

Talevski v. Health and Hospital Corporation of Marion County Explained

What you need to know about the case that could strip the ability to individually enforce civil rights and access to federal safety net programs.

The Supreme Court is set to decide a crucial civil rights case this fall: [Talevski v. Health and Hospital Corp. of Marion County](#) (HHC). Civil Rights and Disability Rights organizations are sounding the alarm and urging *immediate action* to keep this case out of the Supreme Court. The stakes in this case are extremely high.

ABOUT THE CASE:

Mr. Gorgi Talevski, who is now deceased, was a patient at an HHC nursing home facility, Valparaiso Care and Rehabilitation. Mr. Talevski's estate, litigating on behalf of Mr. Talevski, alleges that the facility abused and neglected him by using chemical restraints and medicating him to sleep, rather than treating his dementia-related needs.

The Federal Nursing Home Reform Act (FNHRA) gives nursing home residents the right to be free from restraint, whether physical or chemical. Mr. Talevski (through his family) sued HHC, with the claim that HHC violated his rights under the FNHRA. HHC argued that nursing home residents such as Talevski should not be able to bring cases to federal court for resolution. Mr. Talevski won in the lower courts, but HHC petitioned to the Supreme Court asking the Court to rule that individuals may no longer sue to protect their rights. The hearing has been scheduled for November 8th, 2022.

TAKE ACTION:

Congress intended for the people, not just the federal government, to hold state and local governments accountable to uphold and enforce civil rights laws. We need this case withdrawn from the Supreme Court. You can take action by:

- Visiting <http://www.citact.org/hhc>
- Texting HHC to 52886
- Contacting a Marion County City-County Council Member
- Contacting HHC Board of Trustees (more below)
- Watch & share our press conference testimony highlights here: https://youtu.be/QWz_t13qEkM
- Watch & share Citizens Action Coalition's call to action video here: <https://youtu.be/2EW3DQVFwiU>

WHAT'S AT STAKE

HHC's petition to the Supreme Court asks the Court to rule that individuals may no longer sue to protect their rights under a broad range of statutes – known as [Spending Clause statutes](#) and under Medicaid's Nursing Home Reform Act under [Section 1983](#).

What is [Section 1983](#): Section 1983 allows an individual to sue state governments and their employees for civil rights violations. Section 1983 does not grant civil rights, instead it is used to enforce rights that already exist.

What is [Spending Clause Legislation](#): The Spending Clause allows Congress to enact laws that tax and spend money for the general welfare of the United States.

Spending Clause programs include:

- [Medicaid](#) - federal health insurance for low-income adults, children, pregnant people, elderly adults, and people with disabilities.
- [Medicare](#) - federal health insurance for people 65 or older, and for some people with disabilities.
- [Supplemental Nutrition Assistance Program](#) (SNAP) - financial assistance that enables low-income families and individuals to purchase healthy food.
- [Children's Health Insurance Program](#) (CHIP) - provides health coverage to eligible children.
- [Temporary Assistance to Needy Families](#) (TANF) - provides temporary assistance to low-income families with children to achieve economic self-sufficiency.
- [Adoption Assistance and Child Welfare Act](#) - establishes protections for children in foster care or at risk for placement, including safety measures.
- [Juvenile Justice Delinquency and Preventive Act](#) Provisions - imposes protections for children and youth in or at risk for detention, including strict limits on incarceration and mandates to separate children from adults.
- [McKinney-Vento Homeless Assistance Programs, Education for Homeless Children and Youth Program](#) - ensures educational rights and protections for children experiencing homelessness.

The Supreme Court's decision in this case could also limit the power of important civil rights laws that protect individuals. These laws place nondiscrimination obligations on state and local governments when they accept and use federal dollars. Specifically:

- Title IX of the Education Amendments of 1972 (prohibits discrimination on the basis of sex);
- Title VI of the Civil Rights Act (prohibits discrimination on the basis of race, color, or national origin); and
- Section 504 of the Rehabilitation Act (prohibits discrimination on the basis of disability).

If people are not able to sue state and local governments to enforce these rights, state and local governments will have little to no accountability if they fail to deliver these important protections and services, or if they fail to deliver them in a nondiscriminatory manner. Only the federal government will be able to investigate wrongdoing, and the only remedy available to the federal government - in most instances of wrongdoing - is to withhold funding from the state. These lifeline programs need more, not less funding.

For these reasons, this case puts numerous socio-economic and historically marginalized communities at risk, including those who identify as: Disabled, Black, Indigenous, People of Color, working class, low-income, elderly, children, families in the foster care system, needy families, people experiencing homelessness, and more.

Health Affairs warns that the [Supreme Court is Poised to Wipe Out Legal Rights of Medicaid Beneficiaries](#), if this case is decided in favor of the defendant.

The Commonwealth Fund warns the [Supreme Court could strip protections from millions of federal program beneficiaries](#).

WHO IS HHC & HOW DO I ASK THEM TO WITHDRAW THEIR PETITION?

HHC stands for Health and Hospital Corporation of Marion County. