secretary of the Supreme Court

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11a

IN THE SUPREME COURT OF PUERTO RICO

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CT-2021-0008

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THE PEOPLE OF PUERTO RICO

*Appellee*

v.

MIGUEL OCASIO SANTIAGO

*Appellee*

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The Presiding Judge ORONOZ RODRIGUEZ issued a dissenting opinion.

In San Juan, Puerto Rico, on May 10, 2021.

I reiterate we must disclose the requested recordings and we must do it now. Although no one can bring Andrea Ruiz Costas back to life, our action in favor of transparency would shed light on what happened when she went to court. I am convinced that this is an essential first step to regain faith and trust in judicial procedures to protect victims of gender violence.

I

Article 3.002 of the Puerto Rico Judiciary Law, 4 LPR sec. 24s (f), provides that we may bring to our attention pending matters before the Court of First Instance when they arise: (1) conflicts between previous decisions of the Court of Appeals, (2) novel questions of law, or (3) high-level questions of public interest that include any substantial constitutional issue under the Constitution of Puerto Rico or the United States. Likewise, we have established that “it

is a resource of an exceptional nature because the preferred rule in our legal system is that the cases mature during the ordinary process in order to avoid that the forum of last resort interferes at the wrong time.” *UPR v. Laborde Torres y otros*, 180 DPR 253, 272 (2010). In addition, it is a resource that allows us to address issues that could otherwise prevent our pronouncements. P. 273.

After evaluating the criteria that allow us to certify intrajurisdictionally a pending controversy before a lower forum, we see that they are not met. Certainly, we are facing a matter of high public interest that involves a new topic. However, as it is the forum of last resort, this Court must refrain from intervening in matters that still need to mature in the lower courts.

It is surprising and worrying how, behind closed doors, this Court changed its jurisdictional position on this matter. The Court had the opportunity to issue and express itself in the previous case, *Ex Parte Overseas Press Club of Puerto Rico*, MC-2021-59. However, a Majority chose to deny the request presented by the petitioning party at that time and stated that it was not the appropriate forum to request the information. Thus, they alluded to the fact that the controversial recordings should have been requested in the primary forum. Now, incredibly, the majority of the Judges of this Court, contrary to the legal provisions that confer jurisdiction on this forum, certify a criminal case, which has already ended, with the sole intention that the recordings are not disclosed.

We can take judicial notice that the Executive Branch, through the Public Ministry, and the Governor have spoken in favor of the disclosure of the recordings. The Court Administration Office also favored disclosure. Likewise, the family of Andrea

Ruiz Costas, who — undoubtedly — is an interested party in protecting her rights, has spoken in favor of the disclosure. It may be asked, why do a majority of the Supreme Court justices insist on hiding the recordings from the People? With today's procedure, and as has been the trend of this Court for some time now, a dire precedent is set on the jurisdiction of this Highest Forum. There was no reason to certify the criminal case *Pueblo v. Miguel Ocasio Santiago* No. CG2021R00274. Rel: OPA 2021011403. It is up to the Court of First Instance to attend the request for disclosure to the press, as indicated by this same court on May 6. If any party is unsatisfied with what the Judge assigned to the matter decides, they will have the appeal processes at their disposal.

As I have stated, the objective of promoting citizen access to judicial processes, fostering education and trust in the justice system, and achieving optimal transparency of procedures is and will continue to be a priority for me. *Ex Parte Televiscentro of Puerto Rico, LLC*, 195 DPR 18, 26 (2016). *Since I exercised my functions in this Court 7 years ago, there has not been an instance in which I have voted against access & the press to judicial processes.* See *In re: Enmiendas al Reglamento del PECAM, (Amendments to the PECAN Regulations)*, 193 DPR 475, 513 (2015); *Telenoticias, Telemundo de PR II*, 195 DPR 507,513 (2016). On the contrary, I have always favored openness, transparency, and protection of the right of the press and of citizens in general to have access to public information, as a fundamental right of constitutional origin. *Soto v. Srío. De Justicia*, 112 DPR 477 (1982); *Bhatia Gautier v. Gobernador*, 199 DPR 59, 110 (2017). I insist: the Judiciary power cannot be oblivious to claims of greater transparency. For that reason,



before the reiteration of the request, it would deliver the recordings now.

In our democracy, the People have the right to pass a supervisory judgment on all the actions and determinations of the Government, which includes those of the Judicial Power. *Engineering Services International, Inc. v. Autoridad de Energía Eléctrica*, 2020 TSPR 103; *Ortiz v. Dir. Adm. De los Tribunales*, 152 DPR 161, 183 (2000). In addition, contrary to what was wrongly interpreted by a Majority this past May 6, the petitioners are not requesting that all the records of the Law No. 54 cases held by the courts be disclosed. They ask for one: that of a woman who unsuccessfully claimed protection against her aggressor and where it is alleged that the Judiciary failed her.

In this regard, in keeping with the objectives of Act No. 54 of August 15, 1989, 8 LPRA sec. 601 *et seq.*, as amended, Section 5.005 of the Judiciary Act, Act No. 201-2003, 4 LPRA sec. 25e, provides that cases of domestic violence pursuant to Act No. 54, *supra*:

They will be seen in a courtroom specially designated for them in each Judicial Region. This courtroom will have controlled access to the public to *safeguard the identity of the victim*, and it will be at the discretion of the Judge who presides over the specialized courtroom to determine which members of the public can access it. (Emphasis supplied).

The text of the law is clear and allows us to infer that the principle behind these safeguards is *to protect the identity* of the victims who come to our courts for help. Unfortunately, Andrea's name is already — and will be — known by a Country that languishes in the

face of a sense of helplessness and unease. There is no identity left to protect. The majority of the Court covers with a blanket of confidentiality the judicial process that took place in this case under the provisions of Act No. 54, *supra*. The statute does not provide for keeping the testimonies that are released in the courtroom private or secret. Nowhere in the statutes concerned is reference made to the fact that the procedures concluded and completed are totally excluded, for posterity, from any request for access by the citizens. Our responsibility as guarantors of the rights of victims in such circumstances allows us to take those necessary protections, without unjustifiably breaching our constitutional mandate to make public information accessible. These orders are available if the specific circumstances of the case so require. Therefore, it is up to the discretion of the judge who presides over the specialized court to determine which members of the public can access the controversial recordings, as well as, to determine their origin, the way in which they will be shared.

In this case no one, I reiterate *no one*, invokes any protection or objects to the disclosure. On the contrary, we are in one of those rare instances in which all the parties concerned are on the same line: in favor of disclosure and transparency. The expression under oath of a mother who implores us for the recordings to be released must have weighed on the majority. Note that in this case the order of the Court of First Instance was only addressed to the Prosecutor's Office, who has the recordings in their possession. There is no doubt that we are not in a situation in which limiting the right of the public and the press to have access to the recordings of these legal proceedings is justified. *Bhatia Gautier v. Gobernador, supra*. Although there are circumstances and situations that our legal system

establishes that merit limiting public access to judicial proceedings, as in the case of family and minors, in this case they are not present.

What is it intended to hide? The general rule is that judicial processes are public and — unless there is a compelling interest of the State — steps are taken to limit that access. In this case, as in all similar cases reflected in jurisprudence, *the balance leans towards access and transparency*. There is no reason for a blank confidentiality rule to apply in this case.

Therefore, the recordings have to be made public. The Country and Andrea’s family claim so. As I indicated, they must listen to them first and express if they object to the disclosure of any fragment since Andrea’s dignity and her memory does not end with her death.<sup>1</sup> Then, it is the Country’s turn to listen to them. It is imperative to do so. There is nothing to hide.

/s/ Maite D. Oronoz Rodríguez  
Maite D. Oronoz Rodríguez  
Presiding judge

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<sup>1</sup> “The dignity of the human being prevails even after death.” Dora Tevares-Muñiz, “Deliberación en bio derecho,” (“Deliberation in bio law”), *Lumen Magazine* no. 9 (2013), 32; Fred O. Smith, Jr., *The Constitution After Death*, 120 *Colum. L. Rev.* 471, 1499 (2020).

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IN THE SUPREME COURT OF PUERTO RICO

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CT-2021-0008

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THE PEOPLE OF PUERTO RICO

*Appellee*

v.

MIGUEL OCASIO SANTIAGO

*Appellee*

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Dissenting opinion issued by the Associate Judge Mr.  
ESTRELLA MARTÍNEZ

In San Juan, Puerto Rico, on May 10, 2021.

The action carried out by a Majority of this Court is wrong in law, regrettable as a matter of public policy of access to information and unreasonably tramples the dissenting colleagues on the podium, but, even more serious, insensitive to the family of Andrea Ruiz Costas and the petitioners.

Today a family is being re-victimized that, through sworn action, echoes the demand for transparency and accessibility that, as a matter of law, we owed. The relatives of those killed by the crime are victims of the crime. Silence, misinformation, mistrust and insensitive door closings also re-victimize them.

As I explained in my past Dissenting Opinion, our legal system has the necessary tools to protect the dignity and individual rights of crime victims and other actors in judicial processes. See *In re Overseas Press Club*, MC-2021--0059 (Dissenting Opinion of

Associate Judge Mr. Estrella Martínez). However, we are facing a very particular situation in which I am convinced that Andrea's dignity and privacy are not protected by flatly denying the requested information. I am also convinced that the public interest goes hand in hand with Andrea's family's claims of transparency and access to information. In a case in which, unfortunately, the victim died, it seems to me totally wrong that the flag to re-victimize her is raised or that the disclosure has a dissuasive effect for other potential victims to make claims before the Court, especially given the testimony that Andrea left alive to question the processes and raise its voice of alert to society in general. I respectfully consider that the outright denial of these requests, which today is aggravated by this hasty procedure, carries a message of frustration and is much more damaging than the disclosure of the information requested.

Despite the fact that a Majority of this Court argued in the last denial that this was not the appropriate forum to elucidate the request at hand in the first instance, paradoxically the case is withdrawn from the Court of First Instance to deny it outright. As an aggravating factor, this action is performed without listening to the recording, without giving the parties an opportunity to express themselves and in a hasty manner.

Gender violence is framed, among many other factors, in the outrageous use of power, secrecy, not recognizing rights to its victim and, worse still, sometimes disguised with phrases such as: "because it is for their good" and "for your wellbeing."

Unfortunately, institutions also have the appalling ability to repeat and nurture those patterns, through their actions and omissions. This Court knows that all

its actions and expressions have a social effect that goes beyond the cases and controversies it adjudicates.

Andrea's voice was silenced. The press claim was ignored. And today the claim of Andrea's family was abruptly rejected, without being listened to, without being attended to, without giving anyone reasonable time. What's the rush? Obviously, the certification of the case is not the product of a weighted analysis to grant an adequate, complete, and timely remedy, as I have favored it in the past. Why reproduce the hasty behavior that is precisely the subject of public questioning since Andrea applied for the protection order? Why exercise majority power without listening to anyone and without allowing dissenters to express themselves in a reasonable period of time? These questions are added to the many that Andrea's family and The People in general have. The specialized gender violence courtrooms were designed primarily to comprehensively address the needs of the victims. Certainly, the ordinance provides to proffer them with the intimacy and privacy that is necessary so that they can properly channel their claim. That will not change for potential victims, but it cannot be an excuse to deny outright the claim at hand. This, given the particularities of the unfortunate death of Andrea, the will of the next of kin to disclose it, the track record of publicity of judicial hearings that this Court had, the pressing public interest and the right of access to information.

On the grounds stated, I disagree with the course of action followed by a Majority of this Court and, consequently, would order the disclosure of the request.

/s/ Luis F. Estrella Martínez

Luis F. Estrella Martínez

Associate Judge

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IN THE SUPREME COURT OF PUERTO RICO

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CT-2021-0008

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THE PEOPLE OF PUERTO RICO

*Appellee*

v.

MIGUEL OCASIO SANTIAGO

*Appellee*

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Dissenting opinion issued by Associate Judge COLÓN PÉREZ.

In San Juan, Puerto Rico on May 10, 2021.

Andrea, today we failed you again. And, by failing you, we failed the Country.

This morning, a majority of this Court in the hastiest way possible; removing *motu proprio* a petition that is before the consideration of the Court of First Instance, and without the benefit of listening to certain audios to determine what content in them could be subject to public dissemination and what not — it has closed the doors to the claim of your parents. With this, it maintains in strict confidentiality the content of certain judicial processes held in the Caguas Judicial Region, on March 25, 26 and 31, 2021, in which you appeared as a party. To protect who? You? I doubt it, because your parents appeared before the Court of First Instance to inform us that the best way to protect your memory was by making

public what happened in the aforementioned legal proceedings.

Is it to protect future victims of gender violence? I don't think so, because they protect themselves by giving them a transparent justice system that they can trust. A justice system that is accountable.

So, we ask ourselves again: To protect whom? The judges?

We judges have neither more nor less constitutional rights than other Puerto Ricans. We have the same. We are all the same. And, as equals, *in situations as particular as these*, both our actions — as well as the actions of the rest of society that, day by day, we judge from our podiums — have to be subject to scrutiny and evaluation by the rest of the Country. That is a constitutional right that — in the performance of our functions — the Puerto Rican people, when our Constitution was convened and drafted, reserved for them; and to a large extent, this right is nourished by the fact that they can have access to public information in the hands of the State. The foregoing, with the due safeguards in those cases that warrant it. See, in a similar way, what was expressed by the undersigned in *Bhatia Gautier v. Gobernador*, 199 DPR 59, 176 (2017) (Colón Pérez, dissenting opinion).

This being the case, and following the parameters set forth in our Dissenting Individual Opinion in *Ex parte: Overseas Press Club de Puerto Rico*, 2021 TSPR 62, 206 DPR (2021) (Colón Pérez, Dissenting Individual Opinion), we are of the opinion that the recordings of the court hearings held in the Caguas Judicial Region on March 25, 26 and 31, 2021, to which we have previously referred, had to be delivered to Andrea's



relatives and to the journalists' unions (Overseas Press Club and ASSPRO) that have requested them. Unfortunately, it was not. The cloak of absolute secrecy was imposed.

As the prestigious academic, Dr. Efrén Rivera Ramos, pointed out in a recent opinion column published by the newspaper El Nuevo Día, in which he evaluated the proceedings of this Court in the case that gave rise to the appeal for reconsideration that we are attending today, "That cloak of absolute secrecy will be worse in the long run than the evil that most claim to avoid."

/s/ Angel Colón Pérez  
Angel Colón Pérez  
Associate Judge

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**CERTIFICATION OF ACCURACY**

I, Andre Moskowitz, hereby certify that I am a Spanish>English translator certified by the American Translators Association (Certification No. 422086) and that the foregoing is a true and accurate translation of the following document that was provided to me:

Judgment, dated May 10, 2021

[SEAL]

American Translators Association  
Andre Moskowitz  
Spanish into English  
Certification #422086  
Certified Translator]

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24a

EN EL TRIBUNAL SUPREMO DE PUERTO RICO

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CT-2021-0008

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EL PUEBLO DE PUERTO RICO

*Recurrido*

v.

MIGUEL OCASIO SANTIAGO

*Recurrido*

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SENTENCIA

(Regla 50)

En San Juan, Puerto Rico, a 10 de mayo de 2021.

Nos corresponde resolver si debemos divulgar el audio de las vistas de un caso que se llevó a cabo en una sala especializada de violencia doméstica. Por ello, certificamos el asunto de epígrafe y concluimos que los procesos en las salas de violencia doméstica son de naturaleza sensible que requieren por ley de un acceso controlado y, por ello, no son compatibles con la posibilidad de que posteriormente la grabación se haga pública, aunque sea de manera suprimida o limitada, independientemente de quién lo solicite. Es un contrasentido que un proceso sea de acceso controlado, por mandato de ley, pero se pueda repartir el audio de ese mismo proceso, en todo o en parte, para acceso de todo el mundo.

Los siguientes hechos no están en controversia y son de conocimiento público, por lo que tomamos conocimiento judicial de ellos. Regla 201 de Evidencia, 32 LPRA Ap. VI. Véase, también, *UPR v. Laborde Torres y otros I*, 180 DPR 253, 276-279 (2010)

El 3 de mayo de 2021, el juez administrador de la Región Judicial de Caguas, Hon. Ricardo G. Marrero Guerrero, emitió una Orden Protectora en la que prohibió, bajo apercibimiento de desacato, escuchar o divulgar el contenido de las grabaciones de las vistas del caso *Pueblo v. Miguel Ocasio Santiago*, Núm. CG2021CR00724 Rel: OPA 2021011403.

El 5 de mayo de 2021, el *Overseas Press Club* presentó ante nos una *Solicitud urgente y especial*, en la que solicitó que ordenáramos “la divulgación a la prensa general activa las grabaciones de las vistas celebradas en torno al caso del Pueblo de Puerto Rico vs. Miguel Ocasio Santiago, Núm. de Caso: CG2021 CR00274, Rel: OPA 2021011403, por [sic] el Art. 3.1 de la Ley 54, así como cualquier documento o material. audiovisual relacionado al mismo”. *Solicitud urgente y especial del Overseas Press Club*, pág. 4.

El día siguiente, mediante Resolución, denegamos la solicitud de divulgación que presentó el *Overseas Press Club*. Como parte de los fundamentos para dicha denegatoria expresamos:

En la balanza de intereses presentes en esta solicitud de información, el mandato de ley para salvaguardar la confidencialidad de los procesos, como protección para las víctimas de violencia doméstica, pesa más que el interés de la prensa de tener acceso a información confidencial. También consideramos en

nuestro análisis que está pendiente un proceso penal relacionado y la solicitud de información sin que el imputado sea parte podría incidir sobre su derecho a un proceso imparcial y justo. *Ex Parte: Overseas Press Club*, 2021 TSPR 62, pág.-2 (Resolución) (Énfasis suplido).

Luego, el 7 de mayo de 2021, la Asociación de Periodistas de Puerto Rico (ASPPRO) presentó una *Moción de solicitud de regrabación* en el Tribunal de Primera Instancia, Sala Superior de Caguas. En síntesis, solicitó la divulgación de los procesos judiciales celebrados durante los días 25, 26 y 31 de marzo de 2021 en el caso *Pueblo v. Miguel Ocasio Santiago, supra*. En su petitorio, la ASPPRO arguyó que su solicitud se distingue de lo resuelto por este Tribunal en *Ex Parte: Overseas Press Club, supra*, porque ahora se solicita que de las grabaciones se eliminen las partes sensitivas del testimonio de la joven Andrea Ruiz Costas. Además, enfatizan que los familiares de Ruiz Costas se han expresado públicamente a favor de la divulgación del audio. En respuesta, el foro primario señaló una vista para el 11 de mayo de 2021, a las 9:30 a.m., en la Sala 301 del Centro Judicial de Cagues.

## II

### A. Recurso de certificación intrajurisdiccional

La certificación intrajurisdiccional es un mecanismo procesal discrecional, que podemos expedir por iniciativa propia o a solicitud de parte, para elevar inmediatamente a la consideración de este Tribunal cualquier asunto pendiente ante el Tribunal de Primera Instancia o el Tribunal de Apelaciones. Regla 52.2(d) de Procedimiento Civil, 32 LPRA Ap. V. Véanse, además, Art.. 3.002 de la Ley Núm. 201-2003, conocida

como la Ley de la Judicatura de Puerto Rico de 2003, 4 LPRA sec. 24s(f); Regla 24 del Reglamento del Tribunal Supremo, 4 LPRA Ap. XXI-B. Véase, también, R. Hernández Colón, *Práctica jurídica de Puerto Rico: Derecho procesal civil*, 6ta ed., San Juan, Ed. LexisNexis, 2017, Sec. 5623, pág. 574. Hemos utilizado este mecanismo “para atender asuntos que requieren urgente solución, ya sea porque se afecta la administración de la justicia o porque el asunto es de tal importancia que exige una pronta atención”. *Pierluisi-Urrutia v. Comisión Estatal de Elecciones*, 204 DPR 841, 854 (2020), citando a *PIP v. ELA et al.*, 186 DPR 1, 9 (2012).

Ahora bien, debido al carácter extraordinario y discrecional, al momento de evaluar este tipo de recurso, debemos analizar los siguientes factores.: (1) si se plantean cuestiones de interés público que podrían incluir asuntos sustanciales al amparo de la Constitución de Puerto Rico o los Estados Unidos; (2) la etapa en que se encuentra el caso; (3) la urgencia y complejidad de la controversia y (4) la necesidad que pueda existir de presentar prueba. *Rivera Schatz v. ELA y C. Abo. PR II*, 191 DPR 791, 849 (2014). La presente controversia cumple con todos los criterios.

En primer lugar, la controversia ante nuestra consideración está cobijada por el más alto interés público al estar en juego el derecho a la intimidad y dignidad de todo ser humano en nuestro caso de las víctimas de violencia doméstica dentro de los procedimientos judiciales-consagrado en nuestra Constitución. Véase, Const. P.R., Art. II, Sec. 1 y Sec. 8, LPRA, Tomo 1. Segundo, el recurso se encuentra en una etapa de fácil disposición. Tercero, la presente controversia se tiene que resolver de forma urgente debido a la posibilidad de que se contravenga la ley y se cree un

precedente nefasto para la protección de la intimidad de las víctimas de violencia doméstica. Cuarto y, por último, la controversia ante nos no requiere que se presente prueba. Con la mera aplicación del derecho se dispone de ella.

B. Derecho a la intimidad y el acceso a la información en casos de violencia doméstica

Las Secs. 1 y 8 del Art. II de la Constitución de Puerto Rico, *supra*, protegen el derecho fundamental a la intimidad y dignidad de las personas. En lo pertinente, la Sec. 8 de la Carta de Derechos dispone que “[t]oda persona tiene derecho a [la] protección de [la] ley contra ataques abusivos a su honra, a su reputación y a su vida privada o familiar”. Por su parte, la Sec. 1 del Art. II de la Constitución, *supra*, establece que “[1]a dignidad del ser humano es inviolable”.

Conforme a lo anterior, hemos expresado que “el derecho a la intimidad, componente del derecho a la personalidad, goza de la más alta protección bajo nuestra Constitución y constituye un ámbito exento capaz de impedir o limitar la intervención de terceros”. *López Tristani v. Maldonado*, 168 DPR 838, 849 (2009).

En *Arroyo v. Rattan Specialties, Inc.*, 117 DPR 35, 58-59 (1986), expresamos:

En relación con la Sec. 1, el Informe de la Comisión de la Carta de Derechos rendido a la Convención Constituyente indicó que “[e]l propósito de esta sección es fijar claramente como base consustancial de todo lo que sigue el principio de la dignidad del ser humano”. Sobre la Sec. 8 se dijo que “[s]e trata de la inviolabilidad personal en su forma más

completa y amplia [y que el] honor y la intimidad son valores del individuo que merecen protección cabal, no sólo frente a atentados provenientes de otros particulares, sino también contra ingerencias abusivas de las autoridades. La fórmula propuesta en la sección 8 cubre ambos aspectos . . . La inviolabilidad de la persona se extiende a todo lo que es necesario para el desarrollo y expresión de la misma'. (Énfasis suplido).

De igual forma, en *P.R. Tel. Co. v. Martínez*, 114 DPR 328, 339 (1983), al discutir la primacía del derecho a la intimidad en nuestro sistema jurídico, expresamos:

Tan trascendental es este derecho en nuestra sociedad que, en las ocasiones en que se ha contrapuesto a otros de similar jerarquía, ha salido airoso del careo constitucional. Así, por ejemplo, ha prevalecido ante los siguientes derechos fundamentales: de libre expresión, *Hermandad de Empleados, supra* [*E.L.A. v. Hermandad de Empleados*, 104 DPR 436 (1975)] (piquete frente a la residencia del Secretario del Trabajo); de libertad de culto, *Sucn. de Victoria, supra* [*Sucn. de Victoria v. Iglesia Pentecostal*, 102 DPR 20 (1974)] (servicios religiosos que trascendían al vecindario); y de propiedad, *Torres v. Rodríguez*, 101 DPR 177 (1973) (establecimiento de funeraria en zona residencial). También ha predominado frente a la legislación limitante de la decisión de los cónyuges que por mutuo acuerdo optan por terminar su matrimonio. *Figuroa Ferrer, supra* [*Figuroa Ferrer v. ELA.*, 107 DPR 250 (1978)]. (Énfasis suplido).



Por otro lado, el legislador proveyó en el Art. 5.005 de la Ley de la Judicatura de 2003, *supra*, Una protección adicional a la intimidad de las víctimas de violencia doméstica, al ordenar la creación de salas especializadas “para atender con *acceso controlado al público* los casos *de* violencia doméstica en todas las regiones judiciales”. (Énfasis suplido). Al leer el precitado artículo queda claro que cuando el legislador ordenó controlar el acceso al público, revistió de confidencialidad los asuntos que se discuten en las salas especializadas sobre violencia doméstica.

Ahora bien, hemos expresado que en nuestro sistema se garantiza jurisprudencialmente el derecho del pueblo y de la prensa al acceso a información de carácter público. *Engineering Services International, Inc. v. Autoridad de Energía Eléctrica de Puerto Rico*, 205 DPR, 2020 TSPR 103, 105 (2020). No obstante, ese acceso público cede cuando: (1) una ley lo declara así; (2) la comunicación está protegida por alguno de los privilegios evidenciarios que pueden invocar los ciudadanos; (3) revelar la información pueda lesionar los derechos fundamentales de terceros; (4) se trate de la identidad de un confidente, y (5) sea “información oficial” conforme a la Regla 514 de Evidencia de 2009, 32 LPRA Ap. VI. (Énfasis suplido). *Bhatia Gautier v. Gobernador*, 199 DPR 59, 82-83 (2017).

No cabe duda del interés legítimo de la prensa en obtener información sobre los casos que se ventilan en los tribunales, en especial a los que tienen que ver con el mal social que nos estremece: la violencia doméstica. No obstante, tal como expresamos en *Ex Parte: Overseas Press Club*, *supra*, en la balanza de intereses, el deseo de la prensa de tener acceso a información confidencial sobre los procesos judiciales relacionados con asuntos de violencia doméstica cede

ante la protección a la confidencialidad y el derecho a la intimidad que tiene toda futura víctima. Véanse, Const. P.R., Art. II, Sec. 8, *supra*; Art. 5.005 de la Ley de la Judicatura de 2003, *supra*.

No existe distinción entre la solicitud de la ASPPRO y lo resuelto por este Tribunal la semana pasada en *Ex Parte: Overseas Press Club, supra*. En primer lugar, la determinación a la que llegamos entonces y hoy reafirmamos no se circunscribe al caso de la joven Ruiz Costas. Todo lo contrario. Llegamos a ella, primero, porque así la ley lo impone y, segundo, para evitar crear un precedente nefasto que sirva para desalentar y cohibir a las futuras víctimas de violencia doméstica de que busquen protección en nuestros tribunales. Eliminar las partes sensitivas o íntimas del audio no salvaguarda el mandato de confidencialidad que la ley le revierte a estos asuntos. Por el contrario, abriría el debate de qué es sensitivo o íntimo y qué no lo es. La víctima de violencia doméstica que acude al tribunal en busca de ayuda no debe enfrentar el temor de que la grabación de lo que se vierta en ese proceso pueda ser divulgado a cualquier persona o medio, en todo o en parte, para compartirlo con el público en general. Esto es precisamente lo que la ley pretende evitar.

Cuando compartimos nuestra determinación en *Ex parte: Overseas Press Club, supra*, tomamos todos esos escenarios en cuenta y sopesamos todas esas posibilidades. Sin embargo, llegamos a una sola conclusión: estos procesos, por su naturaleza sensible—que requieren por ley de un acceso controlado— no son compatibles con la posibilidad de que posteriormente la grabación se haga pública aunque sea de manera suprimida o limitada, independientemente de quién lo solicite. Todos queremos respuestas, pero en el afán de que alguien responda no podemos permitir tan nefasto

precedente. La inminencia de la vista que señaló el Tribunal de Primera Instancia nos obliga a resolver de inmediato, prescindiendo de todo trámite ordinario.

En algunas ocasiones las controversias contienen aspectos que trascienden el remedio solicitado por las partes. Esta es una de esas ocasiones. No podemos actuar a base de meras conveniencias, deseos o simpatías. La ética judicial prohíbe que los jueces actúen “por el clamor público, [ni] por consideraciones de popularidad o notoriedad . . .”. Canon 8 de Ética Judicial, 4 LPRA Ap. IV-B. Como intérpretes máximos de la Constitución ‘y la ley, intervenimos hoy para proteger y sostener los efectos de nuestro dictamen de la semana pasada en *Ex parte: Overseas Press Club, supra*, y tomamos esta decisión con el fin expreso de proteger la vida, la seguridad, la dignidad y la intimidad de las futuras víctimas de violencia doméstica.

Ahora bien, debemos dejar meridianamente claro que lo resuelto hoy nada tiene que ver con la investigación que está llevando a cabo la Oficina de Administración de los Tribunales (OAT) sobre lo acontecido en las vistas en controversia. Confiamos que finalizada la investigación, se divulguen los hallazgos junto con las medidas correctivas adecuadas que puedan recomendarse. No obstante lo anterior, y como hemos señalado en el pasado, advertimos que todo ciudadano que considere que la actuación de un juez o jueza se ha basado en consideraciones ajenas al ordenamiento jurídico, tiene disponible el procedimiento que a esos fines proveen las Reglas de Disciplina Judicial, 4 LPRA Ap. XV-B.

### III

Por todo lo anterior, se expide el auto de certificación para traer ante la consideración de este Tribunal el

caso *Pueblo v. Miguel Ocasio Santiago*, Núm. CG2021CR00724. Conforme con la Regla 50 del Reglamento del Tribunal Supremo, 4 LPRA Ap. XXI-B, prescindimos de todo procedimiento ulterior y debido a la naturaleza urgente de la solicitud de la ASPPRO, así como para salvaguardar la efectividad de nuestro dictamen en *Ex parte: Overseas Press Club, supra*, resolvemos que no procede la solicitud de información que presentó la referida asociación y proveemos no ha lugar a esta. Por consiguiente, se deja sin efecto la vista que el Tribunal de Primera Instancia señaló para mañana martes. Resuelto este asunto, se devuelve el caso a ese foro para que continúen los procedimientos de forma compatible con lo resuelto aquí.

Notifíquese inmediatamente.

Lo acordó el Tribunal y lo certifica el Secretario del Tribunal Supremo. La Jueza Presidenta Oronoz Rodríguez disiente y emitió Opinión Disidente. El Juez Asociado señor Estrella Martínez disiente y emitió Opinión Disidente. El Juez Asociado señor Colón Pérez disiente y emitió Opinión Disidente.

/F/ José Ignacio Campos Pérez  
José Ignacio Campos Pérez  
Secretario del Tribunal Supremo

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EN EL TRIBUNAL SUPREMO DE PUERTO RICO

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CT-2021-0008

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EL PUEBLO DE PUERTO RICO

*Recurridos*

v.

MIGUEL OCASIO SANTIAGO

*Recurridos*

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La Jueza Presidenta ORONoz RODRIGUEZ emitió una Opinión disidente.

En San Juan, Puerto Rico, a 10 de mayo de 2021.

Reitero: hay que divulgar las grabaciones solicitadas y hay que hacerlo ya. Si bien nadie puede devolver la vida a Andrea Ruiz Costas, nuestra actuación a favor de la transparencia arrojaría luz sobre lo que aconteció cuando acudí a nuestros tribunales. Estoy convencida que ello es un primer paso indispensable para recobrar la fe y la confianza en los procedimientos judiciales para proteger las víctimas de violencia de género.

I

El artículo 3.002 de la Ley de la Judicatura de Puerto Rico, 4 LPRA sec. 24s (f), dispone que podremos traer a nuestra atención asuntos pendientes ante el Tribunal de Primera Instancia cuando se planteen.: (1) conflictos entre decisiones previas del Tribunal de Apelaciones, (2) cuestiones noveles de derecho o (3) cuestiones de alto interés público que incluyan cualquier cuestión constitucional sustancial al amparo de la Constitución de Puerto Rico o de Estados Unidos.

Asimismo, hemos establecido que “es un recurso de carácter excepcional porque la norma preferida en nuestro ordenamiento es que los casos maduren durante el trámite ordinario para evitar así que el foro de última instancia se inmiscuya a destiempo”. *UPR v. Laborde Torres y otros*, 180 DPR 253, 272 (2010). Además, es un recurso que nos permite atender asuntos que de otra manera pudieran evadir nuestros pronunciamientos. *Íd.*, pág. 273.

Evaluados los criterios que nos permiten certificar intrajurisdiccionalmente una controversia pendiente ante un foro inferior vemos que no se cumplen. Ciertamente, estamos ante un asunto de alto interés público que involucra un tema novel. No obstante, por ser el foro de última instancia, este Tribunal debe abstenerse de intervenir en asuntos que aún requieren madurar en los tribunales inferiores.

Es sorprendente y preocupante la forma en que, a puertas cerradas, este Tribunal cambió su postura jurisdiccional sobre este asunto. El Tribunal tuvo la oportunidad de expedir y expresarse en el caso previo *Ex Parte Overseas Press Club de Puerto Rico*, MC-2021-59. No obstante, una Mayoría optó por denegar la solicitud que presentó la parte peticionaria en aquel momento y expresó que este no era el foro adecuado para solicitar la información. Así, hicieron alusión a que las grabaciones en controversia se debieron pedir en el foro primario. Ahora, increíblemente, la mayoría de los Jueces de esta Curia, contrario a las disposiciones legales que le confieren jurisdicción a este foro, certifican un caso criminal, *que ya culminó*, con la única intención de que no se divulguen las grabaciones.

Podemos tomar conocimiento judicial de que el Poder Ejecutivo, por vía del Ministerio Público, y el Gobernador se ha expresado a favor de la divulgación de las

grabaciones. También el Poder Judicial, a través de la Oficina de Administración de Tribunales, favoreció la divulgación. Asimismo, se ha expresado a favor de la divulgación la familia de Andrea Ruiz Costas, quien — sin duda— es parte interesada en proteger los derechos de ésta. Cabe preguntarse, ¿por qué una Mayoría de los Jueces del Tribunal Supremo insiste en ocultarle al Pueblo las grabaciones? Con el proceder de hoy, y como ha sido tendencia de este Tribunal hace ya un tiempo, se sienta un precedente nefasto sobre la jurisdicción de este Máximo Foro. No había razón alguna para certificar el caso criminal *Pueblo v. Miguel Ocasio Santiago* Núm. CG2021R00274. Rel: OPA 2021011403. Le corresponde al Tribunal de Primera Instancia atender la petición de divulgación a la prensa, según fue señalado por este mismo tribunal el pasado 6. de mayo. Si alguna parte quedara insatisfecha con lo que resolviera el Juez o Jueza asignado al asunto, esta tendría a su disposición los procesos de apelación.

## II

Como he expresado, el objetivo de promover el acceso de la ciudadanía a los procesos judiciales, fomentar la educación y la confianza en el sistema de justicia, y alcanzar la transparencia óptima de los procedimientos es y seguirá siendo una prioridad para mí. *Ex Parte Televisión of Puerto Rico, LLC*, 195 DPR 18, 26 (2016). *Desde que ejerzo mis funciones en este Tribunal hace 7 años no ha habido una instancia en la que haya votado en contra del acceso a la prensa a los procesos judiciales.* Véase *In re: Enmiendas al Reglamento del PECAM*, 193 DPR 475, 513 (2015); *Telenoticias, Telemundo de PR II*, 195 DPR 507, 513 (2016). Al contrario, siempre he favorecido la apertura, la transparencia y la protección del derecho de la prensa y de los ciudadanos en general a tener

acceso a la información pública, como un derecho fundamental de estirpe constitucional. *Soto v. Srio. de Justicia*, 112 DPR 477 (1982); *Bhatia Gautier v. Gobernador*, 199 DPR 59, 110 (2017). Insisto: el Poder Judicial no puede estar ajeno a los reclamos de mayor transparencia. Por eso, ante la reiteración de la solicitud, entregaría las grabaciones ya.

En nuestra democracia, el Pueblo tiene derecho a pasar juicio fiscalizador sobre todas las acciones y determinaciones del Gobierno, lo cual incluye las del Poder Judicial. *Engineering Services International, Inc. v. Autoridad de Energía Eléctrica*, 2020 TSPR 103; *Ortiz v. Dir. Adm. de los Tribunales*, 152 DPR 161, 183 (2000). Además, contrario a lo que interpretó erróneamente una Mayoría de este Tribunal el pasado 6 de mayo, *los peticionarios no están solicitando que se divulguen todos los expedientes de los casos de Ley Núm. 54 en poder de los tribunales*. Piden uno: el de una mujer que reclamó sin éxito protección en contra de su agresor y en donde se alega que el Poder Judicial le falló.

Sobre el particular, a tono con los objetivos de la Ley Núm. 54 de 15 de agosto de 1989, 8 LPRA sec. 601 *et seq.*, según enmendada, el Artículo 5.005 de la Ley de la Judicatura, Ley Núm. 201-2003, 4 LPRA sec. 25e, dispone que los casos de violencia doméstica a tenor de la Ley Núm. 54, *supra*:

[S]e verán en una sala especialmente designada para los mismos en cada Región Judicial. Esta sala será de acceso controlado al público para *salvaguardar la identidad de la víctima*, y será a discreción del Juez que preside la sala especializada determinar qué personas del público pueden acceder a la misma. (Énfasis suplido).



El texto de la ley es diáfano y permite colegir que el principio detrás de estas salvaguardas *es proteger la identidad* de las víctimas que acuden en búsqueda de auxilio: a nuestros tribunales. Lamentablemente, el nombre de Andrea ya es —y será— conocido por un País que languidece ante un sentido de impotencia y desasosiego. No queda identidad que proteger. La Mayoría del Tribunal cubre con un manto de confidencialidad el proceso judicial que se dio en este caso al amparo de las disposiciones de la Ley Núm. 54, *supra*. El estatuto en nada dispone sobre mantener en privado o en secreto los testimonios que se vierten en sala. En ninguna parte de los estatutos concernidos se hace referencia a que los procedimientos celebrados y terminados quedan totalmente excluidos, para la posteridad, de toda solicitud de acceso por parte de la ciudadanía. Nuestra responsabilidad como garantes de los derechos de las víctimas en tales circunstancias nos permiten tomar aquellas protecciones, necesarias, sin incumplir injustificadamente con nuestro mandato constitucional para hacer accesible la información pública. Estas providencias están disponibles si las circunstancias específicas del caso así lo requirieran. Por ello, queda en la discreción del Juez que preside la sala especializada determinar qué personas del público pueden acceder a las grabaciones en controversia, así como, de determinar su procedencia, la forma en que estas serán compartidas.

En este caso nadie, se reitera *nadie*, invoca protección alguna u objeta la divulgación. Por el contrario, estamos en una de esas raras instancias en las cuales todas las partes concernidas están en la misma línea: a favor de divulgar y de la transparencia. Debíó pesar en la mayoría la expresión bajo juramento de una madre que nos implora que se divulguen las grabaciones. Nótese que en este caso la orden del Tribunal de

Primera Instancia solamente iba dirigida a la Fiscalía, quien tiene en su poder las grabaciones. No cabe duda de que no nos encontramos ante una situación en la cual se justifique la limitación del derecho del público y la prensa a tener acceso a las grabaciones sobre estos procedimientos judiciales. *Bhatia Gautier v. Gobernador, supra*. Si bien existen circunstancias y situaciones que en nuestro ordenamiento se establece que ameritan limitar el acceso público a los procedimientos judiciales, como ocurre en los casos de familia y menores, en este caso no están presentes.

¿Que se pretende esconder? La norma general es que los procesos judiciales son públicos y —a menos que exista un interés apremiante del Estado—se toman las providencias para limitar ese acceso. En este caso, como en todos los casos similares que refleja la jurisprudencia, *la balanza se inclina hacia el acceso y la transparencia*. No hay razón para que en este caso aplique una norma en blanco de confidencialidad.

Por eso, las grabaciones tienen que hacerse públicas. El País y la familia de Andrea así lo claman. Como indiqué, ellos deben escucharlas primero y expresar si objetan que se divulgue algún fragmento pues la dignidad de Andrea y su memoria no termina con su muerte.<sup>2</sup> Luego, le toca el turno de escucharlas al País. Es imperativo hacerlo. No hay nada que esconder.

/F/ Maite D. Oronoz Rodriguez  
Maite D. Oronoz Rodriguez  
Jueza Presidenta

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<sup>2</sup> “La dignidad del ser humano prevalece aun después de la muerte.” Dora Nevares-Muñiz, “Deliberación en bioderecho”, *Revista Lumen* núm. 9 (2013), 32; Fred O. Smith, Jr., *The Constitution After Death*, 120 *Colum. L. Rev.* 471, 1499 (2020).

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EN EL TRIBUNAL SUPREMO DE PUERTO RICO

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CT-2021-0008

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EL PUEBLO DE PUERTO RICO

*Recurrido*

v.

MIGUEL OCASIO SANTIAGO

*Recurrido*

---

Opinión disidente emitida por el Juez Asociado señor  
ESTRELLA MARTÍNEZ

En San Juan, Puerto Rico, a 10 de mayo de 2021.

La acción ejecutada por parte de una Mayoría de este Tribunal es errada en derecho, lamentable como cuestión de política pública de acceso a la información y atropella irrazonablemente a los compañeros de estrado disidentes, pero, más grave aún, insensible a la familia de Andrea Ruiz Costas y a los peticionarios.

Hoy se está revictimizando a una familia que mediante declaración jurada se hace eco del reclamo de transparencia accesibilidad que, como cuestión de derecho, debimos reconocer. Los familiares de los fallecidos por el crimen también son víctimas de los delitos. El silencio, la desinformación, la desconfianza y las cerradas de puertas insensibles también los revictimizan.

Tal como expliqué en mi pasado Voto Disidente, nuestro ordenamiento cuenta con las herramientas necesarias para proteger la dignidad y los derechos individuales de las víctimas de delito y otros actores de

los procesos judiciales. Véase *In re Overseas Press Club*, MC-2021-0059 (Voto Particular Disidente Juez Asociado señor Estrella Martínez.) Sin embargo, estamos ante una situación muy particular en la que estoy convencido de que la dignidad e intimidad de Andrea no se protegen denegando de plano la información solicitada. También estoy convencido que el interés público va de la mano con los reclamos de transparencia y acceso a la información de la familia de Andrea. En un caso en que lamentablemente la víctima falleció, me parece totalmente errado que se levante la bandera de revictimizarla o de que la divulgación tenga un efecto disuasivo para otras potenciales víctimas realizar reclamos ante el Tribunal, máxime ante el testimonio que dejó en vida Andrea para cuestionar los procesos y levantar su voz de alerta a la sociedad en general. Respetuosamente considero que la denegatoria de plano de estas solicitudes, que hoy se agrava con este apresurado proceder, lleva un mensaje de frustración y es mucho más lesivo que la divulgación de la información solicitada.

A pesar de que una Mayoría de este Tribunal adujo en la asada denegatoria que este no era el foro adecuado para ilucidar en primera instancia la solicitud que nos ocupa, hoy paradójicamente se le quita al Tribunal de Primera Instancia el caso para denegarla de plano. Como agravante, e realiza esta acción sin escuchar la grabación, sin darle oportunidad a las partes que se expresen y de una forma apresurada.

La violencia de género está enmarcada, entre otros múltiples factores, en la utilización atropellarte del poder, la secretividad, no reconocerle derechos a su víctima y, peor aún, en ocasiones disfrazado con frases como: “porque es por su bien” y “por su bienestar”.

Lamentablemente, las instituciones también tienen la atroz capacidad de repetir y fomentar esos patrones, con sus acciones y omisiones. Este Tribunal conoce que todas sus acciones y expresiones tienen un efecto social que va más allá de los casos y controversias que adjudica.

La voz de Andrea fue silenciada. El reclamo de la prensa fue ignorado. Y hoy el reclamo de la familia de Andrea fue abruptamente rechazado, sin ser escuchados, sin ser atendidos, sin concederle tiempo razonable a nadie. ¿Cuál es la prisa? Evidentemente, la certificación del caso no es producto de un análisis ponderado para otorgar un remedio adecuado, completo y oportuno, tal como lo he favorecido en el pasado. ¿Por qué reproducir la conducta apresurada que precisamente es Objeto de cuestionamiento público desde que Andrea solicitó la orden de protección? ¿Por qué ejercer el poder mayoritario sin escuchar a nadie y sin permitir a los disidentes expresarse en un periodo de tiempo razonable? Estas preguntas se unen a las muchas que tiene la familia de Andrea y el Pueblo en general. Las salas especializadas de violencia de género fueron concebidas primordialmente para atender de forma integral las necesidades de las víctimas. Ciertamente, el ordenamiento provee brindarles la intimidad y privacidad que sea necesaria para que puedan canalizar adecuadamente su reclamo. Eso no cambiará para las potenciales víctimas, pero no puede ser una excusa para denegar de plano el reclamo que nos ocupa. Ello, ante las particularidades del lamentable fallecimiento de Andrea, la voluntad de divulgación de los familiares, la trayectoria de publicidad de vistas judiciales que tenía este Tribunal, el apremiante interés público y el derecho de acceso a la información.

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Por los fundamentos enunciados, disiento del curso de acción seguido por una Mayoría de este Tribunal y, consecuentemente, ordenaría la divulgación de lo solicitado.

/F/ Luis F. Estrella Martínez

Luis F. Estrella Martínez

Juez Asociado

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EN EL TRIBUNAL SUPREMO DE PUERTO RICO

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CT-2021-0008

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EL PUEBLO DE PUERTO RICO

*Recurrido*

v.

MIGUEL OCASIO SANTIAGO

*Recurrido*

---

Opinión Disidente emitida por el Juez Asociado señor COLÓN PÉREZ.

En San Juan, Puerto Rico a 10 de mayo de 2021.

Andrea, hoy te volvimos a fallar. Y, al fallarte a ti, le fallamos al País.

En la mañana de hoy, una mayoría de este Tribunal— de la forma más atropellada posible; removiendo *motu proprio* una petición que se encuentra ante la consideración del Tribunal de Primera Instancia, y sin el beneficio de escuchar ciertos audios para determinar qué de lo contenido en ellos podía estar sujeto a diseminación pública y qué no — le ha cerrado las puertas al reclamo de tus padres. Con ello, mantiene en estricta confidencialidad el contenido de determinados procesos judiciales celebrados en la Región Judicial de Caguas, los días 25, 26 y 31 de marzo de 2021, en los que tú figuraste como parte. ¿Para proteger a quién? ¿A ti? Lo dudo, pues tus padres comparecieron ante el Tribunal de Primera Instancia a informarnos que la mejor manera de proteger tu

memoria era haciendo público lo sucedido en los referidos procesos judiciales.

¿Para proteger a las futuras víctimas de violencia de género? No lo creo, pues éstos y éstas se protegen brindándole un sistema de justicia transparente en el que puedan confiar. Un sistema de justicia que sepa rendir cuentas.

Entonces, nos volvemos a preguntar: ¿Para proteger a quién? ¿A los jueces y las juezas?

Los jueces y las juezas no tenemos ni más, ni menos, derechos constitucionales que los demás puertorriqueños y puertorriqueñas. Tenemos los mismos. Todos y todas somos iguales. Y, como iguales, *en situaciones tan particulares como éstas*, tanto nuestras actuaciones — como las actuaciones del resto de la sociedad que, día a día, desde nuestros estrados juzgamos — tienen que estar sujetas a ser escudriñadas y evaluadas por el resto del País. Eso es un derecho constitucional que — en el desempeño de nuestras funciones — el Pueblo puertorriqueño, al convocarse y redactar nuestra Constitución, se reservó para ellos y ellas; y en gran parte, tal derecho se nutre de que éstos y éstas puedan tener acceso a la información pública en manos del Estado. Lo anterior, con las debidas salvaguardas en aquellos casos que así lo ameriten. Véase, de manera análoga, lo expresado por quien suscribe en *Bhatia Gautier v. Gobernador*, 199 DPR 59, 176 (2017) (Colón Pérez, opinión disidente).

Siendo ello así, y siguiendo los parámetros expuestos en nuestro Voto Particular Disidente en *Ex parte: Overseas Press Club de Puerto Rico*, 2021 TSPR 62, 206 DPR (2021) (Colón Pérez, Voto Particular Disidente), somos de la opinión que las grabaciones de las vistas judiciales celebradas en la Región Judicial de



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Caguas los días 25, 26 y 31 de marzo de 2021, a las que previamente hemos hecho referencia, tenían que ser entregadas a los familiares de Andrea y a los gremios de periodistas (*Overseas Press Club* y ASSPRO) que las han solicitado. Lamentablemente, no fue así. El manto de secreto absoluto se impuso.

Como bien señaló el prestigioso académico, Dr. Efrén Rivera Ramos, en una reciente columna de opinión que le publicara el periódico *El Nuevo Día*, en la que evaluaba el proceder de este Tribunal en el caso que dio origen al recurso de reconsideración que hoy atendemos, “ese manto de secreto absoluto será peor a la larga que el mal que la mayoría pretende evitar”.

/F/ Angel Colón Pérez  
Angel Colón Pérez  
Juez Asociado

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**APPENDIX B**

COMMONWEALTH OF PUERTO RICO  
COURT OF FIRST INSTANCE  
CAGUAS SUPERIOR COURT

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CASE NUM.: CG2021CROO274  
REL: OPA 2021011403  
BY: ART. 3.1 LAW 54

---

THE PEOPLE OF PUERTO RICO

v.

MIGUEL OCASIO SANTIAGO

*Defendant*

---

**PROTECTIVE ORDER**

The Department of Justice has requested, and obtained, through the corresponding administrative procedure, a copy of the recordings of the judicial proceedings held on March 25, 26 and 31, 2021. Due to the nature of the allegations made for the record by the aggrieved-petitioner, and in line with the public policy that seeks to avoid revictimization and the disclosure of intimate, personal, or family information, it is prohibited, under penalty of contempt, that any person who is not an official representative of the Department of Justice in the discharge of their Official responsibilities, listen to or disclose their content, for any purpose other than the case file.

Given in Caguas, Puerto Rico, on May 3, 2021.

/s/ Ricardo G. Marrero

RICARDO G. MARRERO GUERRERO  
SUPERIOR JUDGE

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**CERTIFICATION OF ACCURACY**

I, Andre Moskowitz, hereby certify that I am a Spanish>English translator certified by the American Translators Association (Certification No. 422086) and that the foregoing is a true and accurate translation of the following document that was provided to me:

Protective Order dated May 3, 2021

[SEAL]

American Translators Association  
Andre Moskowitz  
Spanish into English  
Certification #422086  
Certified Translator]

Verify at [www.atanet.org/verify](http://www.atanet.org/verify)

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ESTADO LIBRE ASOCIADO DE PUERTO RICO  
TRIBUNAL DE PRIMERA INSTANCIA  
SALA DE SUPERIOR DE CAGUAS

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NUM. DE CASO: CG2021CR00274  
REL: OPA 2021011403  
POR: ART. 3.1 LEY 54

---

PUEBLO DE PUERTO RICO

vs

MIGUEL OCASIO SANTIAGO

*Imputado*

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ORDEN PROTECTORA

El Departamento de Justicia ha solicitado, y obtenido, mediante el trámite administrativo correspondiente, copia de las regrabaciones de los procesos judiciales celebrados durante los días 25, 26 y 31 de marzo de 2021. Por la naturaleza de las alegaciones vertidas para el récord por la perjudicada-peticionaria, y afín con la política pública que procura evitar la revictimización y la divulgación de información íntima, personal o familiar, se prohíbe, bajo apercibimiento de desacato, a cualquier persona que no sea representante oficial del Departamento de Justicia en la descargue de sus responsabilidades Oficiales, el escuchar o divulgar el contenido de las mismas, para cualquier propósito ajeno al sumario fiscal.

Dada en Caguas, Puerto Rico, a 3 de mayo de 2021.

/F/ Ricardo G. Marrero Guerrero

RICARDO G. MARRERO GUERRERO  
JUEZ SUPERIOR

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**APPENDIX C**

Commonwealth of Puerto Rico  
GENERAL COURT OF JUSTICE

Court of first instance

Court  Superior  Municipal of Caguas

—————  
CASE NUM.: CG2021CROO274

REL: OPA 2021011403

About: ART. 3.1 LAW 54

—————  
THE PEOPLE OF PUERTO RICO

v.

MIGUEL OCASIO SANTIAGO  
—————

**NOTIFICATION**

TO: Lic. Rafelli González Cotto  
rafelli.law@gmail.com  
Lic. Aracelis Pérez Correa  
arperez@justicia.pr.gov  
Lic. Madeline Bermúdez Sanabria  
mbermudez@rnujer.pr.gov

The undersigned Secretary certifies and notifies you that in relation to the:

- Motion for Amendments or Initial or Additional Determinations
- Motion for Reconsideration
- Motion for New Trial
- Motion for Reconsideration and Amendments or Initial or Additional Determinations

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- Motion for Reconsideration and/or Amendments or Initial or Additional Determinations and New Trial
- Motion: Motion in Request for Recording
- Above-captioned case

This Court issued an Order on May 7, 2021.

- A copy or link is attached: Order
- The determination is transcribed below:

YOU ARE ADVISED that by being a party or your legal representative in the case subject to this Order, you may file an appeal, review, or certiorari, in accordance with the procedure and within the term established by law, rule or applicable regulation.

I CERTIFY that the determination issued by the Court was duly registered and filed today, May 7, 2021, and that a copy of this notice was sent to the aforementioned persons, to their registered addresses in the case in accordance with the applicable regulations. On this same date, a copy of this notification was filed in the case file.

Secretary Notes: \_\_\_\_\_

In Caguas Puerto Rico, May 7, 2021.

CARMEN ANA PEREIRA ORTIZ  
Name of the Regional Secretary

By: s/ DIANA RAMOS ZAVALA

Name and Signature of the Assistant Secretary of the Court

OAT 1812 Unique Notification Form - Sentences, Resolutions, Orders and Minutes (Rev. January 2017)

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COMMONWEALTH OF PUERTO RICO  
COURT OF FIRST INSTANCE  
CAGUAS SUPERIOR COURT

---

CASE NUM.: CG2021CROO274  
REL: OPA 2021011403  
About: ART. 3.1 LAW 54

---

THE PEOPLE OF PUERTO RICO

vs

MIGUEL OCASIO SANTIAGO

*Defendant*

---

ORDER

The Association of Journalists of Puerto Rico (ASPRO) has submitted a motion to request the recording of the judicial proceedings held on March 25, 26 and 31, 2021 in which Ms. Andrea Ruiz Costas was the injured petitioner. As part of its argumentation in said appearance, the ASPRO distinguished the remedy requested by them, from that requested by the Overseas Press Club of Puerto Rico and from what was resolved on May 6, 2021, by the Supreme Court of Puerto Rico in *In Re Overseas Press Club of Puerto Rico*, MC-2021-0059. Thus, in summary, they allege that the relatives of Andrea Ruiz Costas have publicly expressed themselves in favor of the delivery of the recordings under discussion and, the fact that ASPRO asked the Administrative Director of the Courts to deliver the recordings, eliminating the sensitive parts of Mrs. Ruiz Costas' testimony and that, in response to this request, the Administrative Director

of the Courts indicated to said entity that he had no objection in the delivery of the recordings in these terms.

In order to discuss the merits of ASPRO's request, a hearing is scheduled for May 11, 2021 at 9:30 a.m. in Room 301 of the Caguas Judicial Center. Due to the possible courses of action that could be taken by the Court as part of the consideration of the arguments presented, the hearing will be held in person, safeguarding the distancing measures adopted to prevent the spread of Covid-19.

The notification and summons, through the ASPRO, of the next of kin of Andrea Ruiz Costas to whom she refers in her appearance is ordered. This summons must also be notified, and the Office of the Ombudsman for Women and the Department of Justice must appear.

Given in Caguas, Puerto Rico, on May 7, 2021

/s/ Ricardo G. Marrero  
RICARDO G. MARRERO GUERRERO  
SUPERIOR JUDGE



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**CERTIFICATION OF ACCURACY**

I, Andre Moskowitz, hereby certify that I am a Spanish>English translator certified by the American Translators Association (Certification No. 422086) and that the foregoing is a true and accurate translation of the following document that was provided to me:

Notification and Order, dated May 7, 2021

[SEAL]

American Translators Association  
Andre Moskowitz  
Spanish into English  
Certification #422086  
Certified Translator]

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55a

Estado Libre Asociado de Puerto Rico  
TRIBUNAL GENERAL DE JUSTICIA  
Tribunal de Primera Instancia

Sala  Superior  Municipal de Caguas

CASO NÚM. CG2021CR00274

Rel: OPA2021-11403

Salón Núm. \_\_\_\_\_

Sobre: Art. 3.1 Ley 54

NOTIFICACIÓN

A: Lic. Rafelli González Cotto  
rafelli.law@gmail.com  
Lic. Aracelis Pérez Correa  
arperez@justicia.pr.gov  
Lic. Madeline Bermúdez Sanabria  
mbermudez@mujer.pr.gov

El (La) Secretario(a) que suscribe certifica y notifica a usted que con relación al (a la):

- Moción de Enmiendas o Determinaciones Iniciales o Adicionales
- Moción de Reconsideración
- Moción de Nuevo Juicio
- Moción de Reconsideración y de Enmiendas o Determinaciones Iniciales o Adicionales
- Moción de Reconsideración y/o Enmiendas o Determinaciones Iniciales o Adicionales y Nuevo Juicio
- Moción: Moción en Solicitud de Regrabación

Caso de Epígrafe

este Tribunal emitió una Orden el 7 de mayo de 2021.

Se aneja copia o incluye enlace: Orden

Se transcribe la determinación a continuación:

SE LE ADVIERTE que al ser una parte o su representante legal en el caso sujeto a esta Orden, usted puede presentar un recurso de apelación, revisión o certiorari, de conformidad con el procedimiento y en el término establecido por ley, regla o reglamento aplicable.

CERTIFICO que la determinación emitida por el Tribunal fue debidamente registrada y archivada hoy 7 de mayo de 2021, y que se envió copia de esta notificación a las personas antes indicadas, a sus direcciones registradas en el caso conforme a la normativa aplicable. En esta misma fecha fue archivada en autos copia de esta notificación.

Notas de la Secretaría: \_\_\_\_\_

En Caguas, Puerto Rico, a 7 de mayo de 2021.

CARMEN ANA PEREIRA ORTIZ

Nombre del (de la) Secretario(a) Regional

Por: f/ DIANA RAMOS ZAVALA

Nombre y Firma del (de la) Secretario(a) Auxiliar del Tribunal

OAT 1812 Formulario Único de Notificación - Sentencias, Resoluciones, Órdenes y Minutas (Rev. Enero 2017)

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ESTADO LIBRE ASOCIADO DE PUERTO RICO  
TRIBUNAL DE PRIMERA INSTANCIA  
SALA DE SUPERIOR DE CAGUAS

---

NUM. DE CASO: CG2021CR00274  
REL: OPA 2021011403  
POR: ART. 3.1 LEY 54

---

PUEBLO DE PUERTO RICO

vs

MIGUEL OCASIO SANTIAGO

*Imputado*

---

ORDEN

La Asociación de Periodistas de Puerto Rico (ASPRO) ha presentado una moción de solicitud de regrabación de los procesos judiciales celebrados durante los días 25, 26 y 31 de marzo de 2021 en los que la Sra. Andrea Ruiz Costas figuró como peticionaria-perjudicada. Como parte de su argumentación en dicha comparecencia, la ASPRO distinguió el remedio por ellos solicitado, de lo requerido por el Overseas Press Club de Puerto Rico y de lo resuelto el 6 de mayo de 2021 por el Tribunal Supremo de Puerto Rico en *In Re Overseas Press Club de Puerto Rico*, MC-2021-0059. Ello, pues, en síntesis, alegan que los familiares de Andrea Ruiz Costas se han expresado públicamente a favor de la entrega de las regrabaciones objeto de discusión y, el hecho de que la ASPRO le solicitó al Director Administrativo de los Tribunales la entrega de las grabaciones, eliminando las partes sensitivas del testimonio de la señora Ruiz Costas y que ante

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dicha solicitud el Director Administrativo de los Tribunales le indicó a dicha entidad que no tenía reparo en la entrega de las regrabaciones en estos términos.

A fin de discutir los méritos de la solicitud de la ASPRO, se señala vista para el 11 de mayo de 2021 a las 9:30 a.m. en la Sala 301 del Centro Judicial de Caguas. Debido a los posibles cursos de acción que pudieran ser tornados por el Tribunal como parte de la consideración de los argumentos expuestos, la vista se llevará a cabo de forma presencial, salvaguardando las medidas de distanciamiento adoptadas para prevenir la propagación del Covid-19.

Se ordena la notificación y citación, por conducto de la ASPRO, de los familiares de Andrea Ruiz Costas a los que hace referencia en su comparecencia. También deberá notificarse de este señalamiento y deberán comparecer la Oficina de la Procuradora de las Mujeres y el Departamento de Justicia.

Dada en Caguas, Puerto Rico, a 7 de mayo de 2021.

/F/ Ricardo G. Marrero Guerrero

RICARDO G. MARRERO GUERRERO  
JUEZ SUPERIOR

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**APPENDIX D**

Commonwealth of Puerto Rico  
GENERAL COURT OF JUSTICE  
Court of first instance

Court  Superior  Municipality of Caguas

CASE NUM.: CG2021CROO274  
REL: OPA 2021011403  
About: ART. 3.1 LAW 54

THE PEOPLE OF PUERTO RICO

v.

MIGUEL OCASIO SANTIAGO

NOTIFICATION

TO: Lic. Rafelli González Cotto  
rafelli.law@gmail.com  
Lic. Madeline Bermúdez Sanabria  
mbermudez@rnujer.pr.gov  
Lic. Victor A. Casino Cosme  
vcasianomujer.pr.gov  
Lic. Aracelis Pérez Correa  
arperez@justicia.pr.gov

The undersigned Secretary certifies and notifies you that in relation to the:

- Motion for Amendments or Initial or Additional Determinations
- Motion for Reconsideration

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- Motion for New Trial
- Motion for Reconsideration and Amendments or Initial or Additional Determinations
- Motion for Reconsideration and/or Amendments or Initial or Additional Determinations and New Trial
- Motion: Urgent Supplementing Record to Amend Motion to Request Recordings
- Above-captioned case

This Court issued an Order on May 10, 2021.

- A copy or link is attached: Order
- The determination is transcribed below:

“Moot. See Judgment.”

---

YOU ARE ADVISED that by being a party or your legal representative in the case subject to this Order, you may file an appeal, review, or certiorari, in accordance with the procedure and within the term established by law, rule or applicable regulation.

I CERTIFY that the determination issued by the Court was duly registered and filed today, May 11, 2021, and that a copy of this notice was sent to the aforementioned persons, to their registered addresses in the case in accordance with the applicable regulations. On this same date, a copy of this notification was filed in the case file.

Secretariat Notes: Judgment of May 10, 2021, is included.

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In Caguas Puerto Rico, May 11, 2021.

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CARMEN ANA PEREIRA ORTIZ

Name of the Regional Secretary

/s/ Diana Ramos Zavala

By: f / DIANA RAMOS ZAVALA

Name and Signature of the  
Assistant Secretary of the Court

OAT 1812 Unique Notification Form - Sentences,  
Resolutions, Orders and Minutes (Rev. January 2017)

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COMMONWEALTH OF PUERTO RICO  
COURT OF FIRST INSTANCE  
CAGUAS SUPERIOR COURT

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CASE NUM.: CG2021CROO274  
REL: OPA 2021011403  
About: ART. 3.1 LAW 54

---

THE PEOPLE OF PUERTO RICO

v.

MIGUEL OCASIO SANTIAGO

*Defendant*

---

JUDGMENT

At 12:04 p.m. today we have received notification of the Judgment issued this day by the Supreme Court in which, through the certification mechanism, and to safeguard the effectiveness of what was resolved by said Court in the *Ex parte Overseas Press Club* case, MC-202 1- 0059, of May 6, 2021, said Court declares the request of the Association of Journalists of Puerto Rico denied and concludes that the request for information presented by this Association does not proceed. In addition, the aforementioned Judgment ordered the cancellation of the hearing scheduled by this Court for May 11, 2021 at the Caguas Judicial Center. Consequently, the summons issued are annulled, the scheduling is suspended, and the filing of the present matter is ordered. Finally, the custodians of the recordings in controversy are ordered to preserve them confidentially in accordance with the mechanisms provided for it.

Given in Caguas, Puerto Rico, on May 10, 2021.

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REGISTER AND BE INFORMED

/s/ Ricardo G. Marrero Guerrero  
RICARDO G. MARRERO GUERRERO  
SUPERIOR JUDGE

SEN2021000\_\_\_\_\_

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**CERTIFICATION OF ACCURACY**

I, Andre Moskowitz, hereby certify that I am a Spanish>English translator certified by the American Translators Association (Certification No. 422086) and that the foregoing is a true and accurate translation of the following document that was provided to me:

Notification and Judgment, dated May 10, 2021

[SEAL]

American Translators Association  
Andre Moskowitz  
Spanish into English  
Certification #422086  
Certified Translator]

Verify at [www.atanet.org/verify](http://www.atanet.org/verify)

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Estado Libre Asociado de Puerto Rico  
TRIBUNAL GENERAL DE JUSTICIA  
Tribunal de Primera Instancia

Sala  Superior  Municipal de Caguas

---

CASO NÚM. CG2021CR00274  
Rel: OPA2021-11403  
Salón Núm. Sobre: Art. 3.1 Ley 54

TO: Lic. Rafelli González Cotto  
rafelli.law@gmail.com

Lic. Madeline Bermúdez Sanabria  
mbermudez@rnujer.pr.gov

Lic. Victor A. Casino Cosme  
vcasianomujer.pr.gov

Lic. Aracelis Pérez Correa  
arperez@justicia.pr.gov

El (La) Secretario(a) que suscribe certifica y notifica a usted que con relación al (a la):

- Moción de Enmiendas o Determinaciones Iniciales o Adicionales
- Moción de Reconsideración
- Moción de Nuevo Juicio
- Moción de Reconsideración y de Enmiendas o Determinaciones Iniciales o Adicionales
- Moción de Reconsideración y/o Enmiendas o Determinaciones Iniciales o Adicionales y Nuevo Juicio
- Moción: Urgente Suplementando el Récord para Enmendar Sol. de Regrabación

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Caso de Epígrafe

este Tribunal emitió una Orden el 10 de mayo de 2021

Se aneja copia o incluye enlace:

Se transcribe la determinación a continuación:

"Académica. Veáse Sentencia".

---

SE LE ADVIERTE que al ser una parte o su representante legal en el caso sujeto a esta Orden, usted puede presentar un recurso de apelación, revisión o certiorari, de conformidad con el procedimiento y en el término establecido por ley, regla o reglamento. aplicable.

CERTIFICO que la determinación emitida por el Tribunal fue debidamente registrada y archivada hoy 11 de mayo de 2021, y que se envió copia de esta notificación a las personas antes indicadas, a sus direcciones registradas en el caso conforme a la normativa aplicable. En esta misma fecha fue archivada en autos copia de esta notificación.

Notas de la Secretaría: Se incluye Sentencia del 10 de mayo de 2021.

En Caguas, Puerto Rico, a 11 de mayo de 2021.

CARMEN ANA PEREIRA ORTIZ

Nombre del (de la) Secretario(a) Regional

/F/ Diana Ramos Zavala

Por: f/ DIANA RAMOS ZAVALA

Nombre y Firma del (de la) Secretario(a) Auxiliar del Tribunal

OAT 1812 Formulario Único de Notificación — Sentencias, Resoluciones, Órdenes y Minutas (Rev. Enero 2017)

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ESTADO LIBRE ASOCIADO DE PUERTO RICO  
TRIBUNAL DE PRIMERA INSTANCIA  
SALA DE SUPERIOR DE CAGUAS

---

NUM. DE CASO: CG2021CR00274  
REL: OPA 2021011403  
POR: ART. 3.1 LEY 54

---

PUEBLO DE PUERTO RICO  
VS  
MIGUEL OCASIO SANTIAGO  
IMPUTADO

---

SENTENCIA

A las 12:04 p.m. de hoy hemos recibido notificación de Sentencia emitida en esta jornada por el Tribunal Supremo en la cual, mediante el mecanismo de certificación, y para salvaguardar la efectividad de lo resuelto por dicho Foro en el caso *Ex parte Overseas Press Club*, MC-2021-0059, de 6 de mayo de 2021, dicho Tribunal declara No Ha Lugar la solicitud de la Asociación de Periodistas de Puerto Rico y concluye que no procede la solicitud de información que presentó esta Asociación. Además, mediante la referida Sentencia se ordenó la cancelación de la vista calendarizada por este Tribunal para el 11 de mayo de 2021 en el Centro Judicial de Caguas. En consecuencia, se dejan sin efecto las citaciones expedidas, se suspende el señalamiento, y se ordena el archivo del presente asunto. Por último, se ordena al personal custodio de las regrabaciones en controversia su

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preservación de manera confidencial conforme a los  
mecanismos dispuestos para ello.

Dada en Caguas, Puerto Rico, a 10 de mayo de 2021.

REGISTRESE Y NOTIFIQUESE

/F/ Ricardo G. Marrero Guerrero  
RICARDO G. MARRERO GUERRERO  
JUEZ SUPERIOR

SEN2021000

**APPENDIX E**

IN THE SUPREME COURT OF PUERTO RICO

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CT-2021-0008

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THE PEOPLE OF PUERTO RICO

*Appellee*

v.

MIGUEL OCASIO SANTIAGO

*Appellee*

---

RESOLUTION

In San Juan, Puerto Rico, on May 27, 2021.

After examining the Motion to Request Reconsideration presented by the Puerto Rico Journalists Association ('ASPPRO'), it is Denied.

It was agreed by the Court and certified by the Secretary of the Supreme Court. The Presiding Judge Oronoz Rodríguez issues the following opinion:

“The Presiding Judge Oronoz Rodríguez disagrees with the majority procedure and reiterates the importance of disclosing the requested recordings, first to the next of kin of Andrea Ruiz Costas and, later — these having no objection — to the rest of the public. This in accordance with the reasons that she stated in the dissenting opinion that she issued for this case and in the dissenting opinion that she issued in *Ex Parte Overseas*



*Press Club of Puerto Rico*, 2021 TSPR 62, 206 DPR \_\_ (2021). In any case, given the importance of hearing the position of all the interested parties, she would have granted the oral hearing requested by the Puerto Rico Journalists Association prior to having the request for reconsideration presented.”

The Associate Judge Mr. Estrella Martínez issues the following opinion:

“The Associate Judge, Mr. Estrella Martínez, would declare the reconsideration presented valid and record the following opinion:

I respectfully disagree with the resolution rejecting the Motion in request for reconsideration presented by the Association of Journalists of Puerto Rico. Instead, I would declare the request valid and, consequently, order the disclosure of the recordings requested here by the grounds contained in *Ex parte: Overseas Press Club de Puerto Rico*, 2021 TSPR 62, 206 DPR \_\_ (2021) (Estrella Martínez, Dissenting opinion) and in *El Pueblo de Puerto Rico v. Miguel Ocasio Santiago*, 2021 TSPR 64, 206 DPR \_\_ (2021) (Estrella Martínez, Dissenting opinion).”

The Associate Judge Mr. Colón Pérez issues the following opinion:

“Associate Judge Mr. Colón Pérez disagrees with the course of action followed by a majority of this Curia in the above-captioned case, for reasons similar to those set forth by him in *Ex parte: Overseas Press Club de Puerto Rico*, 2021 TSPR 62, 206 DPR (2021) (Colón Pérez, Dissenting Private Opinion),

and in *El Pueblo de Puerto Rico v. Miguel Ocasio Santiago*, 2021 TSPR 64, 206 DPR (2021) (Colón Pérez, Dissenting Opinion). Consequently, he would have ordered the disclosure of the content of certain judicial proceedings held in the Caguas Judicial Region, on March 25, 26 and 31, 2021, in which the young Andrea Ruiz Costas appeared as a party.

Likewise, and in the alternative, the Associate Judge Mr. Colón Pérez would order the holding of an oral hearing in this case, in which those parties with an interest in this litigation — namely, Andrea’s parents, the Department of Justice, the Women’s Ombudsman and/or the different journalistic associations — had the opportunity to go before this Court to outline in detail what their claims consist of, prior to having the request for reconsideration presented by the Puerto Rico Journalists Association (ASPPRO).”

[SEAL]

/s/ Jose Ignacio Campos Perez

Jose Ignacio Campos Perez  
Secretary of the Supreme Court

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**CERTIFICATION OF ACCURACY**

I, Andre Moskowitz, hereby certify that I am a Spanish>English translator certified by the American Translators Association (Certification No. 422086) and that the foregoing is a true and accurate translation of the following document that was provided to me:

Resolution, dated May 27, 2021

[SEAL]

American Translators Association  
Andre Moskowitz  
Spanish into English  
Certification #422086  
Certified Translator]

Verify at [www.atanet.org/verify](http://www.atanet.org/verify)

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EN EL TRIBUNAL SUPREMO DE PUERTO RICO

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CT-2021-0008

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EL PUEBLO DE PUERTO RICO

*Recurrido*

v.

MIGUEL OCASIO SANTIAGO

*Recurrido*

---

### RESOLUCIÓN

En San Juan, Puerto Rico, a 27 de mayo de 2021.

Examinada la *Moción en Solicitud de Reconsideración* presentada por la Asociación de Periodistas de Puerto Rico (“ASPPRO”), se provee No Ha Lugar.

Lo acordó el Tribunal y lo certifica el Secretario del Tribunal Supremo. La Jueza Presidenta Oronoz Rodríguez emita la expresión siguiente:

“La Jueza Presidenta Oronoz Rodríguez disiente del proceder mayoritario y reitera la importancia de divulgar las grabaciones solicitadas, primero a los familiares de Andrea Ruiz Costas y, luego —de estos no tener objeción alguna— al resto de la ciudadanía. Ello, de acuerdo con las razones que expuso en la Opinión disidente que emitió para este caso y en el Voto particular disidente que emitió en *Ex Parte Overseas Press Club de Puerto Rico*, 2021 TSPR 62, 206 DPR \_\_\_ (2021). En todo caso, dada la importancia de

escuchar la posición de todas las partes interesadas, hubiese concedido la vista oral que solicitó la Asociación de Periodistas de Puerto Rico previo a disponer de la solicitud de reconsideración presentada”.

El Juez Asociado señor Estrella Martínez emite la expresión siguiente:

“El Juez Asociado señor Estrella Martínez declararía con lugar la reconsideración presentada y hace constar la siguiente expresión:

Disiento respetuosamente de la resolución denegatoria a la *Moción en solicitud de reconsideración* presentada por la Asociación de Periodistas de Puerto Rico. En su lugar, declararía *con lugar* la solicitud y, en consecuencia, ordenaría la divulgación de las grabaciones aquí solicitadas por los fundamentos contenidos en *Ex parte: Overseas Press Club de Puerto Rico*, 2021 TSPR 62, 206 DPR (2021) (Estrella Martínez, Voto particular disidente) y en *El Pueblo de Puerto Rico v. Miguel Ocasio Santiago*, 2021 TSPR 64, 206 DPR (2021) (Estrella Martínez, Opinión disidente)”.

El Juez Asociado señor Colón Pérez emite la expresión siguiente:

“El Juez Asociado señor Colón Pérez disiente del curso de acción seguido por una mayoría de esta Curia en la causa de epígrafe, ello por fundamentos similares a los expuestos por éste en *Ex parte: Overseas Press Club de Puerto Rico*, 2021 TSPR 62, 206 DPR (2021) (Colón Pérez, Voto Particular Disidente), y en *El Pueblo de Puerto Rico v.*

*Miguel Ocasio Santiago*, 2021 TSPR 64, 206 DPR (2021) (Colón Pérez, Opinión Disidente). Consecuentemente, éste hubiese ordenado la divulgación del contenido de determinados procesos judiciales celebrados en la Región Judicial de Caguas, los días 25, 26 y 31 de marzo de 2021, en los que la joven Andrea Ruiz Costas figuró como parte.

Asimismo, y en la alternativa, el Juez Asociado señor Colón Pérez estaba en posición de ordenar la celebración de una vista oral en el presente caso, en la cual aquellas partes con interés en este litigio —entiéndase, los padres de Andrea, el Departamento de Justicia, la Procuradora de las Mujeres y/o los distintos gremios periodísticos—tuviesen la oportunidad de acudir ante este Tribunal y esbozar detalladamente en qué consisten sus reclamos, previo a disponer del pedido de reconsideración presentado por la Asociación de Periodistas de Puerto Rico (ASPPRO)”.

[SELLO]

/F/ Jose Ignacio Campos Perez  
Jose Ignacio Campos Perez  
Secretary of the Supreme Court

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**APPENDIX F**

IN THE SUPREME COURT OF PUERTO RICO

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CT-2021-0008

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THE PEOPLE OF PUERTO RICO

*Appellee*

v.

MIGUEL OCASIO SANTIAGO

*Appellee*

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RESOLUTION

In San Juan, Puerto Rico, on June 4, 2021.

After examining the “Motion to Request Second Reconsideration,” it is ruled Denied. Stick to what is resolved by this Court.

It was agreed by the Court and certified by the Secretary of the Supreme Court.

The Presiding Judge Mrs. Oronoz Rodríguez issues the following opinion:

“The Presiding Judge Oronoz Rodríguez disagrees with the majority procedure and reiterates that she agrees to disclose the requested recordings. This, in accordance with the reasons that she stated in the dissenting Opinion that she issued for this case and in the dissenting opinion that she issued in *Ex Parte Overseas Press Club of Puerto Rico*, 2021 TSPR 62, 206 DPR (2021).

In any case, given the importance of listening to the position of all interested parties, she would have granted the oral hearing requested by the Puerto Rico Journalists Association prior to ordering of the request for reconsideration presented.”

The Associate Judge Mr. Estrella Martínez issues the following opinion:

“The Associate Judge, Mr. Estrella Martínez, would declare the reconsideration presented valid and record the following dissenting expression:

I respectfully disagree with the resolution to deny the *Motion to Request Second Reconsideration presented by the Puerto Rico Journalists Association*. Instead, as I have reiterated, I would declare the request *granted* and, consequently, I would order the disclosure of the recordings requested here by the grounds contained in *Pueblo v. Ocasio Santiago*, 2021 TSPR 64, 206 DPR - (2021) (Estrella Martínez, dissenting opinion) and in *Ex parte: Overseas Press Club of Puerto Rico*, 2021 TSPR 62, 206 DPR (2021) (Estrella Martínez, Dissenting opinion).”

The Associate Judge Mr. Colón Pérez issues the following opinion:

“Associate Judge Mr. Colón Pérez disagrees with the course of action followed by a majority of this Court in the above-captioned case, for reasons similar to those set forth by him in *Ex parte: Overseas Press Club de Puerto Rico*, 2021 TSPR 62, 206 DPR (2021) (Colón Pérez, dissenting opinion), and in *El*



*Pueblo de Puerto Rico v. Miguel Ocasio Santiago*, 2021 TSPR 64, 206 DPR (2021) (Colón Pérez, dissenting opinion). Consequently, he would have ordered the disclosure of the content of certain judicial processes held in the Caguas Judicial Region, on March 25, 26 and 31, 2021, in which the young Andrea Ruiz Costas appeared as a party.

Likewise, and in the alternative, the Associate Judge Mr. Colón Pérez was in a position to order the holding of an oral hearing in this case, in which those parties with an interest in this litigation — namely, Andrea’s parents, the Department of Justice, the Women’s Ombudsman and / or the different journalistic associations — had the opportunity to go before this Court and outline in detail what their claims consist of, prior to having the second request for reconsideration presented by the Puerto Rico Journalists Association (ASPPRO). “

/s/ Jose Ignacio Campos Perez

[SEAL]

Jose Ignacio Campos Perez  
Secretary of the Supreme Court

Seal reads: SUPREME COURT/GENERAL COURT  
OF JUSTICE/COMMONWEALTH OF PUERTO  
RICO

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**CERTIFICATION OF ACCURACY**

I, Andre Moskowitz, hereby certify that I am a Spanish>English translator certified by the American Translators Association (Certification No. 422086) and that the foregoing is a true and accurate translation of the following document that was provided to me:

Resolution, dated June 4, 2021

[SEAL]

American Translators Association  
Andre Moskowitz  
Spanish into English  
Certification #422086  
Certified Translator]

Verify at [www.atanet.org/verify](http://www.atanet.org/verify)

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EN EL TRIBUNAL SUPREMO DE PUERTO RICO

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CT-2021-0008

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EL PUEBLO DE PUERTO RICO

*Recurrido*

v.

MIGUEL OCASIO SANTIAGO

*Recurrido*

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### RESOLUCIÓN

En San Juan, Puerto Rico, a 4 de junio de 2021.

Examinada la “*Moción en Solicitud de Segunda Reconsideración*”, se provee No Ha Lugar. Aténgase a lo resuelto por este Tribunal.

Lo acordó el Tribunal y certifica el Secretario del Tribunal Supremo.

La Jueza Presidenta señora Oronoz Rodríguez emite la expresión siguiente:

“La Jueza Presidenta Oronoz Rodríguez disiente del proceder mayoritario y reitera estar de acuerdo con divulgar las grabaciones solicitadas. Ello, conforme a las razones que expuso en la Opinión disidente que emitió para este caso y en el Voto particular disidente que emitió en Ex Parte Overseas Press Club de Puerto Rico, 2021 TSPR 62, 206 DPR (2021). En todo caso, dada la importancia de escuchar la posición de todas las partes interesadas, hubiese concedido la vista oral

que solicitó la Asociación de Periodistas de Puerto Rico previo a disponer de la solicitud de reconsideración presentada”.

El Juez Asociado señor Estrella Martínez emite la siguiente expresión:

“El Juez Asociado señor Estrella Martínez declararía *con lugar* la reconsideración presentada y hace constar la siguiente expresión disidente:

Disiento respetuosamente de la resolución denegatoria a la *Moción en solicitud de segunda reconsideración* presentada por la Asociación de Periodistas de Puerto Rico. En su lugar, tal y como he reiterado, declararía *con lugar* la solicitud y, en consecuencia, ordenaría la divulgación de las grabaciones aquí solicitadas por los fundamentos contenidos en *Pueblo v. Ocasio Santiago*, 2021 TSPR 64, 206 DPR \_\_ (2021) (Estrella Martínez, Opinión disidente) y en *Ex parte: Overseas Press Club de Puerto Rico*, 2021 TSPR 62, 206 DPR (2021) (Estrella Martínez, Voto particular disidente)”.

El Juez Asociado señor Colón Pérez emite la siguiente expresión:

“El Juez Asociado señor Colón Pérez disiente del curso de acción seguido por una mayoría de esta Curia en la causa de epígrafe, ello por fundamentos similares a los expuestos por éste en *Ex parte: Overseas Press Club de Puerto Rico*, 2021 TSPR 62, 206 DPR (2021) (Colón Pérez, voto particular disidente), y en *El Pueblo de Puerto Rico v. Miguel Ocasio Santiago*, 2021 TSPR 64, 206 DPR (2021)

(Colón Pérez, opinión disidente). Consecuentemente, éste hubiese ordenado la divulgación del contenido de determinados procesos judiciales celebrados en la Región Judicial de Caguas, los días 25, 26 y 31 de marzo de 2021, en los que la joven Andrea Ruiz Costas figuró como parte.

Asimismo, y en la alternativa, el Juez Asociado señor Colón Pérez estaba en posición de ordenar la celebración de una vista oral en el presente caso, en la cual aquellas partes con interés en este litigio -- entiéndase, los padres de Andrea, el Departamento de Justicia, la Procuradora de las Mujeres y/o los distintos gremios periodísticos — tuviesen la oportunidad de acudir ante este Tribunal y esbozar detalladamente en qué consisten sus reclamos, previo a disponer del segundo pedido de reconsideración presentado por la Asociación de Periodistas de Puerto Rico (ASPPRO).”

[SELLO] /F/ Jose Ignacio Campos Perez  
Jose Ignacio Campos Perez  
Secretario del Tribunal Supremo

El sello dice: ESRADO LIBRE ASOCIADO DE  
PUERTO RICO / TRIBUNAL SUPREMO / TRIBU-  
NAL GENERAL DE JUSTICIA

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**APPENDIX G**

Supreme Court of Puerto Rico

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MC-2021-59

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Ex parte: Overseas Press Club of Puerto Rico

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**RESOLUTION**

In San Juan, Puerto Rico, on May 6th, 2021.

The confidentiality of the judicial processes in cases of domestic violence is crucial to defend the victims of this social evil. It gives victims a guarantee that they can go to court for help without fear that their private lives being discussed in public and provides them with a safe environment free from public intimidation or derision. Without this guarantee of confidentiality, many victims would think twice before seeking judicial protection that in many cases is necessary to maintain their privacy, dignity, and physical integrity. This is why Art. 5.005 of the Judiciary Act of 2003, as amended, Act No. 201-2003, 4 LPRA sec. 25e, orders the creation of specialized courtrooms “to attend with controlled access to the public cases of domestic violence in all judicial regions.”

In our system, the right of the people and the press to access public information is jurisprudentially guaranteed. *Engineering Services International, Inc. v. Autoridad de Energia Electrica de Puerto Rico*, 205 DPR, 2020 TSPR 103, 105 (2020). However, that public access yields when: (1) a law declares it so; (2) the communication is protected by some of the evidentiary privileges that citizens can invoke; (3) disclosing infor-

mation may harm the fundamental rights of third parties; (4) it is the identity of a confidential informant, and (5) it is “official information” according to Rule 514 of Evidence of 2009 (32 LPRA App. VI). (Emphasis ours). *Bhatia Gautier v. Gobernador*, 2017 TSPR 173, 199 DPR 59, 82-83 (2017).

There is no doubt that the protection of victims of domestic violence is of the highest priority and deserves the highest legal protection. We also recognize the legitimate interest of the press in obtaining more information on the cases that are related with this social evil. However, in the balance of interests present in this request for information, the legal mandate to safeguard the confidentiality of the proceedings, as protection for victims of domestic violence, outweighs the interest of the press to have access to confidential information. We also consider in our analysis that a related criminal proceeding is pending and the request for information without the accused being a party could affect their right to a fair and impartial process. This case is not before us and, therefore, the procedure used is not adequate to obtain the information requested.

The legitimate interest in knowing what may have happened in a case cannot go over the confidentiality guarantee of Art. 5.005, *supra*, which protects all future victims of domestic violence. We cannot disobey the law and create a precedent that serves to discourage and inhibit victims of domestic violence from seeking protection in our courts. The day we do that we will have lost the battle against this evil that lacerates our society and shocks us all.

Therefore, the *ex parte* request for information made by the Overseas Press Club of Puerto Rico is Denied.

Notify immediately.

It was agreed by the Court and certified by the Secretary of the Supreme Court. Associate Judge Mr. Kolthoff Caraballo voted in agreement and issued the following opinion:

I think my record is clear; I was the first judge of this honorable Court that, writing for one of the main newspapers of the Island, I publicly advocated that our courts be open to the scrutiny of television cameras and the rest of the media. On February 28, 2012, in a column for the newspaper *El Nuevo Día*, I pointed out, citing the former magistrate of the Constitutional Court of Spain, Jorge Rodríguez Zapata Pérez, that “*The social communication media is an effective antiseptic against the excesses in the application of the laws in the face of possible abuses of power*”. See, *Transparentes*, *El Nuevo Día*, February 28, 2012, edition. Since then, I have been consistent in my position to allow full access to the press and the media (video and sound) to everything that happens in our processes judicial, except those in which, by their nature, involve matters sensitive to the dignity of the participants, among other matters. In other words, as often happens, you must make exceptions, and this is one of those.

On this occasion, the petitioner, in summary, asks us to authorize the disclosure of the recording of what happened during the hearing in which a young woman, Andrea Ruiz Costas, testified in a proceeding against



whom later allegedly became her terrible and cruel executioner.

The first thing that came to my mind as I examined this request is the precedent that granting the request would set. If we grant what is requested, what effect would that have on the victims of this terrible social evil who would have the need in the future to go to our specialized rooms to seek help in the face of the martyrdom they are experiencing? Would they have reason to be cautious in the fear that the recording of what is spilled in this delicate process could be requested by any person or medium and then be released to the public? It seems to me that the precedent of granting the request, determining *de facto* that a recording of this type is something public, would be disastrous because it goes against precisely the victims that the Law seeks to protect. Let us think of the women who, out of love for their children, would be reluctant to seek the protection that the law provides them. Young people, adolescents, and children who themselves, are generally also victims of the suffering of their abused mother. They should warn of the possibility that the recording of what happened in privacy of this process could end up in the media and on the cell phones, tablets and computers of other children or young people who share with their children and the rest of the community.

On the other hand, Art. 5.005 of our Judiciary Law establishes that not everyone can enter to see or hear what happens when a

protection order is requested in our specialized domestic violence courtrooms. 4 LPRA sec. 25e. It is clear, then, that a process so delicate and in need of a safe and controlled environment, does not harmonize with the possibility that later the recording of this, even if it is limited or parts of it are omitted, is made public by any person or medium that does so.

The recording of what happened in a hearing to request a protection order is a necessary tool, for example, as part of a review process in appeal of the denial of this, if necessary, or for any other claim that in law could be made by both the victim and the person against whom the order is directed. Extending its use as intended, I have no doubt that it does not conform to the spirit of what is established in the Law of the Judiciary, and pragmatically would reduce confidence in a process that, by its nature, demands the opposite.

In view of the above, I agree with the denial of the request

The Presiding Judge Oronoz Rodríguez and the Associate Judges Mr. Estrella Martínez and Mr. Colón Pérez issued separate dissenting opinions.

Jose Ignacio Campos Perez  
Secretary of the Supreme Court

Dissent By: Maite D. Oronoz Rodríguez; Luis F. Estrella Martínez; Angel Colon Perez

Dissent

Presiding Judge Oronoz Rodríguez issued a dissenting Particular Opinion.

“Light is the best of disinfectants.”<sup>1</sup>

In San Juan, Puerto Rico, on May 6, 2021.

In accordance with my position in favor of transparency in judicial processes, the requested recordings must be disclosed so that all controversial process faces the sun.

From day one as Presiding Judge, I adopted as one of the pillars of my administration transparency in all the work of the Judiciary. This is reflected in the multiple measures implemented in the last 5 years. Therefore, in the face of demands for transparency, today more than ever it is imperative to act with that postulate that I assumed since I was sworn in.

On Saturday, May 1, I pledged my word to the Country. I did it with the conviction that gender violence is an evil that must be addressed and eradicated as a matter of urgency. Given the seriousness of the accusations about cases where victims - such as Andrea Ruiz Costas - had requested judicial intervention prior to the acts of violence that ended their lives, I ordered specific and immediate measures. I stated, bluntly, that we would assume our responsibility without excuses and that we would be held accountable. We will comply.

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<sup>1</sup> Words of the past Associate Justice of the Supreme Court of the United States, Louis D. Brandeis.

Today I do not make the decision to disclose these recordings lightly. Before, the careful balance of conflicting interests prevailed in my analysis: on the one hand, the right to access information, the public nature of judicial processes and, on the other, the very *important* public policy of protecting the dignity, and privacy of a victim of gender violence.

And it is that the matters that are addressed under the Domestic Violence Act, Act No. 54 of August 15, 1989, 8 L.P.R.A. sec. 631, could raise the need to protect the testimony of the injured party or any information of an intimate, personal, or family nature so as not to re-victimize her. The testimonies and details that are aired in these processes concern, on multiple occasions, the intimate sphere of a victim, her personal and family life, and the narration of the attacks and her suffering, they cannot be taken lightly and, much less, carelessly. For me, they have the highest rank, and it is our duty to ensure that the inviolability of the dignity of the human being is protected. A human being who, in this case, is not alive to express herself and defend herself from attacks on her dignity and reputation. I do not doubt that this was the principle that prevailed when the Protective Order was issued for the recording of the hearing for the arrest in the case of Andrea Ruiz Costas.

Furthermore, I do not want our actions to dissuade other victims of violence from going to court, at a time of turmoil for the country in the face of the harsh reality of the crisis of gender violence. It is important not to increase the chilling effect. We can never promote the belief in the victims that their testimony will not be private, that it will not be protected and that it will be disclosed, without limits, to the media for scrutiny and, sometimes, public derision.

However, yesterday, Wednesday, when the petition came before this Court, we did not know the position of the party with the most interest in the matter<sup>2</sup>, Andrea's family, who would have the greatest interest in safeguarding her privacy and memory. At this moment we can take judicial knowledge that last night Andrea's relatives made written statements<sup>3</sup> in which they requested that the audios be disclosed. That being the case, I reiterate my position that the recordings be delivered, first to Andrea's family, so that they have the opportunity to listen to them beforehand and, if they deem it necessary, alert about any objection to their content, and then to the Country.

In view of the fact that this court decides otherwise, I disagree with the procedure of the Majority.

Maite D. Oronoz Rodríguez  
Presiding Judge

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<sup>2</sup> Although in the media, both the Public Ministry and the Women's Ombudsman have outlined their positions, diametrically opposed should be noted, the truth is that they have not done so before the courts.

<sup>3</sup> Family of Andrea Ruiz Costas asks for the disclosure of recordings of her court hearings, Metro Puerto Rico Newspaper, available at <https://www.metro.pr/pr/noticias/2021/05/05/familia-andrea-ruiz-costs-requests-are-disclosed-recordings-judicial-hearings.html>.

Dissenting Particular Opinion issued by Associate Judge ESTRELLA MARTÍNEZ

In San Juan, Puerto Rico, on May 6, 2021.

We are facing a state of emergency that requires action with urgency and transparency. Andrea Cristina Ruiz Costas has become one of the main faces of this emergency. Her ordeal must be studied and analyzed by all the public institutions concerned, but also by society. As the last interpreters of the law in our jurisdiction, this Court had the duty to recognize that, if any judicial file should be disclosed for the good of the public interest, of the parties involved and of the judicial system itself, it is the of the case of Andrea Cristina Ruiz Costas. If all the branches of the Government of Puerto Rico have announced the adoption of measures and initiatives aimed at evaluating themselves and taking affirmative action steps to deal with the state of emergency, I consider that the People of Puerto Rico through the fourth Branch - the press- should have had access to what was requested, in order to exercise the role of oversight and have the public information that is in the hands of the Judiciary. That is a constitutional prerogative that in this historical context takes full effect. By not doing so, and why I will explain below, I disagree with the majority procedure. Let's see.

## I

As is known, the right of access to public information is an inherent principle of every democratic society, so disclosure should be the norm and not the exception. *Engineering Services International, Inc. v. Autoridad de Energía Eléctrica*, 2020 TSPR 103 (citations omitted). In this sense, this right guarantees that any person can examine the content of the files, reports,

and documents that have been compiled by the State in its governmental efforts. *Id.* (citing *Ortiz v. Adm. Dir. of the Courts*, 2000 TSPR 145, 152 DPR 161, 175, 2000 Juris PR 157 (2000)). This, given that its exercise is closely tied to the rights to freedom of word, press and association. Art. II, Sec. 4, Const. ELA, LPRA, Volume 1; *Trans Ad de PR v. Junta de Subastas*, 2008 TSPR 110, 174 DPR 56, 67, 2008 Juris PR 130 (2008); *Ortiz v. Adm. De los Tribunales*, 2000 TSPR 145, 152 DPR 161, 2000 Juris PR 157 (2000); *Soto v. Srio. De Justicia*, 12 PR Offic. Trans. 597, 112 DPR 477, 485-486 (1982).

The importance of the right of access to public information lies in the notion that knowledge of public management facilitates the free discussion of government affairs and the full exercise of the constitutional rights involved. *Colon Cabrera v. Caribbean Petroleum*, 2007 TSPR 48, 170 D.P.R. 582, 590, 2007 Juris P.R. 53 (2007). Likewise, this access allows citizens to supervise the public function in a more adequate way while promoting transparency in the governmental function. *Engineering Services International, Inc. v. Autoridad de Energía Eléctrica*, *supra*, p. 4 (citations omitted). The foregoing, then, our democratic principles “guarantee the right of the people to pass a supervisory judgment on all the actions and determinations of the Government.” *Trans Ad de P.R. v. Junta de Subastas*, *supra*, p. 67.

As has been recognized by this Court, “[t]oday the secrecy in public affairs is the exception and not the norm.” *Santiago v. Bobb y El Mundo, Inc.*, 17 PR Offic. Trans. 182, 117 DPR 153, 159 (1986). This is because “[a]llowing the government to manage public affairs under the cloak of secrecy is to invite arbitrariness, mismanagement, government indifference, public irrespon-

sibility and corruption. “E. Rivera Ramos, *La libertad de información: Necesidad de su reglamentación en Puerto Rico* (Freedom of information: Need for its regulation in Puerto Rico), 44 Rev. Jur. UPR 67, 69 (1975). Therefore, the right of access to public information requires necessarily that the State discloses information with a view to “expediting the path of interested citizens - including critics and adversaries - in finding out the truth and not sowing the path of obstacles.” *Soto v. Srio. de Justicia*, supra, p. 504.

However, this right is not unrestricted. There are particular circumstances in which the State may demand that certain public information be kept confidential. For these purposes, for a confidentiality claim to be successful, the State must accurately and unequivocally prove the applicability of any of the following circumstances: (1) that a law so declares; (2) that the communication is protected by some evidentiary privilege; (3) that the disclosure of the information may harm fundamental rights of third parties; (4) that it is a confidential informant, according to Rule 515 of Evidence of 2009, 32 LPRA App. VI, or (5) that it is official information according to Rule 514 of Evidence of 2009, 32 LPRA App. VI. *Santiago v. Bobb y El Mundo, Inc.*, supra.

When invoking any such restriction to limit access to information, the State must meet the criteria of strict scrutiny. *Bhatia Gautier v. Gobernador*, 2017 TSPR 173, 199 DPR 59, 82 (2017); *Ortiz v. Dir. Adm. De los Tribunales*, supra, p. 178; *Colon Cabrera v. Caribbean Petroleum*, supra, p. 593. In other words, “the State has the burden of proving that it satisfies any of the exceptions listed above.” *Colon Cabrera v. Caribbean Petroleum*, supra, p. 591. Consequently, the State’s refusal to disclose public affairs must be duly



substantiated and justified, since mere generalizations are not enough. *Santiago v. Bobb y El Mundo, Inc.*, supra.

Under this approach, it is clear that the courts must be “cautious in lightly granting any request for confidentiality from the State.” *Santiago v. Bob y El Mundo, Inc.*, supra. Thus, “[f]acing the hermetic resistance of the State to make the right of access to information viable, it is up to the courts to clear the way.” *Soto v. Srio de Justicia*, supra, p. 504. The contrary, surely, would represent a setback to the advanced steps that this Court has ruled in favor of the right of access to fundamental information and equality between the State and citizens. *Engineering Services International, Inc. v. Autoridad de Energía Eléctrica*, supra, p. 6 (quoting *Santiago v. Bobb y El Mundo, Inc.*, supra, p. 160).

## II

From the outset, it should be noted that here it is not in dispute that the information requested by the Overseas Press Club of Puerto Rico (OPCPR) constitutes a public document. *This arises from the Administrative Rules of the Court of First Instance* when expressly provides that “[t]he judicial records are public.” *Id.*, R. 32 (a) (1). In the same way, the recording of a hearing in which the granting of a protection order is elucidated is considered part of the judicial file, since the rule itself thus catalogs any form that collects what happened in such hearings. *Id.*, R. 32 (a) (6). Thus, having determined that the information requested by the OPCPR emanates from a public document, the right of citizens to access such recordings is born.

In this context, it is necessary to reiterate my firm position that judicial procedures are characterized by

the widest accessibility and transparency. This, with the purpose that citizens have greater access to judicial processes, while, at the same time, the rights that protect the press are protected. *In re Enmdas. Regl. Uso de Cámaras. Jud.*, 2015 TSPR 92, 193 DPR 475, 502 (2015) (Estrella Martínez, individual vote). Thus, in the process of transmission of hearings, the judge “who presides over the proceedings has broad discretion to prohibit, conclude or limit the coverage of a judicial proceeding, of portions of it, or of the testimony of any of those involved in the proceedings process”. *Id.*, P. 511 (citations omitted). In so determining it, it will take into consideration “the interest of justice in protecting the rights of the parties and of the witnesses, and to preserve the order and good conduct that should prevail in the judicial process.” *Id.* (citations omitted). This being the case, in our jurisdiction “we have guarantees that dispel the concerns and questions of those who oppose the press having access to fully transmit the judicial proceedings.” *Id.* (citations omitted).

Certainly, the controversy before us today is not strictly limited to the transmission of hearings, but to the request for recordings of a judicial proceeding that has already been completed.<sup>4</sup> However, this does not prevent these same guarantees from being extended to the process of the disclosure of court records when

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<sup>4</sup> Regarding this matter, it is important to highlight that Article 5.005 of the Law of the Judiciary of the Commonwealth of Puerto Rico of 2003 recognizes the judge who presides over the court of a procedure under the Law for the prevention and intervention with domestic violence, known as Act 54, the discretion due to attend these cases with “controlled access to the public to safeguard the identity of the victim...”. 4 LPRA sec. 25e. Note that this article is aimed at establishing a control in the prospective celebration of procedures under Act 54, which it does.

we deem it meritorious. In this sense, I have consequently recognized that we have at our disposal “the necessary safeguards to protect certain actors of the legal tract, whose protection is essential for the discovery of the truth.” *ASPRO, Ex parte*, 2015 TSPR 45, 192 D.P.R. 961, 970 (2015) (Estrella Martínez, dissenting opinion) (citing *In re: C. 15; Regl. Uso Camaras Proc. Jud.*, 2013 TSPR 45, 188 DPR 424, 446, 2013 Juris PR 48 (2013) (Estrella Martínez, private vote in agreement) And, as a general rule, it cannot be otherwise because the judicial forums have the necessary tools so that, both the transmission and the dissemination of the recording of court hearings, retain their public character with the necessary safeguards.

The exceptional nature of confidentiality that the request for the re-recording of the hearings could represent should be reserved exclusively for those instances in which the judge presiding over the processes decides that, by virtue of the grounds and compelling justifications presented by the State, it is meritorious that certain protective measures are adopted to guarantee confidentiality. As I have reiterated before, “the transmission of judicial proceedings facilitates access to information, proactive transparency and constitutes a valuable mechanism to prevent corruption in the judicial system and in the forces of public order.” *ASPRO, Ex parte.*, *Supra*, p. 971 (Estrella Martínez, dissenting opinion). Undoubtedly, access to past judicial files should be the norm and not the exception, since access to recordings of hearings already completed contains aspirations identical to those reiterated here.

In accordance with this, it is imperative to highlight that the OPCPR’s request for access to the recordings of the hearings in the case of Andrea Cristina Ruiz

Costas becomes more relevant due to the interest of the public in knowing how the case was handled and what really happened. In this sense, the disclosure of the recording of the hearings should be granted with the controls or protective measures if necessary. This, then, as well as the protective order issued by the primary forum contains parameters that govern the use by the Department of Justice, this Court, as in any case of access to information, has the power to issue any order directed to protect information that harms individual interests. In other words, there are controls to channel the request and not opt for the drastic remedy of denying the disclosure of the file in its entirety.

I cannot endorse the denial of the request in question based on the fact that this would represent a re-victimization of whom today has no voice, due to factors that deserve to be scrutinized by all. Although I understand the concern that someone may have about the disclosure of content that could harm the privacy or dignity of a human being, this is not the situation before us. If this happens in the future with a victim who needs protection, our legal system allows us to take the protective measures that are necessary, and we warn that these individual interests could overcome any interest of another party to know the interiorities of a certain judicial process that deserves to be confidential by way of exception.

Inapplicable to this particular case. In this sense, it is crystal clear that the aforementioned article does not have the effect of making the process confidential in a prospective manner and, much less, retroactively. On the other hand, even under the logic of the majority resolution, we have additional controls to attend to any specific situation that exceptionally requires not

to disclose any aspect of the judicial file. Now, I reiterate the inapplicability of such articles to the present case, especially when the petition before us does not merit this exceptional treatment of secrecy.

Nor can we hide behind the fact that this concession will constitute a deterrent for people who need a protection order to go to request it, based on the fact that they do not want their private matters to be known. As we have appreciated, our legal system has the necessary safeguards to ensure individual and private interests in those cases in which it is necessary to protect any interest of that nature. Which in my opinion would constitute a deterrent is that the situation that Andrea faced before the system is not brought to light so that the truth emerges.

On the other hand, if Andrea Cristina Ruiz Costas wanted something was to be heard to and that actions were taken. That they listen to her and that they heed her request; not just to be merely heard. Let's hear her. The same claim raises her family. Let her voice be heard so that, just as all the Powers of the State are evaluating themselves, society can also do so through the fourth Power. This is required by our legal system and the firm public policy in favor of the right of access to information and transparency in government efforts.

### III

For the reasons stated, I disagree with the course of action followed by the Majority of this Court. Instead, I would declare the petition filed by the Overseas Press Club of Puerto Rico "Granted" and, consequently, order the disclosure of the request.

Luis F. Estrella Martínez  
Associate Judge

Dissenting Particular Opinion issued by Associate Judge COLÓN PÉREZ.

In San Juan, Puerto Rico on May 6, 2021.

In accordance with our previous positions that reveal a constant defense of the right of access to public information, and after a careful analysis of the interests involved here, we dissent with the determination reached by this Curia today. One that does not allow the Overseas Press Club of Puerto Rico, a prestigious union that groups together journalists in the country, to have access to the files and recordings of the judicial process in which the young Andrea Ruiz Costas - victim of the wave of violence of gender that wraps up our People - appeared as a part and that was held in the Caguas Judicial Region on March 25, 26 and 31, 2021. There are several reasons for our dissent.

First, and as we expressed in *Bhatia Gautier v. Gobernador*, 2017 TSPR 173, 199 DPR 59, 176 (2017) (Colón Pérez, dissenting opinion), “[t]he access to public information is a cornerstone in our democratic system of government.” By virtue of this, as a general rule, and with few exceptions - as it may be that a law prevents it, that some evidentiary privilege is invoked, that it is the identity of a confidential informant, that it is official information in accordance with the Rule 514 of Evidence, 32 LPRA App. VI, or when the rights of third parties could be violated - the documents that result from public management must be subject to being scrutinized by citizens. *Id.*, P. 179.

Second, and in accordance with the criteria set forth above, regarding the nature of the hearings held in this case, it is necessary to point out that, from a careful reading of the postulates of the Judiciary Law

of 2003, Law No. 201 - 2003, 4 LPRA sec. 25e, as amended, and Act No. 54 of August 15, 1989, 8 LPRA sec. 601 *et. seq.*, as amended - known as the Law for the prevention and intervention with domestic violence - we can infer that nothing in these expressly establishes that the judicial processes for the request of an order of protection to the pallium of this last statute are covered of total confidentiality. This, unlike what happens, for example, in cases of family relationships. However, that being the case does not prevent us - as required by the previously mentioned constitutional regulations - from being judicious in the dissemination of the information described above, since it represents the record of traumatic events in the life of a person.

Third, and in light of the aforementioned, nothing prevented this Court - after having reviewed the content of the files and the recordings in dispute, which was not done here - from being able to pass judgment on what was stated in them, in order to determine what of what was said there could be the object of public dissemination and what not. Bearing in mind, as we pointed out previously, the fact that the rights of third parties will not be harmed.<sup>5</sup> An approach that - in relation to this petition - - we find it difficult to prosper, since the family of Andrea Ruiz

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<sup>5</sup> A similar exercise – correctly done - was carried out by the Administrative Judge of the Caguas Judicial Region, Hon. Ricardo Marrero Guerrero, before a request like the one that is before us and submitted by the Public Ministry. Decision that, if the party that requested it was not satisfied, understanding that greater access to information was necessary, it always had the opportunity to request a reconsideration from the enlightened judge of the Court of First Instance.

Costas has publicly requested that the information requested here be made available.

Undoubtedly, access to said information, with the aforementioned safeguards, would not only have been useful for the country's press to be able to adequately fulfill its task of informing the People, as the Overseas Press Club of Puerto Rico correctly points out in its petition, but also so that the Puerto Rican government powers - namely, the Executive Power, the Legislative Power, and the Judicial Power - had accurate data that would help them in the process of self-evaluation and introspection regarding the services and resources available to victims of gender-based violence. Process that, as a matter of fact, the three (3) leaders of the branches of government have already started. We cannot abstract from the reality that victims of gender violence experience.

Unfortunately, and different from the aforementioned, the path that the majority of this Court followed today only contributes to increasing the level of disinformation that certain people - without truly knowing the details that gave rise to the sad and unfortunate incidents that are being experienced today in our Puerto Rico - have created in the Country. This, since at no time did these people have or have had access to the information that this Court today does not allow to be disclosed, which, without any doubt, would have revealed what really happened in the court hearings held in the Caguas Judicial Region on March 25, 26 and 31, 2021.

In short, in settings as particular as these, where the Country demands greater transparency and accountability, and paraphrasing Louis Brandeis, judge of the Supreme Court of Justice of the United States at the beginning of the 20th century, today



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some of my colleagues on the podium forget that  
“sunlight is the best disinfectant.” Therefore, I dissent.

Angel Colon Perez  
Associate Judge

103a

**CERTIFICATION OF ACCURACY**

I, Andre Moskowitz, hereby certify that I am a Spanish>English translator certified by the American Translators Association (Certification No. 422086) and that the foregoing is a true and accurate translation of the following document that was provided to me:

Resolution dated May 6, 2021

[SEAL]

American Translators Association  
Andre Moskowitz  
Spanish into English  
Certification #422086  
Certified Translator]

Verify at [www.atanet.org/verify](http://www.atanet.org/verify)

**APPENDIX H**

ASPPRO | Puerto Rico Journalists Association

May 6, 2021

TO: Atty. Domingo Emmanuelli Hernández  
Secretary of the Puerto Rico Department  
of Justice  
Hon. Sigfrido Steidel Figueroa,  
Administrative Director  
Court Administration Office  
Official Information Courts, pursuant to  
Art. 5 of Law 141-2019

FROM: Puerto Rico Journalists Association  
(ASPPRO)

SUBJECT: Request for public information

In accordance with the provisions of Law No. 141 of August 1, 2019, “Law of Transparency and Expedited Procedure for Access to Public Information” (hereinafter the Transparency Law) we request the following:

- 1- Recordings of cases CG2021CR00274 and OPA 2021011403 for the dates of March 25, 26 and 31, 2021, which include the interventions of the judges of the Court of First Instance Hon. Ingrid Alvarado Rodríguez and Hon. Sonya Nieves Cordero and the testimony of the injured petitioner, omitting the instances in which she discloses sensitive information as part of her testimony.

*A- Description:*

- 1- The disclosure of the requested recordings, which were captured using the Zoom digital videoconference platform and stored both on the servers of the Department of Justice and

those of the Judicial Branch, are covered by the highest public interest, since the People of Puerto Rico has the constitutional right to supervise the actions of all branches of his Government, including the Judiciary.

- 2- The disclosure of the information enjoys the constitutional presumption of publicity established in the Constitution of Puerto Rico, interpreted in the jurisprudence of the Supreme Court, and approved by means of executive orders and legislation still untouched, such as Law 141-2019 cited above.
- 3- The delivery of these recordings is allowed under the Protective Order issued on May 5, 2021, by the administrative judge of the Caguas judicial region, Hon. Ricardo G. Marrero Guerrero, since in this it excludes the application of the directive to the Department of Justice expressly.
- 4- The recordings are not part of the prosecutor's file, so they continue to be of a public nature, a fact that was recognized by the prosecutor Melissa Vázquez, head of the prosecutors of the Department of Justice. Her statements were made to the journalist Oscar Serrano for NotiCel, which is why they are part of the journalistic record of the digital medium since May 5, 2021.

*B- Format*

We also request that said recordings be sent in digital format to the email addresses of the subscribers, which are detailed below, in compliance with Article 6 of the aforementioned law:

106a

Damaris Suárez Lugo:  
asociaciondeperiodistaspr@gmail.com

Lcdo. Rafelli González Cotto:  
rafelli.law@gmail.com

We appreciate the prompt attention to this request. If we do not receive a response to this request in accordance with the provisions of the aforementioned law, we will proceed to demand public information in the corresponding legal forums.

Sincerely,

/s/ Damaris Suárez Lugo  
Damaris Suárez Lugo, President  
Puerto Rico Journalists Association

/s/ Atty. Rafelli González Cotto  
Atty. Rafelli González Cotto, Member  
Puerto Rico Journalists Association

107a

**CERTIFICATION OF ACCURACY**

I, Andre Moskowitz, hereby certify that I am a Spanish>English translator certified by the American Translators Association (Certification No. 422086) and that the foregoing is a true and accurate translation of the following document that was provided to me:

Request for Public Information, dated May 6, 2021

[SEAL]

American Translators Association

Andre Moskowitz

Spanish into English

Certification #422086

Certified Translator]

Verify at [www.atanet.org/verify](http://www.atanet.org/verify)

ASPPRO | Asociación de Periodistas de Puerto Rico

6 de mayo de 2021

A: Lcdo. Domingo Emmanuel Hernández  
Secretario del Departamento de Justicia  
de Puerto Rico  
Hon. Sigfrido Steidel Figueroa,  
Director Administrativo  
Oficina de Administración de Tribunales  
Oficiales de Información correspondientes,  
a tenor con el Art. 5 de la Ley 141-2019

DE: Asociación de Periodistas de Puerto Rico  
(ASPPRO)

ASUNTO: Solicitud de información pública

A tenor con las disposiciones de la Ley Núm. 141 del 1 de agosto de 2019, “Ley de Transparencia y Procedimiento Expedito para el Acceso a la Información Pública” (en adelante Ley de Transparencia) solicitamos lo siguiente:

- 1- Regrabaciones de los casos CG2021CR00274 y OPA 2021011403 para las fechas del 25, 26 y 31 de marzo de 2021, en la que se incluyan las intervenciones de las juezas del Tribunal de Primera Instancia Hon. Ingrid Alvarado Rodríguez y Hon. Sonya Nieves Cordero y el testimonio de la peticionaria perjudicada, omitiendo las instancias en las que esta divulga información sensitiva como parte de su testimonio.

A- *Descripción:*

- 1- La divulgación de las grabaciones solicitadas, las cuales fueron capturadas utilizando la plataforma digital de videoconferencia Zoom y almacenadas tanto en los servidores del Departamento de Justicia como los de la Rama Judi-

cial, están revestidas del más alto interés público, pues el pueblo de Puerto Rico tiene el derecho constitucional de fiscalizar las acciones de todas las ramas de su Gobierno, incluyendo el Poder Judicial.

- 2- La divulgación de la información goza de la presunción constitucional de publicidad establecida en la Constitución de Puerto Rico, interpretada en la jurisprudencia del Tribunal Supremo y aprobada mediante órdenes ejecutivas y legislaciones aún vigentes como la Ley 141-2019 antes citada.
- 3- La entrega de estas grabaciones está permitida al amparo de la Orden Protectora emitida el 5 de mayo de 2021 por el juez administrador de la región judicial de Caguas, Hon. Ricardo G. Marrero Guerrero, pues en esta excluye de la aplicación de la directriz al Departamento de Justicia de manera expresa.
- 4- Las grabaciones tampoco forman parte del sumario fiscal, por lo que continúan siendo de carácter público, hecho que fue reconocido por la fiscal Melissa Vázquez, jefa de los fiscales del Departamento de Justicia. Sus declaraciones fueron realizadas al periodista Oscar Serrano para NotiCel, por lo que forman parte del récord periodístico del medio digital desde el 5 de mayo de 2021.

#### *B- Formato*

Solicitamos además que dichas grabaciones sean enviadas en formato digital a las direcciones de correo electrónico de los suscribientes, los cuales se detallan a continuación, en cumplimiento con el Art. 6 de la mencionada ley:



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Damaris Suárez Lugo:  
asociaciondeperiodistaspr@gmail.com

Lcdo. Rafelli González Cotto:  
rafelli.law@gmail.com

Agradecemos la pronta atención a esta solicitud. De no recibir respuesta a este pedido conforme a lo establecido en la ley antes citada, procederemos a exigir la información pública en los foros legales que correspondan.

Atentamente,

/F/ Damaris Suárez Lugo  
Damaris Suárez Lugo, Presidenta  
Asociación de Periodistas de Puerto Rico

/F/ Atty. Rafelli González Cotto  
Lcdo. Rafelli González Cotto, Vocal  
Asociación de Periodistas de Puerto Rico

**APPENDIX I**

[SEAL] Puerto Rico Judiciary  
Court Administration Office

Sigifrido Steidel Figueroa  
Administrative Director of the Courts

May 6, 2021

Mrs. Damaris Suárez Lugo  
Chairwoman  
Puerto Rico Journalists Association

Atty. Rafelli González Cotto  
Vocal  
Puerto Rico Journalists Association

Dear Madam President and Vocal:

By communication of May 6, 2021, we were requested to produce the recordings of cases CG2021CR00274 and OPA 2021011403 for the dates of March 25, 26 and 31, 2021, which include the interventions of the judges of the Court of First Instance Hon. Ingrid Alvarado Rodríguez and Hon. Sonya Nieves Cordero and the testimony of the injured petitioner, omitting the instances in which sensitive information is disclosed as part of her testimony.

The Administration Office of the Courts has no objection to the disclosure of said recordings in the terms set forth. However, the custodian of said information is the Court of First Instance of the Judicial Region of Caguas, where a Protective Order related to this matter was issued.

In light of this, as well as what was resolved by the Supreme Court in the case *in re Overseas Press Club of Puerto Rico*, MC-2021-0059, we refer you to the

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Court of First Instance to make your petition before  
said forum.

Cordially,

/s/ Sigfrido Steidel Figueroa  
Sigfrido Steidel Figueroa

c. Hon. Domingo Emanuelli Hernández, Secretary of  
Justice

919-0917 | Phone: (787) 641-6623 | Fax: (787) 766-  
9831 | [www.poderjudicial.pr](http://www.poderjudicial.pr)

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**CERTIFICATION OF ACCURACY**

I, Andre Moskowitz, hereby certify that I am a Spanish>English translator certified by the American Translators Association (Certification No. 422086) and that the foregoing is a true and accurate translation of the following document that was provided to me:

Letter from Sigfrido Steidel Figueroa to Damaris Suárez Lugo, dated May 6, 2021

[SEAL]

American Translators Association  
Andre Moskowitz  
Spanish into English  
Certification #422086  
Certified Translator]

Verify at [www.atanet.org/verify](http://www.atanet.org/verify)

[SELLO] Poder Judicial de Puerto Rico  
Oficina de Administración de los Tribunales

Sigfrido Steidel Figueroa  
Director Administrativo de los Tribunales

6 de mayo de 2021

Sra. Damaris Suárez Lugo  
Presidenta  
Asociación de Periodistas de Puerto Rico

Lcdo. Rafelli González Cotto  
Vocal  
Asociación de Periodistas de Puerto Rico

Estimados señora Presidenta y señor Vocal:

Mediante comunicación de 6 de mayo de 2021 se nos solicitó la producción de las regrabaciones de los casos CG2021CR00274 y OPA 2021011403 para las fechas del 25, 26 y 31 de marzo de 2021, en las que se incluyan las intervenciones de las juezas del Tribunal de Primera Instancia Hon. Ingrid Alvarado Rodríguez y Hon. Sonya Nieves Cordero y el testimonio de la peticionaria perjudicada, omitiendo las instancias en las que esté divulgada información sensitiva como parte de su testimonio.

La Oficina de Administración de los Tribunales no tiene objeción a la divulgación de dichas regrabaciones en los términos planteados. No obstante, el custodio de dicha información es el Tribunal de Primera Instancia de la Región Judicial de Caguas, donde se emitió una *Orden Protectora* relacionada a este asunto.

En atención a ello, así como a lo resuelto por el Tribunal Supremo en el caso *In re Overseas Press Club de Puerto Rico*, MC-2021-0059, les referimos al Tribunal de Primera Instancia para que formulen su petición ante dicho foro

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Cordialmente,

/F/ Sigfrido Steidel Figueroa

Sigfrido Steidel Figueroa

c. Hon. Domingo Emanuelli Hernández, Secretario  
de Justicia

919-0917 | Teléfono: (787) 641-6623 | Fax: (787) 766-  
9831 | [www.poderjudicial.pr](http://www.poderjudicial.pr)

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**APPENDIX J**

COMMONWEALTH OF PUERTO RICO  
COURT OF FIRST INSTANCE  
CAGUAS SUPERIOR COURT

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CASE NO.: CG2021CROO274  
REL: OPA 2021011403  
BY: ART. 3.1 LAW 54

---

THE PEOPLE OF PUERTO RICO

vs.

MIGUEL OCASIO SANTIAGO

*Defendant*

---

MOTION TO REQUEST RECORDINGS

TO THE HONORABLE COURT:

THE Puerto Rico Journalists Association (hereinafter Aspro) APPEARS through its legal representation, who STATES, ALLEGES AND REQUESTS:

1. That last Monday, May 3, 2021, the administrative judge of the Judicial Region of Caguas, Hon. Ricardo G. Marrero Guerrero, issued a Protective Order in which he prohibited, under penalty of contempt, from listening to or disclosing the content of the recordings of the above-captioned cases.
2. That on Thursday, May 5, 2021, Aspro requested the Administrative Director of the Office of Court Administration (hereinafter OAT), Hon. Sigfrido Steidel Figueroa, to deliver the recordings, eliminating the sensitive parts of the testimony of the

petitioner-victim, in order to preserve her memory and the integrity of her next of kin, under the protection of Law 141-2019, “Law of Transparency and Access to Public Information.” (Annex 1)

3. That that same day, the Court Administrator answered our request and indicated that he had no qualms about delivering the information requested in the terms set forth and referred Aspro to this Court to request the recordings. (Annex 2)
4. That by constitutional delegation of the Chief Justice of the Supreme Court of Puerto Rico, Hon. Maite Oronoz Rodríguez, the operation of the recording system is a responsibility assigned to the Administrative Director of OAT, who expressed himself in writing in favor of the disclosure of the requested in the terms raised by the ASPPRO.
5. That this Court can take judicial notice that the family of the victim petitioner publicly expressed itself in favor of the delivery of the recordings, in statements to the newspaper El Nuevo Día on May 6, 2021, a story was published on its website web <https://www.elnuevodia.com/noticias/locales/notas/familia-de-andrea-ruiz-costas-supports-disclosure-of-audio-linked-to-your-case-that-your-death-no-be-in-vain/>
6. That neither the aforementioned Protective Order nor that resolved by the Supreme Court in the case *In re Overseas Press Club of Puerto Rico*, MC-2021-0059 contemplates the delivery of the recordings in the manner in which it is requested here, therefore that are not applicable.

THEREFORE, we ask this Honorable Court to declare our request to have been granted and to deliver the recordings of the above-captioned cases, eliminating



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the parts sensitive to the testimony of the petitioner-victim.

RESPECTFULLY SUBMITTED.

In Bayamon, Puerto Rico on May 7, 2021.

I CERTIFY: That on this same date the Administrative Director of OAT, Hon. Sigfrido Steidel Figueroa, is notified with a copy of this letter, through the email of his information officer, Mr. Daniel Rodríguez, [daniel.rodriguez@ramajudicial.pr](mailto:daniel.rodriguez@ramajudicial.pr).

/s/ Rafelli González Cotto

ATTY. RAFELLI GONZÁLEZ COTTO

RUA Núm.: 20,571

Ave. Lomas Verdes N-3

Bayamón, PR 00956

Tel.: (787) 969-1969

Email: [rafelli.law@gmail.com](mailto:rafelli.law@gmail.com)

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**CERTIFICATION OF ACCURACY**

I, Andre Moskowitz, hereby certify that I am a Spanish>English translator certified by the American Translators Association (Certification No. 422086) and that the foregoing is a true and accurate translation of the following document that was provided to me:

Motion to Request Recordings, dated May 7, 2021

[SEAL]

American Translators Association

Andre Moskowitz

Spanish into English

Certification #422086

Certified Translator]

Verify at [www.atanet.org/verify](http://www.atanet.org/verify)

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ESTADO LIBRE ASOCIADO DE PUERTO RICO  
TRIBUNAL DE PRIMERA INSTANCIA  
SALA SUPERIOR DE CAGUAS

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NÚM. DE CASO: CG2021CR00274  
REL: OPA 2021011403  
POR: Art. 3.1 Ley 54

---

PUEBLO DE PUERTO RICO

vs.

MIGUEL OCASIO SANTIAGO

*Imputado*

---

MOCIÓN EN SOLICITUD DE REGRABACIÓN

AL HONORABLE TRIBUNAL:

COMPARECE la Asociación de Periodistas de Puerto Rico (en adelante Asppro) por conducto de su representación legal, quien EXPONE, ALEGA Y SOLICITA:

1. Que el pasado lunes, 3 de mayo de 2021, el juez administrador de la Región Judicial de Caguas, Hon. Ricardo G. Marrero Guerrero, emitió una Orden Protectora en la que prohibió bajo apercibimiento de desacato el escuchar o divulgar el contenido de las grabaciones de los casos de epígrafe.
2. Que el jueves, 5 de mayo de 2021, la Asppro solicitó al Director Administrativo de la Oficina de Administración de Tribunales (en adelante OAT), Hon. Sigfrido Steidel Figueroa, a que entregase las grabaciones, eliminando las partes sensitivas del

testimonio de la peticionaria-víctima, para de esa forma preservar su memoria y la integridad de sus familiares, al amparo de la Ley 141-2019, “Ley de Transparencia y Acceso a la Información Pública”. (Anejo 1)

3. Que ese mismo día, el Administrador de Tribunales contestó nuestro pedido e indicó que no tenía reparo en entregar la información solicitada en los términos planteados y refirió a la Aspro a este Tribunal para solicitar las regrabaciones. (Anejo 2)
4. Que por delegación constitucional de la Jueza presidenta del Tribunal Supremo de Puerto Rico, Hon. Maite Oronoz Rodríguez, la operación del sistema de regrabaciones es una responsabilidad asignada al Director Administrativo de OAT, quien se expresó por escrito a favor de la divulgación de lo solicitado en los términos planteados por la Aspro.
5. Que este Tribunal puede tomar conocimiento judicial de que la familia de la peticionaria-víctima se expresó públicamente a favor de la entrega de las regrabaciones, en declaraciones al diario El Nuevo Día el pasado 6 de mayo de 2021, historia fue publicada en su sitio web <https://www.elnuevodia.com/noticias/locales/notas/familia-de-andrea-ruiz-costas-apoya-divulgacion-de-audio-vinculado-a-su-caso-que-su-muerte-no-sea-en-vano/>
6. Que ni la Orden Protectora antes mencionada ni lo resuelto por el Tribunal Supremo en el caso *In re Overseas Press Club de Puerto Rico*, MC-2021-0059 contempla la entrega de las regrabaciones de la forma en que aquí se solicita, por lo que no son de aplicación.

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POR TODO LO CUAL, solicitamos a este Honorable Tribunal que declare Ha Lugar nuestra solicitud y que entregue las regrabaciones de los casos de epígrafe, eliminando las partes sensitivas del testimonio de la peticionaria-víctima.

RESPETUOSAMENTE SOMETIDO.

En Bayamón, Puerto Rico a 7 de mayo de 2021.

CERTIFICO: Que en esta misma fecha se notifica con copia del presente escrito al Director Administrativo de OAT, Hon. Sigfrido Steidel Figueroa, a través del correo electrónico de su oficial de información, el señor Daniel Rodríguez, daniel.rodriguez@ramajudicial.pr.

/F/ Rafelli González Cotto  
LCDO. RAFELLI GONZÁLEZ COTTO  
RUA Núm.: 20,571  
Ave. Lomas Verdes N-3  
Bayamón, PR 00956  
Tel.: (787) 969-1969  
Email: rafelli.law@gmail.com

**APPENDIX K**

**SWORN DECLARATION**

I, Olga Esther Costas Rodríguez, of legal age, single, retired and a neighbor of Ponce, Puerto Rico, under the most solemn oath declare that:

1. My name and other personal circumstances are those previously stated.

2. I am the mother of Andrea Cristina Ruiz Costas, a young woman murdered on April 29, 2021, by her ex-partner Miguel Ocasio Santiago, who confessed to the commission of the crime.

3. According to her, it has been publicly disclosed that my deceased daughter went to the Caguas Court of First Instance on three occasions to request help for the pattern of harassment and mistreatment to which she was being subjected by her ex-partner.

4. The efforts made by my deceased daughter before the Court of First Instance, Chamber of Caguas were unsuccessful since the requested protection order was never issued; and in the Hearing of Rule 6 the judge found no cause for arrest.

5. Then a voice recording of my daughter emerged where she complains about the treatment received by both judges before whom she testified.

6. In order that the truth about what happened before the Caguas Court be known; and as the mother of my deceased daughter, Andrea Cristina Ruiz Costas, I request that I be given access to the recordings, whether video or audio, of the visits held on March 25, 26 and 31, before Chamber Specialized in Domestic Violence, of the Judicial Region of Caguas.

7. My daughter, a victim of murder, having died, it is impossible to re-victimize her. However, the disclosure of the recordings in this case would be key for the control of the processing of cases as sensitive as those related to gender violence. In addition, it would offer confidence to women in these circumstances that their case will be handled with deference and sensitivity.

And for the record, I sign this affidavit in Ponce, Puerto Rico, today May 7, 2021.

/s/ Olga E. Costas  
Olga Esther Costas Rodríguez  
DECLARANT

AFFIDAVIT NUMBER: 332

Sworn to and subscribed before me by Olga Esther Rodríguez Costas of personal circumstances who exposed before attest to know personally in Ponce, Puerto Rico on May 7, 2021

[RECEIPT]

/s/ illegible  
NOTARY  
[NOTARY STAMP]

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**CERTIFICATION OF ACCURACY**

I, Andre Moskowitz, hereby certify that I am a Spanish>English translator certified by the American Translators Association (Certification No. 422086) and that the foregoing is a true and accurate translation of the following document that was provided to me:

Sworn Declaration of Olga Esther Costas Rodríguez,  
dated May 7, 2021

[SEAL]

American Translators Association  
Andre Moskowitz  
Spanish into English  
Certification #422086  
Certified Translator]

Verify at [www.atanet.org/verify](http://www.atanet.org/verify)



DECLARACION JURADA

Yo, Olga Esther Costas Rodríguez, mayor de edad, soltera, retirada y vecina de Ponce, Puerto Rico, bajo el más solemne juramento declaro que:

1. Mi nombre y demás circunstancias personales son las anteriormente expuestas.

2. Soy la madre de Andrea Cristina Ruiz Costas, joven asesinada el 29 de abril de 2021, por su expareja Miguel Ocasio Santiago, quien confesó la comisión del delito.

3. Según ha trascendido públicamente, mi fenecida hija acudió en tres ocasiones ante el Tribunal de Primera Instancia de Caguas para solicitar auxilio por el patrón de acoso y maltrato al que estaba siendo sometida por su expareja.

4. Los esfuerzos realizados por mi fenecida hija ante el Tribunal de Primera Instancia, Sala de Caguas fueron infructuosos pues nunca se expidió la orden de protección solicitada; y en la Vista de Regla 6 la juez no encontró causa para arresto.

5. Luego surgió una grabación en voz de mi hija donde ella se queja del trato recibido por ambas juezas ante las que declaró.

6. Con el propósito de que se conozca la verdad sobre lo acontecido ante el Tribunal de Caguas; y como madre de mi fenecida hija, Andrea Cristina Ruiz Costas, solicito que se me de acceso a las grabaciones, sean video o audio, de las vistas celebradas los días 25, 26 y 31 de marzo de 2021, ante la Sala Especializada en Violencia Doméstica, de la Región Judicial de Caguas.

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7. Habiendo fallecido mi hija víctima de asesinato, es imposible su revictimización. Sin embargo, la divulgación de las grabaciones en este caso sería clave para la fiscalización del trámite de casos tan sensitivos como aquellos relacionados con la violencia de género. Además, les ofrecería confianza a mujeres en esas circunstancias, de que su caso se atenderá con deferencia y sensibilidad.

Y para que así conste, firmo esta declaración jurada en Ponce, Puerto Rico, hoy 7 de mayo de 2021.

/F/ Olga E. Costas  
Olga Esther Costas Rodríguez  
DECLARANTE

AFFIDAVIT NÚMERO: 332

Jurado y suscrito ante mí por Olga Esther Costas Rodríguez, de las circunstancias personales antes expuestas a quien doy fe de conocer personalmente en Ponce, Puerto Rico a 7 de mayo de 2021.

[RECIBO]

/F/ illegible  
NOTARIO  
[SELLO NOTARIAL]

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**APPENDIX L**

COMMONWEALTH OF PUERTO RICO  
COURT OF FIRST INSTANCE  
CAGUAS SUPERIOR COURT

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CASE NUM.: CG2021CROO274  
REL: OPA 2021011403  
BY: ART. 3.1 LAW 54

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THE PEOPLE OF PUERTO RICO

*Appellee*

vs

MIGUEL OCASIO SANTIAGO

*Appellee*

---

URGENT MOTION SUPPLEMENTING  
THE RECORD TO AMEND MOTION  
TO REQUEST RECORDINGS

TO THE HONORABLE COURT:

The Association of Journalists of Puerto Rico (hereinafter Asppro) APPEARS through its legal representation, who STATES, ALLEGES AND REQUESTS:

1. That last Friday, May 7, 2021, the administrative judge of the Caguas Judicial Region, Hon. Ricardo G. Marrero Guerrero, issued an Order scheduling a face-to-face hearing for tomorrow, Tuesday, May 11, 2021, at 9:30 AM, in room 301 of the Caguas Judicial Center, in response to our request for the recording of the above-captioned cases under the

Law of Transparency and Expedited Procedure for Access to Public Information, Law 141 of 2019.

2. That the honorable administrative judge also ordered that, through Asppro, the next of kin of Andrea Ruiz Costas be notified and summoned to appear at said hearing.
3. That that same day, the mother of the petitioner-victim, Mrs. Olga Esther Costas Rodríguez, expressed her unequivocal desire by means of a duly authorized sworn statement before a public notary that the recordings of her deceased daughter be published in full, a document that we request be included in the record of this case. (Appendix 1)
4. That it is clear from her statements in the sworn statement that this expressly waives any applicable right to privacy and confidentiality, if any, in relation to the delivery of the recordings in which her deceased daughter participated.
5. That it is public knowledge that during the weekend of May 8 to 9, 2021, the mother of Andrea Ruiz Costas was immersed with her relatives in the painful process of saying goodbye to her daughter during the funeral acts held intimately.
6. That in the preambles of the Code of Professional Ethics and the Canons of Judicial Ethics, they mandate all members of the legal profession, individually and collectively, ensure that legal processes establish the highest principles of the inviolability of the human being, ensuring that cases and controversies are resolved with the highest degree of sensitivity.
7. That in view of the aforementioned events, in order to avoid a potential re-victimization of the mother

of the petitioner-victim and in an act of prudence and solidarity in these sensitive moments, we request that the mother of Andrea Ruiz Costas be relieved of appearing in this administrative process, as well as any member of her family.

8. That in light of the strong statements of Mrs. Olga Esther Costas Rodríguez, Aspro requests that its Motion to Request Recordings be amended, to request this Honorable Court to deliver in full all the recordings of the hearings held for above-captioned cases and any audiovisual material related to these judicial processes.

THEREFORE, we ask this Honorable Court to declare our request to Have Been Granted, supplementing the record of this case with the sworn statement of the mother of the petitioner-victim and amending our request so that all recordings of the hearings held for the above-captioned cases are provided in full.

RESPECTFULLY SUBMITTED.

In Bayamón, Puerto Rico on May 10, 2021.

I CERTIFY: That on this same date the Administrative Director of OAT, Hon. Sigfrido Steidel Figueroa, is notified with a copy of this letter, through the email of his information officer, Mr. Daniel Rodríguez, [daniel.rodriguez@ramajudicial.pr](mailto:daniel.rodriguez@ramajudicial.pr). In addition, the present motion is notified to the Department of Justice of Puerto Rico at its email [transparency@justicia.pr.gov](mailto:transparency@justicia.pr.gov), to the Office of the Ombudsman for Women, through the email of its information officer [leticia@jlj-llc.com](mailto:leticia@jlj-llc.com) and the publicist of Andrea Ruiz Costas relatives [nellycruzpr@yahoo.com](mailto:nellycruzpr@yahoo.com).

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/s/ Rafelli González Cotto  
ATTY. RAFELLI GONZÁLEZ COTTO  
RUA Núm.: 20,571  
Ave. Lomas Verdes N-3  
Bayamón, PR 00956  
Tel.: (787) 969-1969  
Email: rafelli.law@gmail.com

132a

**CERTIFICATION OF ACCURACY**

I, Andre Moskowitz, hereby certify that I am a Spanish>English translator certified by the American Translators Association (Certification No. 422086) and that the foregoing is a true and accurate translation of the following document that was provided to me:

Urgent Motion to Supplement Record, dated May 10, 2021

[SEAL]

American Translators Association  
Andre Moskowitz  
Spanish into English  
Certification #422086  
Certified Translator]

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133a

ESTADO LIBRE ASOCIADO DE PUERTO RICO  
TRIBUNAL DE PRIMERA INSTANCIA  
SALA SUPERIOR DE CAGUAS

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NÚM. DE CASO: CG2021CR00274  
REL: OPA 2021011403  
POR: Art. 3.1 Ley 54

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PUEBLO DE PUERTO RICO

vs.

MIGUEL OCASIO SANTIAGO

*Imputado*

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MOCIÓN URGENTE SUPLEMENTANDO  
EL RÉCORD PARA ENMENDAR  
SOLICITUD DE REGRABACIÓN

AL HONORABLE TRIBUNAL:

COMPARECE la Asociación de Periodistas de Puerto Rico (en adelante Asppro) por conducto de su representación legal, quien EXPONE, ALEGA Y SOLICITA:

1. Que el pasado viernes, 7 de mayo de 2021, el juez administrador de la Región Judicial de Caguas, Hon. Ricardo G. Marrero Guerrero, emitió una Orden señalando vista presencial para mañana martes, 11 de mayo de 2021 a las 9:30 A.M., en la sala 301 del Centro Judicial de Caguas, en respuesta a nuestra solicitud de regrabación de los casos de epígrafe al amparo de la Ley de Transparencia y Procedimiento Expedito para el Acceso a la Información Pública, Ley 141 de 2019.



2. Que el honorable juez administrador ordenó además que por conducto de la Asppro se notificase y citase a los familiares de Andrea Ruiz Costas para que comparezcan a dicha vista.
3. Que ese mismo día, la madre de la peticionaria-víctima, la señora Olga Esther Costas Rodríguez, manifestó su deseo inequívoco mediante declaración jurada debidamente autorizada ante notario público de que las regrabaciones de su hija fenecida fueran publicadas de forma íntegra, documento que solicitamos se incluya en el expediente de este caso. (Anejo 1)
4. Que de sus dichos en la declaración jurada surge con meridiana claridad que esta renuncia de manera expresa cualquier derecho a la intimidad y confidencialidad aplicable, si alguno, en relación a la entrega de las regrabaciones en las que participó su hija fallecida.
5. Que es de conocimiento público que durante el fin de semana del 8 al 9 de mayo de 2021 la madre de Andrea Ruiz Costas estuvo inmersa junto a sus familiares en el doloroso proceso de decirle adiós a su hija durante los actos fúnebres llevados a cabo de forma íntima.
6. Que en los preámbulos del Código de Ética Profesional y de los Cánones de Ética Judicial mandatan a todos los miembros de la profesión jurídica, individual y colectivamente, a velar por que los procesos legales consagren los principios máximos de la inviolabilidad del ser humano, procurando que se resuelvan los casos y controversias con el más alto grado de sensibilidad.
7. Que en vista de los sucesos antes mencionados, con el fin de evitar una potencial revictimización de la

madre de la peticionaria-víctima y en un acto de prudencia y solidaridad en estos momentos tan sensitivos, solicitamos que se releve a la madre de Andrea Ruiz Costas de comparecer a este proceso administrativo, así como a cualquier miembro de su familia.

8. Que ante las contundentes declaraciones de la señora Olga Esther Costas Rodríguez, la Aspro solicita que se enmiende su Moción en Solicitud de Regrabación, para requerirle a este Honorable Tribunal la entrega íntegra de todas las regrabaciones de las vistas celebradas para los casos de épigrafe y cualquier material audiovisual relacionado a estos procesos judiciales.

POR TODO LO CUAL, solicitamos a este Honorable Tribunal que declare Ha Lugar nuestra solicitud, suplementando el récord de este caso con la declaración jurada de la madre de la peticionaria-víctima y enmendando nuestro pedido para que se entregue de forma íntegra todas las regrabaciones de las vistas celebradas para los casos de epígrafe.

RESPETUOSAMENTE SOMETIDO.

En Bayamón, Puerto Rico a 10 de mayo de 2021.

CERTIFICO: Que en esta misma fecha se notifica con copia del presente escrito al Director Administrativo de OAT, Hon. Sigfrido Steidel Figueroa, a través del correo electrónico de su oficial de información, el señor Daniel Rodríguez, daniel.rodriguez@rama judicial.pr. Además, se notifica la presente moción al Departamento de Justicia de Puerto Rico a su email transparencia@justicia.pr.gov, a la Oficina de la Procuradora de las Mujeres, a través del correo electrónico de su oficial de información leticia@jlj-llc.com y a la

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relacionista de los familiares de Andrea Ruiz Costas  
nellycruzpr@yahoo.com.

/F/ Rafelli González Cotto  
LCDO. RAFELLI GONZÁLEZ COTTO  
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**APPENDIX M**

COMMONWEALTH OF PUERTO RICO  
GENERAL COURT OF JUSTICE  
IN THE SUPREME COURT

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NUM. CT-2021-0008

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THE PEOPLE OF PUERTO RICO

*Appellee*

v.

MIGUEL OCASIO SANTIAGO

*Appellee*

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Nature:

Disclosure of Recordings of the hearings in the case of  
the People of Puerto Rico vs. Miguel Ocasio Santiago,  
Rel.

OPA 2021011403,  
No. cg2021cr00274  
by Art. 3.1 Law 54

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In *Mills v. Alabama* 384 U.S. 214, 218 (1966),  
this Court observed: “Whatever differences  
may exist about Interpretations of the First  
Amendment, there is practically universal  
agreement that a major purpose of that  
Amendment was to protect the free discussion  
of governmental affairs.” Although it is as-  
sumed that judges will ignore the public  
clamor or media reports at editorials in reach-

ing their decisions and by tradition will not respond to public commentary, the law gives “judges as persons, or courts as institutions . . . no greater immunity from criticism than other persons or institutions.” *Bridges v. California*, 314 U.S. 252, 289 (1941) (Frankfurter, J., dissenting). The operations of the court and judicial conduct of judges are matters of outmost public concern. *Landmark Communication v. Virginia*, 435 U.S. 829, 839-39, (1978)

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### MOTION TO REQUEST RECONSIDERATION

TO THE SUPREME COURT:

THE PUERTO RICO JOURNALISTS ASSOCIATION (“ASPPRO”) appears, represented by the undersigned attorneys, who very respectfully State, Allege and Request:

#### I. INTRODUCTION

This honorable court, through an extraordinary and highly atypical intrajurisdictional certification, expedited on its own initiative, being even more exceptional, and in conjunction with the also highly exceptional rule 50 of the regulations of this same Court, issued a judgment dispensing with all the terms and of any opportunity to present a certification statement, denying ASPPRO access to the request, both in its totality and in a limited way, for the recordings of the cases CG2021CR00274 and OPA 2021011403 for the dates of March 25, 26 and 31, 2021 (“Judgment”). In these recordings, the victim of gender violence Andrea Ruiz Costas (deceased) went to the Investigation Chamber of the Court of First Instance in the Municipal Chamber of Caguas. For such purposes, hearings were held for the protection order as well as

under Rule 6 under Act No. 54 of August 15, 1989, Act on Prevention and Intervention with Domestic Violence (“Act 54”). 8 L.P.R.A. sec. 601 et seq.

On May 6, 2021, ASPPRO made its request through the administrative mechanism of Act No. 141 of August 1, 2019, Act of Transparency and Expedited Procedure for Access to Public Information, to the court administration office (“OAT”) and the Department of Justice. However, the petition was referred to the Court of First Instance of Caguas, which was alleged to be the custodian of the information requested. Pending the holding of a hearing with notification to all the parties involved in the case for May 11, 2021, this honorable Court resolved the case through the judgment that is being appealed today.

Very respectfully, we request the reconsideration of the Judgment issued because we understand that the determination of this Honorable Court lacks the legal examination to which the Protective Order issued by the Administrative Judge of the Judicial Region of Caguas on May 3, 2021 (the “Protective Order”) should have been submitted. This order had to undergo a strict scrutiny analysis, which is imperative under the repeated regulations regarding access to information, due process of law, and freedom of the press. This analysis is imperative by mandate of the First and Fourteenth Amendment of the Constitution of the United States of America, as well as section 4 of article II of the Constitution of the Commonwealth of Puerto Rico, which is impregnated with the highest hierarchy and protection. In our legal system.

This action commenced by the request for information from the press based on events that have placed the conduct of our governmental system under public scrutiny. This questioning is not directed

merely at the Judicial Branch but extends to both the Executive and Legislative Branches. The three branches of government are called upon to address the growing increase in cases of gender violence. It is a crisis that affects our island and that has worsened in recent years.<sup>1</sup> Although this Honorable Court could have a laudable intention in its conduct, the result is that both the scrutiny applied in the Judgment and the mechanism used, represent a direct violation of the due process of law of the undersigned party regarding the hasty manner of handling this controversy. In addition, the conduct of this highest forum also constitutes a direct violation of both the right of access to information of the people and of the freedom of the press to oversee government management through this case, as which is invested with the highest public interest.

The events that motivate the above-captioned case and the need for the requested information take on greater importance at the national level in the particular historical context in which the controversy takes place. After the murder of Andrea Ruiz Costas, it was publicly known that the victim had expressed serious questions about the management of the system in her request for assistance through the mechanisms provided for by Act 54. Undoubtedly, we are faced with a case that reveals patent flaws in the mechanisms designed by our governmental system to address this problem.

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<sup>1</sup> On January 25, 2021, the Honorable Governor of Puerto Rico, Pedro R. Pierluisi Urrutia, promulgated executive order OE-2021-013, declaring a State of Emergency due to the increase in cases of gender violence in Puerto Rico.

The information that has been requested by the people is necessary to be able to evaluate what we need as a society to improve a system that we know is not perfect. However, it is information and self-criticism that can raise a serious, calm, and necessary public discussion to achieve an effective system that allows us to eradicate the crisis that we all face together. This discussion could well engender legislation that provides better legal tools, provokes executive action to correctly impart public policy, and solidifies the action of the Judiciary in complete synchrony with the objective of building a better country.

## II. BRIEF DISCUSSION THE LEGAL ISSUES RAISED

This request for reconsideration is made in accordance with Rule 45(A) of the regulations of the Supreme Court of Puerto Rico. 4 L.P.R.A. Ap. 1-A, R.45. This is submitted within ten (10) business days after receiving the amended notice regarding the adjudication of the *sua sponte* Intrajurisdictional Certification Resource, in accordance with Rule 39, 4 L.P.R.A. Ap. 1-A, R.39 of the regulations of the honorable Supreme Court. This notification was received together with the copy of the certification on May 11, 2021, entitled "AMENDED NOTICE."<sup>2</sup>

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<sup>2</sup> "Initially, in the initial notification of the Intrajurisdictionally Certified Judgment issued by this Honorable Court on May 10, 2021, the legal representative of the appellant was not included due to an apparent clerical error. In communications with the Court of Caguas regarding the lack of said notification, it became aware of the error and for this purpose it was necessary to amend the notification to include the appellant in the notification, the Ombudsman for Women and the Department of Justice."



Reconsideration of the Judgment issued through the Intra-jurisdictional Certification Resource is requested, certified on its own initiative by this Honorable Court and under the protection of Rule 50 of the Supreme Court, regardless of any certification term or document, issued on May 10 of 2021 and notified to the undersigned on May 11, 2021 (the “Judgment”). In the judgment of this Honorable Court, the ASPPRO request was declared DENIED.

With the greatest of respect and with the highest degree of responsibility, it behooves us to point out that this Honorable Court erred in the following:

- (1) This Honorable Court erred by using the Intra-jurisdictional Certification mechanism on its own initiative and in combination with Rule 50 and thus dispensing with both the processes to be held in the forum of first instance, as well as the terms so that the undersigned party could present a brief with its position on the controversy.
- (2) This Honorable Court erred by not applying the strict scrutiny mandated by constitutional regulations when analyzing the protective order in light of a request for access to information, as a corollary of the legitimate and constitutional exercise of freedom of the press.
- (3) This Honorable Court erred by completely closing access to the recordings, by carrying out an interpretative analysis of what the law provides that provides controlled access to the public to the room where the judicial processes take place, in which they analogously conclude that the deliveries of the recordings “are not compatible with the possibility that the record-

ing may later be made public, even if it limited or part or it is omitted, regardless of who requests it.”

#### IV. ANALYSIS AND DISCUSSION

##### A.

The Intrajurisdictional Certification resource is a highly discretionary and exceptional mechanism. *U.P.R. v. Laborde Torres*, 180 D.P.R. 253 (2010); *Montalvo v. Padilla*, 194 D.P.R. 760, 783 (2016); *Quinones Rivera v. Departamento de Educación*, 204 D.P.R. 428, 435 (2020). This Court has reiterated that “it is preferable that the cases mature gradually through the ordinary process, as this allows disputes to be clarified and refined without the last instance forum having to interfere at the wrong time.” *Rivera Soto v. JCA*, 164 D.P.R. 1 (2015). This honorable forum must evaluate: (1) if issues of public interest are raised that could include substantial matters under the Constitution of Puerto Rico or the United States; (2) the stage of the case; (3) the urgency and complexity of the controversy and (4) the need that may exist to present evidence. *Rivera Schatz v. ELA and C. Abo. ER II*, 191 DPR 791, 849 (2014). In the present case, when the appeal was used on the Court’s own initiative, it made the order even more atypical and exceptional.

Regarding the use of rule 50, 4 LPRA Ap. XXI-B, this has the effect of depriving the appealed parties of the terms that they would ordinarily have to appear and express their position. This Honorable Court has previously used this mechanism in cases in which it has had the written appearance of all the parties, so that only the disposition of the controversy remains. *See U.P.R. v. Laborde Torres*, 180 D.P.R. 253 (2010).

Regarding the first requirement to issue the certification order, there is no doubt that the above-captioned controversy is a matter of high public interest. However, the stage of the procedure required maturation. At the hearing scheduled for Tuesday, May 11, 2021, the position of all the parties involved could have been counted on, which would have given a better perspective for this Court to address the controversy. Regarding the requirement of urgency and/or complexity, the adversely affected parties were summoned to appear and present their opposition in a timely manner. Likewise, they would have had the opportunity to appeal the determination as provided by our legal system. In this case, there is no request to close the file or an opposition to the disclosure of any of the interested parties. This fact would have been recorded in the file had the hearing of May 3, 2021, been allowed to be held.<sup>3</sup> For this purpose, for the present controversy it could have been waited for the court of first instance's determination.

Finally, the three exceptions combined in this case, especially the joint use of intrajurisdictional certification combined with Rule 50, completely deprived all parties of due process of law, especially the one requesting the information. Although the actions of this Honorable Court could be well intentioned, the consequences of its actions result in a complete abuse of discretion that seriously and irremediably damages the right to due process of law of the parties. Consequently, the exercise of the fundamental right

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<sup>3</sup> As a matter of fact, it should be noted that early in the morning of May 10, before the above-captioned case was certified, the ASPPRO presented an urgent brief accompanied by an Affidavit of Mrs. Olga Esther Costas Rodríguez, mother of the victim, supporting the disclosure of the recordings.

of the Constitution of the United States and Puerto Rico is damaged. For such purposes, this Honorable Court should not have certified the request in this case. However, if certification proceeded, it should have allowed the parties, even if it had been in a short term, to present their position for said appeal.

B.

As we have already mentioned, the right of the people and of the press to access public information enjoys an implicit constitutional protection that is based on the rights to free expression, association, and freedom of the press, guaranteed by section 4 of Article II of the Commonwealth Constitution and by the First Amendment to the United States Constitution. This has been stated in the normative law and public policy in favor of access to information in the hands of the State. *El Pueblo de P.R. v. Pepín Cortés*, 173 D.P.R. 968, 977 (2008). The right to freedom of expression is not limited to public discourse but extends to ensure this exercise is an informed one. The main purpose of the First Amendment is to protect speech about government management. *Mills v. Alabama*, 384 U.S. 214, 218 (1996). The protection of access to information guarantees that everyone can have an effective participation to be able to contribute as a citizen to the public discourse in a republican government system, which serves as a guarantor of democracy. *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 604 (1982). To this end, freedom of speech and the press under the First Amendment functions as a check or control power over the legislative exercise. *Landmark Communications v. Virginia*, 435 U.S. 829, 830 (1978). Similarly, it is recognized that both judges as individuals, as well as courts as institutions, are

subject to public evaluation and criticism like any other branch of government. *Id.* at 838-39.

The United States Supreme Court has repeatedly ruled that access to the courts in criminal proceedings is an implicit right in the First Amendment. *Richmond Newspapers v. Virginia*, 448 U.S. 555, 580 (1980). To this end, it points out that, without freedom of access to judicial procedures, freedom of expression is seriously weakened. *Id.* (See also *Branzburg v. Hayes*, 408 U.S. 665, 681 (1972)). This openness has not been limited only to the trial stage, but the openness to processes prior to this has been recognized. See *Press-Enterprise Co. v. Superior Court of California*, 464 U.S. 501 (1984). The Federal Supreme Court has reiterated that, while the right of access to judicial proceedings is not absolute, any limitation must be subject to strict scrutiny. *Globe Newspaper Co. v. Superior Court*, 457 U.S. at 604. To this end, both civil and criminal judicial procedures promote an informed discussion on government management. See *Publicker Industries, Inc. v. Cohen*, 733 F.2d 1059, 1070 (3d Cir. 1984). In Puerto Rico, without distinction between civil and criminal cases, it has been resolved that in both instances the request to close access requires an examination under strict scrutiny. See *Fulana de Tal and Su Tana de Cual v. Demandante A*, 138 D.P.R. 610, 618 (1995).

The Honorable Court has previously established the necessary scrutiny to limit the right of access to civil proceedings, in which it must be evaluated whether: (1) the person requesting such limitation has demonstrated that the State has a compelling interest in establishing said limitation; (2) the applicant has proven that there is no less onerous way to limit such right; (3) that whoever invokes the limitation will have

the burden of proof to specifically demonstrate that his interest deserves State protection and that he has just cause for it; and (4) that the disclosure (of the procedure to the general public) will cause him clear and palpable harm to the party requesting exclusion. *Id.*, at p. 619-20. Likewise, it is recognized that the interest must be articulated by the Court, together with sufficiently specific determinations, so that an appellate court can judge whether the closing order was adequate. *El Pueblo de P.R. v. Pepín Cortés*, 173 D.P.R., at p. 983.

The Protective Order issued by the Honorable Superior Judge Ricardo G. Marrero Guerrero does not satisfy the strict scrutiny required under the United States Constitution or that of the Commonwealth. The text of the order is limited to mentioning that:

Due to the nature of the allegations made for the record, and in line with the public policy that seeks to avoid revictimization and the disclosure of intimate, personal or family information of the victim, as it is prohibited, under penalty of contempt, that any person who is not an official representative of the Department of Justice in the discharge of their official responsibilities listen to or disclose their content, for any purpose other than the case file.

First, there is no request from either party to the case to close access to the judicial process. More importantly, it is a completed case, so the adjudication of this would not be at risk. What does exist and this Court must have is an affidavit from the victim's mother authorizing and requesting the disclosure of the recordings. There is also no opposition from the accused, who has not been mentioned at any time in

the present controversy. On the other hand, another of the actors interested in the facts of this case is the people. The effectiveness of these processes that culminated in a tragedy has created a high degree of public questioning. As a matter of fact, the only actor in the present controversy that is requesting the closure of access to the recordings is solely and exclusively the Tribunal.

In addition, the Protective Order contains widespread allegations about public policy. Nor does it specifically provide a factual determination or express legal basis that justifies closing the file. Regarding the second criterion, we can highlight that it does not follow from the order that the prohibition is the least onerous measure to guarantee the interest that could be affected. Nor does it emerge from the Protective Order that the measure is tailored and aimed at safeguarding the public policy invoked. Therefore, even understanding that the first requirement could be met, which we understand that it fails to do so, there is no basis in the Protective Order that maintains that this is the least onerous measure to prevent access to freedom of the press.

Regarding the interest to be protected by the public policy that emanates from Act 54 and Article 5.005 of the Judiciary Law, the respective legal texts clearly establish that they seek to safeguard the identity of the victim. Unfortunately, it is academic to fulfill this interest in the present case. It is precisely the lack of protection and the failures of the process that is in question. The people have serious doubts about the effectiveness of the system in protecting the victim. It is this questioning that justifies the need to know what happened in these judicial proceedings. In light of the above, the Protective Order in this case fails to satisfy

any of the criteria that support the prohibition it imposes.

C.

In *El Vocero de Puerto Rico v. Puerto Rico*, 508 U.S. 147 (1993), the Supreme Court of the United States declared unconstitutional the previous Rule 23(c) of Criminal Procedure, which provided that the preliminary hearing would be private, unless at the beginning the accused requested otherwise. *El Pueblo de P.R. v. Pepín Cortés*, 173 D.P.R., at p. 978. This Honorable Court has expressed that there is a consensus on the fact that, according to what was resolved in *Waller v. Georgia*, 467 U.S. 39 (1984), limiting public access cannot be automatic. *El Pueblo de P.R. v. Pepín Cortés*, 173 D.P.R. at p. 987. In federal circuits, it has been stated that a statute is unconstitutional on its face when it does not contemplate a judicial review but requires the issuance of an order to suppress information simply by its application. See *Wxyz, Inc. v. Hand*, 658 F.2d 420, 427 (6th Cir. 1981)

Article 5.005 of the Judiciary Law establishes that “the Judicial Branch will designate specialized court-rooms to deal with cases of domestic violence *with* controlled *access* to the public in all judicial regions.” (Emphasis ours). Regarding cases of domestic violence according to Act 54, it is provided that “they will be seen in a room specially designated for them in each Judicial Region. This room will have controlled access to the public *to safeguard the identity of the victim.*” (Emphasis ours). Regarding this postulate, this Honorable Court in its judgment concluded that the processes in the domestic violence rooms are of a sensitive nature that require controlled access by law and, therefore, are not compatible with the possibility that the recording may later be made public, *even if*



*it is suppressed or limited, regardless of who requests it. The people of P.R. v. Ocasio Santiago*, 2021 TSPR 64, 1 (2021). (Emphasis ours).

It is highly worrying that the absolute prohibition dictated by this forum extends to all the actors in the case. The Judgment states that the prohibition applies “regardless of who requests it.” The foregoing is contrary to Rule 62.1 of the Rules of Civil Procedure on Hearings, court orders and records. 32 L.P.R.A. App V, R. 62.1 Said Rule recognizes a legitimate interest to have access to information on the files to “the parties in the lawsuit and their heirs.” *Id.* (Emphasis ours). In addition, the Rule in its section 42.1(c)(4) provides that a party with an interest is considered to be “any other person that one of the parties to the lawsuit has authorized by means of an affidavit.”<sup>4</sup>

In the Judgment of this case, the interpretation of this Honorable Court mainly supports its allegations in Article 5.005 of the 2003 Law of the Judiciary, Law No. 201-2003, 4 LPRA sec. 25e. The Honorable Associate Judge Ángel Colón Pérez, in his dissenting opinion in the judgment of the case *Ex Parte: Overseas Press Club*, 2021 TSPR 62, pointed out very correctly that neither Article 5.005 nor Law 54 expressly contains an automatic or absolute prohibition that is detached from its text. However, from the interpretation that arises from the Judgment of the *Ex Parte: Overseas Press Club*, such as the Judgment in this case on Article 5.005 and Law 54, this Honorable Court implies that these provisions of law create an automatic and absolute prohibition on all protection

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<sup>4</sup> As mentioned above, both the Overseas Press Club and ASPPRO in their respective requests had an affidavit from the victim’s mother authorizing the request for the recordings.

order cases and criminal cases pursuant to Law 54. As we mentioned, said prohibition would be completely contrary to what was resolved in *El Vocero de Puerto Rico v. Puerto Rico*, 508 U.S. 147 (1993).

This Honorable Court in its Judgment created a *sui generis* category of judicial processes with a total lack of access to their public recordings. The Judgment automatically eliminated any possibility of access to this type of case. The Protective Order ratifies this interpretation when it leaves no margin for scrutiny or distinction of person who can evaluate the information, with the sole exception of the Department of Justice, whose access is limited solely and exclusively for purposes of the case file. It also does not allow a disclosure, even if it is limited, since the prohibition has been on all the recordings and on a request conditioned on its own criteria. Therefore, the information in this case has been sealed solely and exclusively within the Government. Even so, the use of this information has also been limited to the same State. However, Article 5.005 of the Judiciary Law establishes that the justification generated by “controlled access to the public is to safeguard the identity of the victim.” From this reading it is clear that the privilege belongs to the victim and the law itself establishes that said interest is held by her family by virtue of rule 62.1 of Civil Procedure. By allowing controlled access, it means that there is some type of access. However, the interpretation left to us in this case implies that we do not have any access, even if it was limited. In this case, access is totally prohibited.

To this end, the judgment of this honorable Court implies that no one, apart from the Government itself, may have access to this judicial proceeding. The foregoing implies that, under no circumstances in

cases involving a Protection Order, no one, regardless of whether it is the victim himself, the actor that the law seeks to protect, may have access to said information. Nor is there a resource or method, even if it is limited, to access this information. The foregoing entails an absolute contradiction to the entire federal and state doctrine of freedom of the press, access to information and due process of law. In practice, the only person who will be protected in this case is the system itself, which is subject to no scrutiny in a particular category of cases. This category of cases would not be subject to a detailed analysis of whether the interest is really protected and without any analysis that intervenes to determine when, who, and to what extent access, even if limited, to these judicial processes would be possible.

## V. CONCLUSION

It is important to point out in this case the words of the Honorable Judge Ángel Colón Pérez in his dissenting opinion in the case of *Ex Parte: Overseas Press Club*, 2021 TSPR 62, by highlighting the importance of access to public scrutiny of these processes and especially in this case:

So that the Puerto Rican government powers—namely, the Executive Power, the Legislative Power, and the Judicial Power — would have accurate data to assist them in the process of self-evaluation and introspection regarding the services and resources available to victims of gender violence. Process that, as a matter of fact, the three (3) leaders of the branches of Government have already started. We cannot avoid the reality that victims of gender violence live.

*Ex Parte: Overseas Press Club*, 2021 TSPR 62, 3-4 (Dissenting Opinion issued by Associate Judge Mr. Colón Pérez).

The ASPPRO request goes beyond a desire to inform but is about the duty of the press to exercise a fundamental right, which is impregnated with the highest hierarchy and protection, to contribute to public discourse in an informed manner. Unfortunately, the result of the decision of this Honorable Court has the sole effect of closing the judicial processes in a case that has called into question the operation of our system. In this case, the expressions of Judge Rebollo in his concurring opinion in *Roche Products v. Municipio de Manatí*, 134 DPR 659 (1993):

Courts, institutions integrated and run by humans, make mistakes. This is inevitable. However, there are mistakes that can and should be avoided by the courts and their judges. One of the most serious and regrettable is that of “measuring with different standards” the parties, persons, or lawyers who appear before the judicial forum. It is precisely because of this that, when the “lady of justice” is characterized, a blindfold is fixed over her eyes. The message it is intended to convey is that justice is delivered, or dispensed, regardless of who are the people, or the parties, who appear before the Court. *Roche Products v. Municipio de Manatí*, 134 DPR 659, 660-61 (1993).

The openness of the judicial proceedings is the guarantor that prevents the lady of Justice from removing the blindfold and guarantees a robust justice system and a healthy public discussion. Therefore, we very respectfully understand that, with the afore-

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mentioned arguments, this Honorable Court will be in the appropriate position to reconsider its judgment for the case under the heading.

WHEREFORE, it is very respectfully requested that the Honorable Supreme Court accept this request for reconsideration and order the immediate delivery of the recordings that are the object of this request or, alternatively, grant an oral hearing to ask any question that has not been answered in this reconsideration.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on May 25, 2021.

WE CERTIFY: on this same date we have sent a copy of this letter to the Department of Justice; the Office of the Attorney General of Puerto Rico; to the Office of the Women's Advocate and the Court of First Instance of Caguas.

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**CERTIFICATION OF ACCURACY**

I, Andre Moskowitz, hereby certify that I am a Spanish>English translator certified by the American Translators Association (Certification No. 422086) and that the foregoing is a true and accurate translation of the following document that was provided to me:

Motion to Request Reconsideration, dated May 25, 2021

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Spanish into English  
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TRIBUNAL GENERAL DE JUSTICIA  
EN EL TRIBUNAL SUPREMO

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NÚM. CT-2021-0008

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EL PUEBLO DE PUERTO RICO

*Recurrido*

v.

MIGUEL OCASIO SANTIAGO

*Recurrido*

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Naturaleza:

Divulgación de Grabaciones de las vistas del caso del  
Pueblo de Puerto Rico vs. Miguel Ocasio Santiago, Rd.

OPA 2021011403,  
Núm. CG2021CR00274  
por Art. 3.1 Ley 54

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In *Mills v. Alabama* 384 U.S. 214, 218 (1966),  
this Court observed: “Whatever differences  
may exist about Interpretations of the First  
Amendment, there is practically universal  
agreement that a major purpose of that  
Amendment was to protect the free discussion  
of governmental affairs.” Although it is  
assumed that judges will ignore the public  
clamor or media reports at editorials in  
reaching their decisions and by tradition will  
not respond to public commentary, the law

gives “judges as persons, or courts as institutions . . . no greater immunity from criticism than other persons or institutions.” *Bridges v. California*, 314 U.S. 252, 289 (1941) (Frankfurter, J., dissenting). The operations of the court and judicial conduct of judges are matters of outmost public concern. *Landmark Communication v. Virginia*, 435 U.S. 829, 839-39, (1978)

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MOCIÓN EN SOLICITUD DE RECONSIDERACIÓN  
AL TRIBUNAL SUPREMO:

Comparece la ASOCIACIÓN DE PERIODISTAS DE PUERTO RICO (“ASPPRO”), representada por los abogados que suscriben, quienes muy respetuosamente EXPONEN, ALEGAN y SOLICITAN:

I. INTRODUCCIÓN

Este Honorable Tribunal, por vía extraordinaria y altamente atípica de la Certificación Intrajurisdiccional, expedida por iniciativa propia, siendo ma’s excepcional aún, y en conjunción con la también altamente excepcional Regla 50 del Reglamento de este mismo Tribunal, emitió sentencia prescindiendo de todos los términos y de cualquier oportunidad de presentar alegato de certificación, denegando a la ASSPRO el acceso a la solicitud, tanto de la totalidad, como de manera limitada de las grabaciones de los casos CG2021CR00274 y OPA 2021011403 para las fechas del 25, 26 y 31 de marzo de 2021 (la “Sentencia”). En estas grabaciones la víctima de violencia de género Andrea Ruiz Costas (q.e.p.d.) acudió a la Sala de Investigaciones del Tribunal de Primera Instancia en la Sala Municipal de Caguas. A dichos



efectos, se celebraron vistas de Orden de Protección como de Regla 6 al amparo de la Ley Núm. 54 de 15 de agosto de 1989, Ley de Prevención e Intervención con la Violencia Doméstica (“Ley 54”). 8 L.P.R.A. sec. 601 et seq.

El 6 de mayo de 2021, la ASPPRO hizo su solicitud por el mecanismo administrativo de la Ley Núm. 141 del 1 de agosto de 2019, Ley de Transparencia y Proceso Expedito para el Acceso a la Información Pública, a la Oficina de Administración de Tribunales (“OAT”) y al Departamento de Justicia. No obstante, la petición fue referida al Tribunal de Primera Instancia de Caguas, quienes se alegó que son los custodios de la información solicitada. Quedando pendiente la celebración de una vista con notificación a todas las partes involucradas en el caso para el 11 de mayo de 2021, este Honorable Tribunal resolvió el caso mediante la Sentencia de la que hoy se recurre.

Muy respetuosamente, solicitamos la reconsideración de la Sentencia dictada por entender que la determinación de este Honorable Foro carece del examen jurídico al que la Orden Protectora emitida por el Juez Administrador de la Región Judicial de Caguas el pasado 3 de mayo de 2021 (la “Orden Protectora”) debió ser sometido. Esta orden debió someterse a un análisis de escrutinio estricto, el cual es imperativo bajo la reiterada normativa referente al acceso a la información, debido proceso de ley y libertad de prensa. Este análisis es imperioso por mandato de la Primera y Decimocuarta Enmienda de la Constitución de los Estados Unidos de América, como de la Sección 4 del Artículo II de la Constitución del Estado Libre Asociado de Puerto Rico, el cual está impregnado de la más alta jerarquía y protección. En nuestro ordenamiento jurídico.

El comienzo de la presente acción se produce por la solicitud de información de la prensa a base de unos eventos que han puesto bajo el escrutinio público el proceder de nuestro sistema gubernamental. Este cuestionamiento no es dirigido meramente al Poder judicial, sino que se extiende tanto a la Rama Ejecutiva como a la Legislativa. Las tres ramas de gobierno vienen llamadas a atender el creciente aumento en los casos de violencia de género. Se trata de una crisis que afecta nuestra isla y que se ha recrudecido en estos últimos años.<sup>5</sup> Si bien este Honorable Tribunal pudo tener una intención loable en su proceder, el resultado es que tanto el escrutinio aplicado en la Sentencia como el mecanismo utilizado, representan una violación directa al debido proceso de ley de la parte aquí suscribiente en cuanto a la manera atropellada de despachar la presente controversia. Además, el proceder de este máximo foro también constituye una violación directa tanto al derecho de acceso a la información del pueblo como a la libertad de su prensa para fiscalizar la gestión gubernamental a través de este caso, el cual está investido del más alto interés público.

Los sucesos que motivan el caso de epígrafe y la necesidad de la información solicitada toman mayor importancia a nivel nacional en el contexto histórico particular en el que se desarrolla la controversia. Tras el asesinato de Andrea Ruiz Costas, trascendió públicamente que la víctima había manifestado serios cuestionamientos sobre el manejo del sistema en su solicitud de auxilio mediante los mecanismos provistos por la Ley 54. Indubitadamente, nos encontramos ante

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<sup>5</sup> El 25 de enero de 2021 el Honorable Gobernador de Puerto Rico, Pedro R. Pierluisi Urrutia, promulgó la Orden Ejecutiva OE-2021-013, declarando un Estado de Emergencia ante el Aumento de Casos de Violencia de Genero en Puerto Rico.

un caso que coloca de manifiesto fallas patentes en los mecanismos diseñados por nuestro sistema gubernamental para atender esta problemática.

La información que ha sido solicitada por el pueblo resulta necesaria para poder evaluar qué nos hace falta como sociedad para mejorar un sistema que sabemos que no es perfecto. No obstante, es la información y la autocrítica la que puede elevar una discusión pública seria, sosegada y necesaria para lograr un sistema efectivo que permita erradicar la crisis que todos juntos enfrentamos. Esta discusión bien pudiera engendrar legislación que brinde mejores herramientas legales, provocar acción ejecutiva para impartir de manera correcta la política pública y solidificar la acción del poder judicial en completa sincronía con el objetivo de construir un mejor país.

## II. BREVE DISCUSIÓN LAS CUESTIONES DE DERECHO PLANTEADAS

La presente solicitud de reconsideración se realiza de conformidad con la Regla 45 (a) del Reglamento del Tribunal Supremo de Puerto Rico. 4 L.P.R.A. Ap. 1-A, R.45. Esta es presentada dentro de los diez (10) días laborables luego de haber recibido la notificación enmendada sobre la adjudicación del Recurso de Certificación Intrajurisdiccional sua *sponte*, de conformidad con la Regla 39, 4 L.P.R.A. Ap. 1-A, R.39 del Reglamento del Honorable Tribunal Supremo. Esta notificación fue recibida junto con la copia de la certificación el 11 de mayo de 2021 con título “NOTIFICACIÓN ENMENDADA”<sup>6</sup>

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<sup>6</sup> Inicialmente en la notificación inicial de la Sentencia Certificada Intrajurisdiccionalmente emitida por este Honorable Tribunal el 10 de mayo de 2021 no se incluyó a la representación legal de la parte aquí recurrente por un aparente error en

Se solicita la reconsideración de la Sentencia expedida por medio del Recurso de Certificación Intra-jurisdiccional, certificada por iniciativa propia de este Honorable Tribunal y al amparo de la Regla 50 del Tribunal Supremo, prescindiendo de cualquier término o escrito de certificación, emitida el 10 de mayo de 2021 y notificada a la parte suscribiente el 11 de mayo de 2021 (la “Sentencia”). En la Sentencia este Honorable Tribunal declaró NO HA LUGAR la solicitud de la ASPPRO.

Con el mayor de los respetos y con el más alto grado de responsabilidad, nos corresponde señalar que este Honorable Tribunal erró en lo siguiente:

- (1) Erró este Honorable Tribunal al utilizar el mecanismo de Certificación Intrajurisdiccional, por iniciativa propia y en combinación con la Regla 50 y así prescindir tanto de los procesos a celebrarse en el foro de primera Instancia, como de los términos para que la parte suscribiente pudiera presentar un alegato con su posición sobre la controversia.
- (2) Erró este Honorable Tribunal al no aplicar el escrutinio estricto que mandata la normativa constitucional al analizar la Orden Protectora ante una solicitud de acceso a información, como corolario del ejercicio legítimo y constitucional de la libertad de prensa.
- (3) Erró este Honorable Tribunal al cerrar de manera absoluta el acceso a las grabaciones, al

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secretaría. En comunicaciones con el Tribunal de Caguas por no tener dicha notificación es que se apercibe del error y a tales efectos fue necesaria la producción de una enmienda en la notificación para incluir a la parte recurrente en la notificación, a la Procuradora de la Mujer y al Departamento de Justicia.

realizar un análisis hermenéutico de lo que dispone la ley que brinda un acceso controlado al público a la sala en donde se ventilan los procesos judiciales, en la que concluyen analógicamente que las entregas de las regrabaciones “no son compatibles con la posibilidad de que posteriormente la grabación se haga pública, aunque sea de manera suprimida o limitada, independientemente de quién lo solicite”.

#### IV. ANÁLISIS Y DISCUSIÓN

##### A.

El Recurso de Certificación Intrajurisdiccional es un mecanismo sumamente discrecional y de carácter excepcional. *U.P.R. v. Laborde Torres*, 180 D.P.R. 253 (2010); *Montalvo v. Padilla*, 194 D.P.R. 760, 783 (2016); *Quiñones Rivera v. Departamento de Educación*, 204 D.P.R. 428, 435 (2020). Este Tribunal ha reiterado que “es preferible que los casos maduren paulatinamente a través del trámite ordinario, pues ello permite que las controversias se diluciden y afinen sin que el foro de última instancia tenga que inmiscuirse a des-tiempo”. *Rivera Soto v. JCA*, 164 D.P.R. 1 (2005). Este

Honorable Foro debe evaluar: (1) si se plantean cuestiones de interés público que podrían incluir asuntos sustanciales al amparo de la Constitución de Puerto Rico o los Estados Unidos; (2) la etapa en que se encuentra el caso; (3) la urgencia y complejidad de la controversia y (4) la necesidad que pueda existir de presentar prueba. *Rivera Schatz v. ELA y C. Abo. ER II*, 191 DPR 791, 849 (2014). En el presente caso, al ser utilizado el recurso por iniciativa propia del Tribunal, convierte el auto en uno más atípico y excepcional aún.

Respecto al uso de la Regla 50, 4 LPRA Ap. XXI-B, esta tiene el efecto de privar a las partes recurridas de

los términos con los que ordinariamente contarían para comparecer y expresar su posición. Este Honorable Tribunal ha utilizado este mecanismo anteriormente en casos en los que ha contado con la comparecencia por escrito de todas las partes, por lo que solo resta la disposición de la controversia. Véase *U.P.R. v. Laborde Torres*, 180 D.P.R. 253 (2010).

Respecto al primer requisito para expedir el auto de certificación, no cabe duda de que la controversia de epígrafe es un asunto de alto interés público. No obstante, la etapa en la que se encontraba el procedimiento requería maduración. En la vista pautaada para el martes, 11 de mayo de 2021, se pudo haber contado con la postura de todas las partes involucradas, lo cual hubiera dado una mejor perspectiva para este Tribunal atender la controversia. En cuanto al requisito de urgencia y/o complejidad, las partes adversamente afectadas estaban citadas para comparecer y prestar oportunamente su oposición. Igualmente, estas hubieran tenido la oportunidad de recurrir de la determinación según dispone nuestro ordenamiento jurídico. En este caso no existe una solicitud de cierre del expediente o una oposición a la divulgación de ninguna de las partes interesadas. Este hecho hubiera quedado consignado en el expediente de haberse permitido celebrarse la vista del 3 de mayo de 2021.<sup>7</sup> A tales efectos, para la presente controversia pudo haberse esperado a la determinación de Instancia.

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<sup>7</sup> Como cuestión de hecho, cabe destacar que temprano en la mañana del 10 de mayo, antes de que se certificara el caso de epígrafe, la ASPPRO presentó un escrito urgente acompañado con una Declaración Jurada de la Sra. Olga Esther Costas Rodríguez, madre de la víctima, apoyando la divulgación de las grabaciones.

Finalmente, las tres excepciones combinadas en este caso, en especial la activación conjunta de la certificación intrajurisdiccional con la Regla 50, le privaron por completo a todas las partes de un debido proceso de ley, en especial a la que solicita la información. Si bien pudieran ser bien intencionadas las acciones de este Honorable Tribunal, las consecuencias de su proceder redundan en un completo abuso de discreción que lesiona grave e irremediablemente el derecho a un debido proceso de ley de las partes. Como consecuencia, se lesiona el ejercicio del derecho fundamental de la Constitución de los Estados Unidos y de Puerto Rico. A tales efectos, este Honorable Tribunal no debió certificar la solicitud del presente caso. No obstante, de proceder la certificación, debió permitir a las partes, aunque hubiera sido en un término breve, presentar su postura para dicho recurso.

## B.

Como ya mencionamos, el derecho del pueblo y de la prensa al acceso de información pública goza de una protección constitucional implícita que encuentra su fundamento en los derechos a la libre expresión, asociación y libertad de prensa, garantizados por la Sección 4 del Artículo II de la Constitución del Estado Libre Asociado y por la Primera Enmienda de la Constitución de los Estados Unidos. Esto se ha hecho constar en el derecho normativo y de política pública en favor del acceso a la información en manos del Estado. *El Pueblo de P.R. v. Pepín Cortés*, 173 D.P.R. 968, 977 (2008). El Derecho a la libertad de expresión no se limita al discurso público, sino que se extiende a propiciar que este ejercicio sea uno informado. El mayor propósito de la Primera Enmienda es proteger el discurso sobre la gestión gubernamental. *Mills v.*

*Alabama*, 384 U.S. 214, 218 (1966). La protección al acceso a la información garantiza que cada individuo pueda tener una participación efectiva para poder contribuir como ciudadano al discurso público en un sistema de gobierno republicano, lo que sirve como un garante de la democracia. *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596, 604 (1982). A tales efectos, la libertad de expresión y prensa bajo la Primera Enmienda funciona como un freno o poder fiscalizador sobre el ejercicio legislativo. *Landmark Communications v. Virginia*, 435 U.S. 829, 830 (1978). De igual forma, es reconocido que tanto los jueces como individuos, así como los tribunales como instituciones, están sujetos a la evaluación y crítica pública como cualquier otra rama de gobierno. *Id.*, a la pág. 838-39.

El Tribunal Supremo de los Estados Unidos ha resuelto reiteradamente que el acceso a los Tribunales en procedimientos criminales es un derecho implícito en la Primera Enmienda. *Richmond Newspapers v. Virginia*, 448 U.S. 555, 580 (1980). A tales efectos señala que, sin la libertad de acceso a los trámites judiciales, la libertad de expresión se ve seriamente debilitada. *Id.* (Véase además, *Branzburg v. Hayes*, 408 U.S. 665, 681 (1972)). Esta apertura no se ha limitado solo a la etapa del juicio, sino que ha sido reconocido la apertura a procesos anteriores a este. Véase *Press-Enterprise Co. v. Superior Court of California*, 464 U.S. 501 (1984). El Tribunal Supremo Federal ha reiterado que, si bien el derecho al acceso a los procedimientos judiciales no es absoluto, toda limitación debe estar sujeta a un escrutinio estricto. *Globe Newspaper Co. v. Superior Court*, 457 U.S., a la pág. 604. A tales efectos, los procedimientos judiciales tanto civiles como criminales promueven una discusión sobre la gestión gubernamental que sea informada. Véase *Publicker Industries, Inc. v. Cohen*, 733



F.2d 1059, 1070 (3d Cir. 1984). En Puerto Rico se ha reconocido sin distinción entre casos civiles y criminales por lo que se ha resuelto que en ambas instancias la solicitud de cierre al acceso requiere un examen bajo un escrutinio estricto. Véase *Fulana de Tal Y Sutana de Cual v. Demandante A.* 138 D.P.R. 610.618 (1995).

Este Honorable Tribunal ha establecido previamente el escrutinio necesario para limitar el derecho al acceso a los procedimientos de naturaleza civil, en el que debe evaluarse si: (1) quien solicita tal limitación ha demostrado que el estado posee un interés apremiante en que se establezca dicha limitación; (2) si el solicitante ha probado que no existe una manera menos onerosa de limitar tal derecho; (3) que quien invoque tal limitación tendrá el peso de la prueba de demostrar específicamente que su interés merece protección estatal y que posee justa causa para ello y (4) que la divulgación (del procedimiento al público en general) le causará un daño claro y palpable a la parte que solicita la exclusión. Id., a la pág. 619-20. De igual forma, se reconoce que el interés debe ser articulado por el Tribunal, junto con determinaciones suficientemente específicas, de manera que un tribunal apelativo pueda juzgar si la orden de cierre fue adecuada. *El Pueblo de P.R. v. Pepín Cortés*, 173 D.P.R., a la pág. 983.

La Orden Protectora emitida por el Honorable Juez Superior Ricardo G. Marrero Guerrero no satisface el escrutinio estricto que amerita bajo el palio de la Constitución de los Estados Unidos ni la del Estado Libre Asociado. El texto de la orden se limita a mencionar que:

Por la naturaleza de las alegaciones vertidas para récord, y a fin con la política pública que

procura evitar la revictimización y la divulgación de la información íntima, personal o familiar de la víctima, se prohíbe, bajo apercibimiento de desacato, a cualquier persona que no sea representante oficial del Departamento de Justicia en [e]I descargue de sus responsabilidades oficiales el escuchar o divulgar el contenido de las mismas, para cualquier propósito ajeno al sumario fiscal.

En primer lugar, no existe solicitud alguna de ninguna de las partes del caso para cerrar el acceso al proceso judicial. Mas importante aún, se trata de un caso culminado, por lo que no estaría en riesgo la adjudicación de este. Lo que sí existe y este Tribunal debe poseer, es una declaración jurada de la madre de la víctima autorizando y solicitando la divulgación de las grabaciones. Tampoco existe una oposición del acusado, quien no ha sido mencionado en ningún momento en la presente controversia. Por otra parte, otro de los actores interesados en los hechos de este caso es el pueblo. La efectividad de estos procesos que culminaron en una tragedia ha creado un alto cuestionamiento público. Como cuestión de hecho, el único actor en la presente controversia que está solicitando el cierre del acceso a las grabaciones es única y exclusivamente el Tribunal.

Además, la Orden Protectora contiene alegaciones generalizadas sobre política pública. Tampoco provee de manera específica una determinación de hechos ni base legal expresa que justifique el cierre del expediente. Respecto al segundo criterio, podemos resaltar que no se desprende de la Orden que la prohibición sea la medida menos onerosa para garantizar el interés que se pudiera ver afectado. Tampoco surge de la Orden Protectora que la medida

sea una detallada y dirigida a salvaguardar la política pública invocada. Por lo tanto, aun entendiendo que se pudiera cumplir el primer requisito, el cual entendemos que no logra hacerlo, no existe fundamento en la Orden Protectora que sostenga que esta es la medida menos onerosa para impedir el acceso a la libertad de prensa.

En cuanto al interés a protegerse por la política pública que emana de la Ley 54y del Artículo 5.005 de la Ley de la Judicatura, sus respectivos textos de ley establecen claramente que estas buscan salvaguardar la identidad de la víctima. Lamentablemente, resulta académico cumplir con este interés en el presente caso. Es precisamente la falta de protección y la falla del proceso lo que se cuestiona. El pueblo tiene serias dudas sobre la efectividad del sistema en lograr proteger a la víctima. Es este cuestionamiento lo que justifica la necesidad de conocer lo que ocurrió en estos procedimientos judiciales. A la luz de lo anterior, la Orden Protectora en este caso no logra satisfacer ninguno de los criterios que sostengan la prohibición que impone.

### C.

En *El Vocero de Puerto Rico v. Puerto Rico*, 508 U.S. 147 (1993), el Tribunal Supremo de Estados Unidos declaró inconstitucional la anterior Regla 23(c) de Procedimiento Criminal, la cual disponía que la vista preliminar sería privada, a menos que al ésta comenzar el imputado solicitara lo contrario. *El Pueblo de P.R. v. Pepín Cortés*, 173 D.P.R., a la pág. 978. Este Honorable Tribunal ha expresado que existe un consenso sobre el hecho de que, de acuerdo con lo resuelto en *Waller v. Georgia*, 467 U.S. 39 (1984), la limitación del acceso del público no puede ser automática. *El Pueblo de P.R. v. Pepín Cortés*, 173

D.P.R., a la pág. 987. En los circuitos federales se ha expresado que un estatuto es inconstitucional de su faz cuando este no contempla un examen judicial, sino que exige la emisión de una orden de supresión de información simplemente de su aplicación. Véase *Wxyz. Inc. v. Hand*, 658 F.2d 420, 427 (6th Cir. 1981).

El Artículo 5.005 de la Ley de la Judicatura establece que “la Rama Judicial designará salas especializadas para atender *con acceso* controlado al público los casos de violencia doméstica en todas las regiones judiciales”. (Énfasis nuestro). Respecto a los casos de violencia doméstica según la Ley 54, se dispone que “se verán en una sala especialmente designada para los mismos en cada Región Judicial. Esta sala será de acceso controlado al público *para salvaguardar la identidad de la víctima*”. (Énfasis nuestro). Respecto a dicho postulado este Honorable Tribunal en su sentencia concluyó “que los procesos en las salas de violencia doméstica son de naturaleza sensible que requieren por ley de un acceso controlado y, por ello, no son compatibles con la posibilidad de que posteriormente la grabación se haga pública, *aunque sea de manera suprimida o limitada. independientemente de quién lo solicite. El Pueblo de P.R. v. Ocasio Santiago*, 2021 TSPR 64, 1 (2021). (Énfasis nuestro).

Resulta altamente preocupante que la prohibición absoluta dictada por este foro se extiende a todos los actores en el caso. La Sentencia expresa que la prohibición aplica “independientemente de quién lo solicite”. Lo anterior es contrario a la Regla 62.1 de las Reglas de Procedimiento Civil sobre las Vistas, órdenes en cámara y expedientes. 32 L.P.R.A. Ap. V, R. 62.1. Dicha Regla reconoce un legítimo interés para tener acceso a información sobre los expedientes a “las partes en el pleito y sus herederos o herederas”. Id.

(Énfasis nuestro). Además, la Regla en su acápite 42,1(c)(4) dispone que se considera una parte con interés “[c]ualquier otra persona que una de las partes en el pleito haya autorizado mediante declaración jurada”.<sup>8</sup>

En la Sentencia del presente caso, la interpretación de este Honorable Tribunal sostiene mayormente sus alegaciones en el Artículo 5.005 de la Ley de la Judicatura de 2003, Ley Núm. 2012003, 4 LPRA sec. 25e. El Honorable Juez Asociado Ángel Colón Pérez, en su voto disidente en la sentencia del caso *Ex Parte: Overseas Press Club*, 2021 TSPR 62, señaló muy correctamente que ni el Artículo 5.005 ni la Ley 54 contienen expresamente una prohibición automática ni absoluta que se desprenda de su texto. No obstante, de la interpretación que surge de la Sentencia del *Ex Parte: Overseas Press Club*, como la Sentencia de epígrafe sobre el Artículo 5.005 y la Ley 54, este Honorable Tribunal da a entender que estas disposiciones de ley crean una prohibición automática y absoluta sobre la totalidad de los casos de orden de protección y los casos criminales al amparo de la Ley 54. Como mencionamos, dicha prohibición sería completamente contraria a lo resuelto en *El Vocero de Puerto Rico v. Puerto Rico*, 508 U.S. 147 (1993).

Este Honorable Tribunal en su Sentencia, creó una categoría *sui generis* de procesos judiciales con carencia total de acceso a sus grabaciones públicas. La Sentencia eliminó toda posibilidad de acceso a este tipo de casos de manera automática. La Orden Protec-

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<sup>8</sup> Como mencionamos anteriormente, tanto la Overseas Press Club como la ASSPRO en sus respectivas solicitudes contaron con una declaración jurada de la madre de la víctima autorizando la solicitud de las grabaciones.

tora ratifica esta interpretación cuando no deja margen a escrutinio ni distinción de persona que pueda evaluar la información, con la única excepción del Departamento de Justicia, a quien se le limita su acceso única y exclusivamente para propósitos del sumario fiscal. Tampoco permite una divulgación, aunque sea limitada, pues la prohibición ha sido sobre la totalidad de las grabaciones y sobre una solicitud condicionada a su propio criterio. Por lo tanto, la información en este caso ha quedado sellada única y exclusivamente dentro del gobierno. Aun así, al mismo Estado también se le ha limitado el uso de esta información. No obstante, el propio Artículo 5.005 de la Ley de la Judicatura establece que la justificación que genera el “acceso controlado al público [es] para salvaguardar la identidad de la víctima”. De esta lectura claramente se desprende que el privilegio es de la víctima y la ley misma establece que dicho interés queda a cargo de su familia por virtud de la Regla 62.1 de Procedimiento Civil. Al permitir un acceso controlado quiere decir que existe algún tipo de acceso. No obstante, la interpretación que nos ha quedado en este caso implica que ni siquiera contamos con un acceso, aunque fuera limitado. En este caso el acceso está prohibido totalmente.

A tales efectos, la Sentencia de este Honorable Tribunal da a entender que nadie, con excepción del mismo gobierno, puede tener acceso a este procedimiento judicial. Lo anterior implica que, bajo ningún concepto en casos sobre Orden de Protección, sin importar que sea la propia víctima, el actor que la ley busca proteger, podrá tener acceso a dicha información. Tampoco existe un recurso o método, aunque sea limitado de acceso a esta información. Lo anterior conlleva una absoluta contrariedad a toda la doctrina tanto federal como estatal de libertad de prensa,

acceso a la información y el debido proceso de ley. En la práctica quien único queda protegido en este caso es el propio sistema, que queda sin sujeción a escrutinio alguno en una categoría de casos en particular. Esta categoría de casos estada sin sujeción un análisis detallado de si el interés realmente está protegido y sin ningún análisis que intervenga para determinar cuándo, quien, y en qué medida sería posible el acceso, aunque sea limitado, de estos procesos judiciales.

## V. CONCLUSIÓN

Es importante puntualizar en este caso las palabras del Honorable Juez Angel Colón Pérez en su voto particular disidente en el caso de *Ex Parte: Overseas Press Club*, 2021 TSPR 62, al resaltar la importancia del acceso al escrutinio público de estos procesos y en especial en este caso:

[P]ara que los poderes gubernamentales puer-torriqueños — a saber, el Poder Ejecutivo, el Poder Legislativo y el Poder Judicial— tuvieran unos datos certeros que le ayudasen en el proceso de autoevaluación e introspección en cuanto a los servicios y recursos disponibles para las víctimas de violencia de género. Proceso que, como cuestión de hecho, los tres (3) líderes de las ramas de gobierno han iniciado ya. No nos podemos abstraer de la realidad que las víctimas de violencia de género viven.

*Ex Parte: Overseas Press Club*, 2021 TSPR 62, 3-4 (Voto Particular Disidente emitido por el Juez Asociado señor Colón Pérez ).

La solicitud de la ASPPRO, va más allá de un deseo de informar, sino que se trata del deber de la prensa de ejercer un derecho fundamental, el cual está

impregnado de la más alta jerarquía y protección, para aportar al discurso público de manera informada. Lamentablemente, el resultado de la decisión de este Honorable Tribunal tiene el único efecto de cerrar los procesos judiciales en un caso que ha puesto en duda el funcionamiento de nuestro sistema. En este caso cobra importancia las expresiones del Juez Rebollo en su opinión concurrente en *Roche Products v. Municipio de Manatí*, 134 DPR 659 (1993):

Los tribunales, instituciones integradas y dirigidas por seres humanos, cometen errores. Ello es inevitable. Ahora bien, hay errores que pueden y deben ser evitados por los tribunales y sus jueces. Uno de los más graves y lamentables lo es el de “medir con varas distintas” a las partes, personas, o abogados que comparecen ante el foro judicial. Precisamente debido a ello es que, cuando se caracteriza a la “dama de la justicia”, se le fija una venda sobre sus ojos. El mensaje que se pretende transmitir es que la justicia se imparte, o se dispensa, independientemente de quienes son las personas, o las partes, que comparecen ante el tribunal. *Roche Prods. v. Mun. de Manatí*, 134 D.P.R. 659, 660-61 (1993).

La apertura de los procesos judiciales es el garante que impide que la dama de la Justicia se pueda quitar la venda y garantiza un sistema de justicia robusto y una discusión pública saludable. Por lo que, muy respetuosamente entendemos que, con los argumentos antes expuestos, este Honorable Tribunal estará en la posición adecuada para reconsiderar su Sentencia para el caso de epígrafe.



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EN MÉRITO DE LO ANTERIOR, muy respetuosamente solicita al Honorable Tribunal Supremo que acoja la presente solicitud de reconsideración y ordene la entrega inmediata de las regrabaciones objeto de esta solicitud o que en la alternativa conceda una vista oral para realizar cualquier pregunta que no haya quedado respondida en esta reconsideración.

RESPETUOSAMENTE SOMETIDA.

En San Juan, Puerto Rico, a 25 de mayo de 2021.

CERTIFICAMOS: en esta misma fecha hemos enviado copia del presente escrito al Departamento de Justicia; la Oficina del Procurador General de Puerto Rico; a la Oficina de la Procuraduría de la Mujer y al Tribunal de Primera Instancia de Caguas.

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**APPENDIX N**

COMMONWEALTH OF PUERTO RICO  
GENERAL COURT OF JUSTICE  
IN THE SUPREME COURT

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NUM. CT-2021-0008

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THE PEOPLE OF PUERTO RICO

*Appellee*

v.

MIGUEL OCASIO SANTIAGO

*Appellee*

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Nature:

Disclosure of Recordings of the hearings in the case of  
the People of Puerto Rico vs. Miguel Ocasio Santiago,  
Rel.

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OPA 2021011403,  
No. cg2021cr00274  
by Art. 3.1 Law 54

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**MOTION TO REQUEST**  
**SECOND RECONSIDERATION**

TO THE SUPREME COURT:

The Puerto Rico Journalists Association (“ASPPRO”) appears, represented by the undersigned attorneys, who very respectfully STATE, ALLEGE and REQUEST:

1. On May 25, 2021, the ASPPRO filed a Motion to Request Reconsideration (the “Reconsideration”) of the expedited Judgment issued through the Intrajurisdictional Certification Resource, certified on its own initiative by this Honorable Court and under the protection of Rule 50 of the Supreme Court, in which any certification term or document to ASPPRO was dispensed with. This was issued on May 10, 2021, and the undersigned was notified on May 11, 2021 (the “Judgment”).

2. This request for a second reconsideration is made in accordance with Rule 45(c) of the regulations of the Supreme Court of Puerto Rico. 4 L.P.R.A. App. 1-A, R.45(c). This request is submitted within three (3) business days after receiving the notification of the Resolution declaring the Reconsideration DENIED, notified on May 27, 2021.

3. In the aforementioned Reconsideration we pointed out that this Honorable Court erred in its judgment as follows:

- (1) This Honorable Court erred by using the Intrajurisdictional Certification mechanism on its own initiative and in combination with Rule 50 and thus dispensing with both the proceedings to be held in the forum of first instance, as well as the terms permitting the moving party to present a brief on its position in the controversy.
- (2) This Honorable Court erred by not applying the strict scrutiny mandated by constitutional regulations when analyzing the protective order before a request for access to information, as a corollary of the legitimate and constitutional exercise of freedom of the press.

(3) This Honorable Court erred by absolutely closing access to the recordings, by carrying out an interpretative analysis of what the law provides that provides controlled access to the public to the room where the judicial proceedings are heard, in which they analogously, conclude that deliveries of the recordings “are not compatible with the possibility that the recording may later be made public, even if it is suppressed or limited, regardless of who requests it.”

4. In addition to the aforementioned points and the grounds already discussed in the Reconsideration, we must very respectfully point out that this Honorable Court erred not only in not accepting these arguments, but in its pronouncement of Denied without further briefing in this regard. This procedure very unfortunately creates a precedent that calls into question the constitutionality of the mechanism of Rule 50 in its application by this Honorable Court in the provision of the controversy of the above-captioned case in conjunction with the Intrajurisdictional Certification order under Rule 52.2(d) of the Rules of Civil Procedure. This action has caused a patent violation of the due process of law enshrined in the fourteenth amendment of the Federal Constitution and in our Constitution.

5. This Honorable Court in the vast majority of cases in which it has used the mechanism provided by Rule 50 usually includes in one way or another the following line: “with the benefit of the *appearance of both parties* and in the absence of any impediment in order to dispose of the controversy that . . . we are dealing with . . . we proceed to resolve without further proceedings, in accordance with the provisions of Rule 50 of the regulations of this Court, 4LPRA XXI-

B.” *Doral Fin. Corp. v. E.L.A.*, 191 D.P.R. 422, 427 (2014) (emphasis ours). Similarly, the phrase “after considering the position of *all the parties*” has also been included. *In re M.M.T.*, 191 D.P.R. 668, 672 (2014). (Emphasis ours). *See also, El Pueblo de P.R. v. Carrero Rolstad*, 194 D.P.R. 658, 665 (2016); *El pueblo de P.R. v. Santana Vélez*, 2006 TSPR 86, 168 D.P.R. 30, 35 (2006). Even without including these lines, the vast majority of cases resolved by this Court using Rule 50 have included the appearance and position of all the parties. *Fraya v. ACT*, 162 D.P.R. 182, 189 (2004). Furthermore, it is the first time in the history of this honorable forum that we have a self-initiative certification using Rule 50.

6. When resolving this controversy through the mechanism of Rule 50, this Honorable Court issued a judgment lacking analysis that applied adequate scrutiny and without the corresponding proposals of the First Amendment of the Federal Constitution and section 4 of the Constitution of Puerto Rico, which we could well have raised in the event that we had been presented with the opportunity to file, at the very least, an allegation of Certification. Therefore, since the Judgment was issued in the form in which it was produced, we only have the remedy of Reconsideration, which the Court limited itself to resolving it with a brief “denied.” This ruling prevents the country from having, in a case of such high public interest, the constitutional analysis that this controversy merits.

7. The only result of the application of these mechanisms in conjunction with the Intrajurisdictional Certification with Rule 50 to dispose of the above-captioned controversy has been to give this Honorable Court the opportunity to resolve a controversy of access to information, avoiding the possibility

of a First Amendment approach and therefore without the application of the strict scrutiny that this controversy clearly merits. Clearly such an approach would have emerged if this case had been allowed to mature. Otherwise, it would not be necessary to face these proposals in a Reconsideration process that can be dispatched with a “Denied” without requiring further expression.

8. When this Honorable Court raised the present controversy for its consideration, the ASPPRO had filed that same morning a motion accompanying the sworn statement of the victim’s mother consenting to the disclosure of all the recordings, which could not be included at the time of its certification. For such purposes, this Honorable Court did not have the entire file to resolve this controversy.

9. For this reason, any action of this Honorable Court that results in the disposition of this controversy without at least having the position of the parties affected in the case, either in writing and/or by an argumentative hearing in any judicial forum, both in the Instance forum and before this Honorable forum, it would also result in a direct opposition on both constitutions, seriously violating the right to due process of law that the parties receive. Therefore, the use of Rule 50 in combination with the recourse for intrajurisdictional certification in the present controversy is unconstitutional because it is at odds with the right to due process of law under the Fourteenth Amendment of the Federal Constitution and section 7 of the Article II of the Constitution of Puerto Rico.

10. When evaluating the requirements of the Certification, this case at least merits the expression of all parties. This highest forum is contradicted in its determination in the Judgment in the above-captioned

cases, since, on the one hand, in the case *Ex parte Overseas Press Club*, 2021 TSPR 62, in which the brother journalistic union directly requested from the Supreme Court the full disclosure of all the judicial files, including the recordings requested here, this Court indicated that the procedure used was not adequate to obtain the information requested. However, the above-captioned matter that was indicated by administrative means through the Law of Transparency and Expedited Procedure for access to Public Information, 3 L.P.R.A., sec. 9911 *et seq.* (Law 141-2019) was certified.

11. In complete contrast, the ASPPRO resorted to the mechanisms available to it in the law, tempered its request even to the Protective Order issued by the Court of First Instance of Caguas on May 3, 2021, to which the victim's family consented by affidavit. To this end, if a problem had been dealt with regarding the mechanism used and the conditions for the application, it should not have been then that both cases were resolved in the same way as there was a clear distinction between the two requests. At the very least, an analysis should have been given to distinguish if there is any between the two cases.<sup>1</sup> As there is no distinction between the two cases, it can be concluded that this Honorable Court has determined that in the cases of Law 54, under Article 5.005 of the Judiciary Law of 2003, Law No. 201-2003, 4 LPRA sect. 25e, there is an absolute prohibition that arises automatically with the mere application of the law.

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<sup>1</sup> It should be noted that for the above-captioned request there was a letter from the OAT expressing its lack of objection to the request within the terms in which it was made.

12. The way in which this controversy is resolved is, furthermore, contrary to the reiterated jurisprudence that this Court itself has established on the right of access to public information. The exercise of the right of access to information is closely linked to the rights of freedom of expression, press and association. Art. II, Sec. 4, Const. ELA, LPR volume 1; *Soto v. Srio de Justicia*, 112 D.P.R. 477, 485486 (1982).

13. To this end, the tradition in our legal system of opening the Courts “obeys not only historical reasons, but also the functional purpose of guaranteeing that the public is adequately informed of what happens in the courts and that the procedures are carried out according to law. Such openness is . . . inherent to our democratic system of Government.” *Fulana de tal And Sutana de Cual v. Demandado A*, 138 D.P.R. 610, 616 (1995) (Citing *II E Chiesa, Puerto Rico and United States Criminal Procedure Law* (Derecho Procesal Penal de Puerto Rico y Estados Unidos), Sec. 3.2 at pp. 193-94 (1992)).

14. It is a reiterated norm that “when claiming the confidentiality of official information, it is up to the government to prove, precisely and unequivocally, the applicability of the privilege.” *Bhatia Gautier v. Gobernador*, 199 D.P.R. 59, 85 (2017).

15. This Honorable Court in recent opinions has clearly reiterated that “the restrictions imposed by the State to improve access to information must satisfy the criteria of strict scrutiny.” *Engineering Services International v. Autoridad de Energía Eléctrica de P.R.*, 2020 TSPR 130, 12 (2020) ans. September 14, 2020. The right of access to public information is an inherent principle of every democratic society, so we have been consistent in recognizing its fundamental and constitutional nature. *Id.* (Citing *Ad de PR v.*



*Junta de Subastas*, 174 DPR 56, 67 (2008); *Ortiz v. Dir. Adm. De los Tribunales*, 152 DPR 161, 175 (2000); *Soto v. Srio de Justicia*, 112 DPR, A LAP. 503).

16. For this reason, the courts must be “cautious in lightly granting any request for confidentiality from the State.” *Engineering Services International v. Autoridad de Energía Eléctrica de P.R.*, 2020 TSPR 130. Otherwise, citizens are being deprived of that “essential oversight tool, which allows people to make informed judgments about the acts” of those courts. See *Engineering Services International v. Autoridad de Energía Eléctrica de P.R.*, 2020 TSPR 130, 9. The Government cannot invoke the privilege in a generalized way. *Bhatia Gautier v. Gobernador*, 199 D.P.R. 59, p. 85 (quoting *Santiago v. Bobb y el Mundo, Inc.*, 117 D.P.R. 153 (1986)).

17. To this end, “the high hierarchy of the constitutional right of access to information makes the government’s claim of confidentiality difficult.” Chiesa Aponte, treatise on evidentiary law, op. cit., p. 304. See also, *Colon Cabrera v. Caribbean Petroleum*, 170 D.P.R. 582 (2007). Given the lack of legislation that defines the privilege, it must be scrutinized with particular suspicion. *Bhatia Gautier v. Gobernador*, 199 D.P.R. p. 85 (citing *E.L. Chiesa Aponte, Tratado de derecho probatorio* (Treaty of evidentiary law), Dominican Republic, Ed, Corripio, T.I, p. 304).

18. By letter of this Honorable Forum it is unquestionable “the unconstitutionality of an automatic exclusion rule.” *El Pueblo de P.R. v. Pepín Cortés*, 173 D.P.R. 968, 981 (2008). The interpretation of this Honorable Court, as we have expressed in our Reconsideration and reaffirm today, has the effect of creating an automatic prohibition of the application of the Law.

19. Note also this Honorable Court, the following expression in its Judgment in the above-captioned case:

The victim of domestic violence who comes to the Court for help should not face the fear that the recording of what is disclosed in this process could be disclosed to any person or half a coma in whole or in part to share it with the public. usually. This is precisely what the law seeks to avoid. *El Pueblo de P.R. v. Ocasio Santiago*, 2021 TSPR 64, 9-10 (2021).

20. Very respectfully, it is our obligation to emphasize that the foregoing is an erroneous interpretation of the objectives of the Law for the Intervention and Prevention of Domestic Violence in Puerto Rico, Law 54 of August 15, 1989, L.P.R.A., SEC. 601 et seq. (“Law 54”). It is precisely the visibility of the problem of gender violence that is being addressed by classifying this abusive behavior between couples as a crime. Especially, in the case in which the victim herself and now ratified by the family, is the one who cries out for the publicity of the processes so that her claim does not remain in the dark, silenced and total neglected by the Justice system.

21. The way in which the present controversy has been decided, far from achieving its objective, completely defeats the interest sought to be protected based on the public policy promulgated by Law 54. This Law, which has been amended on numerous occasions, has not undergone any change in its spirit, which is reflected in its explanatory statement as follows:

There is no doubt that in order to confront this problem effectively, the will to join efforts

and purposes is required between the public sector, the private sector, the police, the courts, aid professionals and the community in general. It is essential that we confront this problem by focusing our attention on its violent and criminal nature and that we design measures aimed at the aggressors and protection measures for the victims. The novel aspect of this law rests on the power granted to the Judges of the Court of First Instance and the Municipal Judges to dictate affirmative measures of protection to the victims through the issuance of orders directed to the aggressor to refrain from engaging in certain conduct with respect to the victim. (Emphasis ours).

22. Similarly, Article 1.2 of Law 54 sets forth its public policy for such purposes indicates the following:

In developing policy on this matter, we must emphasize addressing the difficulties that domestic violence situations present for all victims, particularly women and minors, in order to preserve their physical and emotional integrity, ensure their safety and save their lives. Law 54, art. 1.2, 8 L.P.R.A. SEC. 601.

23. "Law 54 aims to create awareness that intimate partner violence is not an *individual and private matter, but a matter of public interest* and that it is a practice supported by "discriminatory ideas, attitudes and behaviors" that are shared and promoted by the social institutions called to eradicate it. *Una Ley Mal Tratada: El Tribunal Supremo Del Siglo 21 Ante La Violencia, Las Mujeres Y El Género*. (A Badly Treated Law: The Supreme Court of the 21st Century Before

Violence Against Women and Gender), 46 Rev. Jur. U.I.P.R. 95, 116 (2012) (emphasis ours).

24. Although the intention of this Honorable Court is the “prospective” protection of future victims, the only one who ends up being protected in this case is the courts. The foregoing given that it is the Caguas Court of First Instance that issues a Protective Order on its own initiative, which ends up completely prohibiting the disclosure and public discourse of the recordings. Additionally, it is this Honorable Court who certifies, also on its own initiative, and resolves the controversy without request from any affected party in the proceeding without giving space to be heard. At this time, we only count solely and exclusively on the position of the Court.

25. This determination, in its content and in its process, casts a great shadow on the proceedings and creates a degree of mistrust that this Honorable Court can repair by reconsidering its determination. This shadow that is cast on the system precisely creates a mistrust that affects prospective victims who, as in the audio in a social network circulated from the victim in the above-captioned case, towards a friend, reflects how she has lost all trust in the system and was left helpless.

26. This Honorable Court has the power to reverse what could be a great damage to democracy and the right of both access to information and due process of law to the parties, which could be corrected by sending the case to the Court of First Instance to have the position of the parties. This case merits at least a hearing before this court itself and that in some way all the positions of the affected parties are taken to be able to apply the due strict scrutiny that this case deserves in due course.

27. The people need to regain confidence in their institutions and with the granting of this request it would be an adequate remedy aimed at strengthening the confidence of the citizens in their institutions. The Academy has indicated the need to ensure the transparency of the system to guarantee its reliability. To this end, we echo the words of Professor Carlos Ramos when expressing the following:

The effect of depriving people of certain essential information for participation in public life would be to create a collective paralysis aggravated by the civic myopia of those who only know half or are completely unaware of the actions of their government. Allowing a culture of secrecy on the part of the state invites us to arbitrariness, mismanagement, government indifference, public irresponsibility, and corruption. In other words, the combination of misinformation and secrecy results in an imbalance of power and a democratic deficit. These premises and reflections are not mere theoretical observations but put in perspective many of the characteristics of the democratic governance of the XXI century.”

Carlos F. Ramos Hernández, *Acceso a la Información, Transparencia y Participación Política* (Access to Information, Transparency, and Political Participation), 85 REV. JUR. UPR 1015 (2016).

28. It is a general understanding that our system is not perfect, so it needs an alert and militant citizenry who can carry out “their oversight function if they have the information at hand that allows them to discover the sources of danger in time and demand responsibilities.” *Efrén Rivera Ramos, La Libertad de*

*información: Necesidad de su reglamentación en Puerto Rico* (Freedom of information: Need for its regulation in Puerto Rico), 44 Rev. Jur. UPR 67, 69 (1975). We need to give citizens the tools to improve as a society. To these ends we address our request to this Honorable Court, to allow the press to fulfill its duty to ensure the fundamental right of the people to access information that will help us to have a better system and a system in which we can trust.

WHEREFORE, the Honorable Supreme Court is very respectfully requested to accept this request for reconsideration and order the immediate delivery of the recordings that are the object of this request or to grant an oral hearing to ask any question that has not been answered in this reconsideration. In the alternative, we request that the case be returned to the Court of First Instance for the continuation of the proceedings.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on June 2, 2021.

WE CERTIFY: on this same date we have sent a copy of this letter to the Department of Justice; the Office of the Attorney General of Puerto Rico; to the Office of the Women's Advocate and the Court of First Instance of Caguas.

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**CERTIFICATION OF ACCURACY**

I, Andre Moskowitz, hereby certify that I am a Spanish>English translator certified by the American Translators Association (Certification No. 422086) and that the foregoing is a true and accurate translation of the following document that was provided to me:

Motion to Request Second Reconsideration, dated June 2, 2021

[SEAL]

American Translators Association  
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Spanish into English  
Certification #422086  
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TRIBUNAL GENERAL DE JUSTICIA  
EN EL TRIBUNAL SUPREMO

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NÚM.: CT-2021-0008

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El Pueblo de Puerto Rico

Recurrido

v.

Miguel Ocasio Santiago

Recurrido

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Naturaleza:

Divulgación de Grabaciones de las vistas del caso del  
Pueblo de Puerto Rico vs. Miguel Ocasio Santiago, Rel.

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OPA 2021011403,  
Núm.: C G2021 CR00274  
por Art. 3.1 Ley 54

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MOCIÓN EN SOLICITUD DE  
SEGUNDA RECONSIDERACIÓN

AL TRIBUNAL SUPREMO:

Comparece la Asociación de Periodistas de Puerto Rico (“ASPPRO”), representada por los abogados que suscriben, quienes muy respetuosamente EXPONEN, ALEGAN y SOLICITAN:

1. El 25 de mayo de 2021 la ASPPRO presentó una Moción en Solicitud de Reconsideración (la “Reconsideración”) de la Sentencia expedida por medio del Recurso de Certificación Intrajurisdiccional, certificada por iniciativa propia de este Honorable Tribunal y al amparo de la Regla 50 del Tribunal Supremo, en la que se prescindió de cualquier término o escrito de certificación a la ASPPRO. Esta fue emitida el 10 de mayo de 2021 y notificada a la parte suscribiente el 11 de mayo de 2021 (la “Sentencia”).

2. La presente solicitud de segunda reconsideración se realiza de conformidad con la Regla 45 (c) del Reglamento del Tribunal Supremo de Puerto Rico. 4 L.P.R.A. Ap. 1-A, R.45 (c). Esta solicitud es presentada dentro de los tres (3) días laborables luego de haber recibido la notificación sobre la Resolución declarando No Ha Lugar la Reconsideración, notificada el 27 de mayo de 2021.

3. En la referida Reconsideración señalamos que este Honorable Tribunal erró en su Sentencia en lo siguiente:

- (1) Erró este Honorable Tribunal al utilizar el mecanismo de Certificación Intrajurisdiccional, por iniciativa propia y en combinación con la Regla 50 y así prescindir tanto de los procesos a celebrarse en el foro de primera Instancia, como de los términos para que la parte suscribiente pudiera presentar un alegato con su posición sobre la controversia.
- (2) Erró este Honorable Tribunal al no aplicar el escrutinio estricto que mandata la normativa constitucional al analizar la Orden Protectora ante una solicitud de acceso a información, como

corolario del ejercicio legítimo y constitucional de la libertad de prensa.

- (3) Erró este Honorable Tribunal al cerrar de manera absoluta el acceso a las regrabaciones, al realizar un análisis hermenéutico de lo que dispone la ley que brinda un acceso controlado al público a la sala en donde se ventilan los procesos judiciales, en la que concluyen analógicamente que las entregas de las regrabaciones “no son compatibles con la posibilidad de que posteriormente la grabación se haga pública, aunque sea de manera suprimida o limitada, independientemente de quién lo solicite”.

4. Adicional a los señalamientos antes expuestos y los fundamentos ya antes discutidos en la Reconsideración, tenemos que muy respetuosamente señalar que este Honorable Tribunal erró no solamente en no acoger estos argumentos, sino en su pronunciamiento de No Ha Lugar sin mayor expresión al respecto. Este proceder muy lamentablemente crea un precedente que pone en cuestión la constitucionalidad del mecanismo de la Regla 50 en su aplicación por este Honorable Tribunal en la disposición de la controversia del caso de epígrafe en conjunción con el auto de Certificación Intrajurisdiccional bajo la Regla 52.2(d) de las Reglas de Procedimiento Civil. Esta acción ha provocado una patente violación al debido proceso de ley consagrado en la Decimocuarta enmienda de la Constitución Federal y en nuestra Carta Magna.

5. Este Honorable Tribunal en la gran mayoría de los casos en los que ha utilizado el mecanismo provisto por la Regla 50 acostumbra a incluir de una forma u otra la siguiente línea: “con el beneficio de la *comparecencia de ambas partes* y en ausencia de impedimento alguno para disponer de la controversia

que . . . nos ocupa . . . procedemos a resolver sin trámite ulterior, conforme a las disposiciones de la Regla 50 del Reglamento de este Tribunal, 4 LPRA XXI-B”. *Doral Fin. Corp. v. E.L.A.*, 191 D.P.R. 422, 427 (2014) (énfasis nuestro). De igual forma se ha incluido también la frase “luego de considerar la posición de todas las partes”. *In re M.M.T.*, 191 D.P.R. 668, 672 (2014). (énfasis nuestro). Véase también, *El Pueblo de P.R. v. Carrero Rolstad*, 194 D.P.R. 658, 665 (2016); *Pueblo de P.R. v. Santana Vélez*, 2006 TSPR 86, 168 D.P.R. 30, 35 (2006). Aun no incluyendo dichas líneas, los casos resueltos por este Tribunal utilizando la Regla 50, han contado en su inmensa mayoría con la comparecencia y la posición de todas las partes. *Fraya v. ACT*, 162 D.P.R. 182, 189 (2004). Además, es la primera ocasión en la historia de este Honorable foro en que tenemos una certificación a iniciativa propia en la que se utilice la Regla 50.

6. Al resolver la presente controversia por el mecanismo de la Regla 50, este Honorable Tribunal emitió una sentencia carente de análisis que aplicara el escrutinio adecuado y sin contar con los planteamientos correspondientes de Primera Enmienda de la Constitución Federal y Sección 4 de la Constitución de Puerto Rico, que bien hubiésemos podido levantar en caso de que se nos hubiese presentado la oportunidad de radicar, en cuanto menos, un alegato de Certificación. Por lo tanto, al haberse emitido la Sentencia en forma en que se produjo, solo nos queda el remedio de la Reconsideración, la cual el Tribunal se limitó a resolverla con un escueto “No Ha Lugar”. Este pronunciamiento impide que el país cuente en un caso de tan alto interés público con el análisis constitucional que amerita la presente controversia.

7. El único resultado de la aplicación de estos mecanismos en conjunto de la Certificación Intrajudicial con la Regla 50 para disponer de la controversia de epígrafe ha sido darle la oportunidad a este Honorable Tribunal de resolver una controversia de acceso a la información evadiendo la posibilidad de un planteamiento de Primera enmienda y por consiguiente sin la aplicación de un escrutinio estricto que claramente esta controversia amerita. Claramente dicho planteamiento ha de surgir si se hubiese permitido que este caso madurara. De lo contrario, no habría que enfrentar estos planteamientos en un proceso de reconsideración que puede ser despachado con un No Ha Lugar sin requerir mayor expresión.

8. Cuando este Honorable Tribunal elevó a su consideración la presente controversia la ASPPRO había radicado en esa misma mañana una moción acompañando la declaración jurada de la madre de la víctima consistiendo a la divulgación de todas las regrabaciones, la cual no se pudo incluir al momento de su certificación. A tales efectos, este Honorable Foro no tuvo la totalidad del expediente para resolver la presente controversia.

9. Por tal razón, cualquier acción de este Honorable Tribunal que redunde en la disposición de la presente controversia sin al menos contar con la posición de las partes afectadas en el caso, bien sea por escrito y/o por una vista argumentativa en cualquier foro judicial, tanto en el foro de Instancia como ante este Honorable Foro, redundaría también en una contraposición directa sobre ambas constituciones, violando gravemente el derecho al debido proceso de ley que acoge a las partes. Por lo tanto, el uso de la Regla 50 en combinación con el recurso de Certificación Intrajudicial en la presente controversia es

inconstitucional por estar reñido con el derecho a un debido proceso de ley al amparo de la Decimocuarta Enmienda de la Constitución Federal y Sección 7 del Artículo II de la Constitución de Puerto Rico.

10. Al evaluar los requisitos de la Certificación, este caso amerita como mínimo, la expresión de todas las partes. Este foro máximo se contradice en su determinación en la Sentencia de epígrafe, pues mientras que por un lado en el caso *Ex Parte Overseas Press Club*, 2021 TSPR 62, en el que el gremio periodístico hermano solicitó directamente al Tribunal Supremo la divulgación íntegra de todos los expedientes judiciales, incluyendo las regrabaciones que aquí se solicitan, este Tribunal indicó que “el procedimiento utilizado no es el adecuado para obtener la información que se solicita”. No obstante, se certificó la solicitud de epígrafe que inició por vía administrativa a través de la Ley de Transparencia y Procedimiento Expedito para el Acceso a la Información Pública, 3 L.P.R.A., sec. 9911 *et seq.* (Ley 141-2019).

11. En completa contraposición, la ASPPRO acudió a los mecanismos que tenía disponible en ley, atemperó su solicitud incluso a la Orden Protectora emitida por el Tribunal de Primera Instancia de Caguas del 3 de mayo de 2021, a lo que luego se añadió el consentimiento de la familia de la víctima mediante declaración jurada. A tales efectos, de haberse tratado un problema respecto al mecanismo utilizado y las condiciones para la solicitud, no debió proceder entonces que se resolviera de la misma forma ambos casos al existir una patente distinción entre ambas peticiones. Como mínimo, debió darse un análisis para hacer distinción, de haber alguna entre ambos casos.’ Al carecer de distinción entre ambos casos, se puede concluir que este honorable Tribunal a

determinado que en los casos de Ley 54, al amparo del Artículo 5.005 de la Ley de la Judicatura de 2003, Ley Núm. 201-2003, 4 LPRA sec. 25e, existe una absoluta prohibición que surge de manera automática con la nieta aplicación de la ley.

12. La forma en que se resuelve la presente controversia resulta, además, contraria a la reiterada jurisprudencia que este propio Tribunal ha establecido sobre el derecho al acceso a la información pública. El ejercicio del derecho al acceso a la información está estrechamente vinculado con los derechos de libertad de expresión, prensa y asociación. Art. II, Sec. 4, Const. ELA, LPRA, Tomo 1; *Soto v. Srio de Justicia*, 112 D.P.R. 477, 485-486 (1982).

13. A tales efectos, la tradición en nuestro ordenamiento jurídico de apertura de los Tribunales “obedece no sólo a razones históricas, sino también al propósito funcional de garantizar que la ciudadanía esté adecuadamente informada de lo que ocurre en los tribunales y que los procedimientos se lleven a cabo conforme la ley. Tal apertura es . . . consustancial a nuestro sistema democrático de gobierno”. *Fulana de Tal Y Sutana de Cual v. Demandado A*, 138 D.P.R. 610, 616 (1995) (citando a *II E. Chiesa, Derecho Procesal Penal de Puerto Rico y Estados Unidos*, Sec. 3.2 a las págs. 193-94 (1992)).

14. Es norma reiterada que “al reclamar la confidencialidad de información oficial, le corresponde al gobierno probar, de manera precisa e inequívoca, la aplicabilidad del privilegio”. *Bhatia Gautier v. Gobernador*, 199 D.P.R. 59, 85 (2017).

15. Este Honorable Tribunal en recientes expresiones claramente ha reiterado que “las restricciones impuestas por el Estado para negar el acceso a la

información deben satisfacer los criterios de un escrutinio estricto”. *Engineering Services International v. Autoridad de Energía Eléctrica de P.R.*, 2020 TSPR 103, 12 (2020) res. el 14 de septiembre de 2020. El derecho de acceso a la información pública es principio inherente de toda sociedad democrática, por lo que hemos sido consecuentes al reconocer su carácter fundamental y constitucional. Id. (citando a *Ad de P.R. v. Junta de Subastas*, 174 DPR 56, 67 (2008); *Ortiz v. Dir. Adm. de los Tribunales*, 152 D.P.R. 161, 175 (2000); *Soto v. Srio de Justicia*, 112 D.P.R., a la pág. 503).

16. Por tal razón, los tribunales deben ser “cautelosos en conceder livianamente cualquier pedido de confidencialidad del Estado”. *Engineering Services International v. Autoridad de Energía Eléctrica de P.R.*, 2020 TSPR 103. De lo contrario, se está privando ala ciudadanía de esa “herramienta fiscalizadora esencial, [que] permite que las personas emitan juicios informados sobre los actos” de 1 Cabe destacar que para la solicitud de epígrafe se contó con una carta de la OAT expresando su falta de objeción a la solicitud dentro de los términos en que se realizó sus tribunales. Véase *Engineering Services International v. Autoridad de Energía Eléctrica de P.R.*, 2020 TSPR 103, 9. El gobierno no puede invocar el privilegio de manera generalizada. *Bhatia Gautier v. Gobernador*, 199 D.P.R. 59, a la pág. 85 (citando a *Santiago v. Bobb y el Mundo, Inc.*, 117 D.P.R. 153 (1986)).

17. A tales efectos, “[1]a alta jerarquía del derecho constitucional de acceso a información hace difícil el reclamo gubernamental de confidencialidad”. Chiesa Aponte, Tratado de derecho probatorio, op. cit., pág. 304. Véase, además, *Colón Cabrera v. Caribbean Petroleum*, 170 D.P.R. 582 (2007). Dada la falta de



legislación que delimite el privilegio, este “debe escudriñarse con particular recelo”. *Bhatia Gautier v. Gobernador*, 199 D.P.R., a la pág. 85 (citando a *E.L. Chiesa Aponte, Tratado de derecho probatorio*, República Dominicana, Ed. Corripio, T. I, pág. 304).

18. Por letra de este Honorable Foro es incuestionable “la inconstitucionalidad de una regla de exclusión automática” *El Pueblo de P.R. v. Pepín Cortés*, 173 D.P.R. 968, 981 (2008). La interpretación de este Honorable Tribunal, como hemos expresado en nuestra Reconsideración y reafirmamos hoy, tiene el efecto de crear una prohibición automática de la aplicación de la Ley.

19. Note además este Honorable Tribunal, la siguiente expresión en su Sentencia de epígrafe:

La víctima de violencia doméstica que acude al tribunal en busca de ayuda no debe enfrentar el temor de que la grabación de lo que se vierta en ese proceso pueda ser divulgado a cualquier persona o medio, en todo o en parte, para compartirlo con el público en general. Esto es precisamente lo que la ley pretende evitar. *El Pueblo de P.R. v. Ocasio Santiago*, 2021 TSPR 64, 9-10 (2021).

20. Muy respetuosamente, es nuestra obligación enfatizar que lo anterior es una interpretación errada de los objetivos de la Ley para la Intervención y Prevención de la Violencia Doméstica en Puerto Rico, Ley 54 de 15 de agosto de 1989, 8 L.P.R.A., sec. 601 et seq (“Ley 54”). Es precisamente la visibilidad del problema de la violencia de género lo que se busca atender al tipificar como delito dicha conducta de abuso entre parejas. Máxime, en el caso en que la

propia víctima y ahora ratificado por la familia, es la que clama por la publicidad de los procesos para que su reclamo no quede en la oscuridad, silencio y en desatención total por parte del sistema de justicia.

21. La manera en que se ha decidido la presente controversia, lejos de lograr su objetivo, derrota por completo el interés que se busca proteger a base de la política pública promulgada por la Ley 54. Esta ley, la cual ha sido enmendada en numerosas ocasiones, no ha sufrido cambio alguno en su espíritu, el cual se recoge en su exposición de motivos lo siguiente:

No hay duda de que para confrontar este problema efectivamente, se requiere la voluntad de unir esfuerzos y propósitos entre el sector público, el sector privado, la policía, los tribunales, los profesionales de ayuda y la comunidad en general. Es imprescindible que enfrentemos esta problemática fijando nuestra atención en su naturaleza violenta y delictiva y que diseñemos medidas dirigidas a los agresores y medidas de protección para las víctimas. El aspecto novel de esta ley descansa en la facultad otorgada a los Jueces del Tribunal de Primera Instancia y los Jueces Municipales para dictar medidas afirmativas de protección a las víctimas a través de la expedición de órdenes dirigidas al agresor para que se abstenga de incurrir en determinada conducta con respecto a la víctima. (Énfasis nuestro).

22. De igual forma, la Ley 54 en su Artículo 1.2 enuncia su política pública y a tales efectos indica lo siguiente:

En el desarrollo de la política sobre este asunto, debemos dar énfasis a atender las dificultades que las situaciones de violencia doméstica presentan para toda víctima, particularmente a mujeres y menores, para preservar su integridad física y emocional, procurar su seguridad y salvar sus vidas. Ley 54, Art. 1.2, 8 L.P.R.A. sec. 601.

23. La “Ley 54 tienen como objetivo crear conciencia de que la violencia en la pareja no es un asunto *individual y privado, sino un asunto de interés público*, y que es una práctica sustentada por “ideas, actitudes y conductas discriminatorias” que comparten y promueven las instituciones sociales llamadas a erradicarla. *Una Ley Mal Tratada: El Tribunal Supremo Del Siglo 21 Ante La Violencia, Las Mujeres y El Género*, 46 Rev. Jur. U.I.P.R. 95, 116 (2012). (Énfasis nuestro)

24. Aunque la intención de este Honorable Tribunal sea la protección “prospectiva” de futuras víctimas, a quien único se termina protegiendo en este caso es a los tribunales. Lo anterior dado a que es el Tribunal de Primera Instancia de Caguas quien emite por iniciativa propia una Orden Protectora en la que se termina prohibiendo en su totalidad la divulgación y discurso público de las grabaciones. Adicional, es este Honorable Tribunal quien certifica, también por iniciativa propia, y resuelve la controversia sin solicitud de ninguna parte afectada en el proceso sin dar espacio a ser escuchadas. En este momento, solo contamos única y exclusivamente con la posición del Tribunal.

25. Esta determinación, en su contenido y en su proceso arroja una gran sombra a los procesos y crea un grado de desconfianza que este Honorable Tribunal puede reparar reconsiderando su determinación. Esta

sombra que se arroja sobre el sistema precisamente crea una desconfianza que afecta a prospectivas víctimas que, como en el audio en una red social circulado de la víctima del caso de epígrafe, hacia una amiga, se refleja como esta perdió toda la confianza en el sistema y quedó desamparada.

26. Este Honorable Foro tiene la potestad de revertir lo que podría ser un gran daño a la democracia y al derecho tanto del acceso a la información como al debido proceso de ley a las partes, lo cual podría subsanar enviando el caso al foro de primera Instancia para contar con la postura de las partes. Este caso amerita en cuanto menos una vista ante este propio foro y que de alguna forma se tenga todas las posturas de las partes afectadas para poder aplicar en su momento el debido escrutinio estricto que amerita este caso.

27. El pueblo necesita recuperar la confianza en sus instituciones y con la concesión de la presente solicitud sería un remedio adecuado y dirigido a fortalecer dicha confianza de la ciudadanía en sus instituciones. La academia ha señalado la necesidad de procurar la transparencia del sistema para garantizar su confiabilidad. A tales efectos hacemos eco de las palabras del profesor Carlos Ramos al expresar lo siguiente:

El efecto de privar a las personas de cierta información fundamental para la participación en la vida pública sería crear ‘una parálisis colectiva agravada por la miopía cívica de quien sólo conoce a medias o desconoce por completo las actuaciones de su gobierno’. Permitir una cultura de secretividad por parte del Estado nos invita ‘a la arbitrariedad, la mala administración, la indiferencia

gubernamental, la irresponsabilidad pública y la corrupción'. En otras palabras, la combinación de desinformación y secretividad resulta en un desbalance de poder y un déficit democrático. Estas premisas y reflexiones no son meras observaciones teóricas, sino que ponen en perspectiva muchas de las características de la gobernanza democrática del siglo XXI”.

Carlos F. Ramos Hernández, Acceso a la Información, Transparencia y Participación Política, 85 REV. JUR. UPR 1015 (2016).

28. Es un entendido general que nuestro sistema no es perfecto, por lo que necesita de una ciudadanía alerta y militante que pueda realizar “su función fiscalizadora si tiene a la mano la información que le permita descubrir a tiempo los focos de peligro y exigir responsabilidades”. Efrén Rivera Ramos, La libertad de información: Necesidad de su reglamentación en Puerto Rico, 44 Rev. Jur. UPR 67, 69 (1975). Necesitamos darle a la ciudadanía las herramientas para mejorar como sociedad. A dichos fines dirigimos nuestro ruego a este Honorable Tribunal, para que permita a la prensa cumplir con su deber de asegurar el derecho fundamental del pueblo al acceso a la información que nos ayudará a tener un mejor sistema y un sistema en el que podamos confiar.

EN MÉRITO DE LO ANTERIOR, muy respetuosamente se solicita al Honorable Tribunal Supremo que acoja la presente solicitud de reconsideración y ordene la entrega inmediata de las regrabaciones objeto de esta solicitud o que conceda una vista oral para realizar cualquier pregunta que no haya quedado respondida en esta reconsideración. En la alternativa, solicitamos que se devuelva el caso al Tribunal de

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Primera Instancia para la continuación de los procedimientos.

RESPETUOSAMENTE SOMETIDA.

En San Juan, Puerto Rico, a 2 de junio de 2021.

CERTIFICAMOS: en esta misma fecha hemos enviado copia del presente escrito al Departamento de Justicia; la Oficina del Procurador General de Puerto Rico; a la Oficina de la Procuraduría de la Mujer y al Tribunal de Primera Instancia de Caguas.

/F/ Rafelli González Cotto

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**APPENDIX O**

4A L.P.R.A. Ap. XXI-B, Rule 50

THIS SECTION IS CURRENT FOR  
THE SUPPLEMENT OF 2021  
(2020 SESSION OF THE LEGISLATIVE  
ASSEMBLY) AND LAWS 1 to 41 OF 2021

*Laws of Puerto Rico Annotated > TITLE FOUR  
Appendices Rules of the Court > XXI-B. Regulations of  
the Supreme Court of Puerto Rico (2011)*

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Rule 50. Additional power of regulation of the court

In situations not provided for by these regulations, the court will direct the process in the way that in its opinion serves the best interests of all parties.

The power of the court to dispense with specific terms, writings, or procedures in order to achieve the fairest and most efficient dispatch of the case or matter in question is reserved.

Laws of Puerto Rico Annotated

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**CERTIFICATION OF ACCURACY**

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4A L.P.R.A. Ap. XXI-B, Rule 50

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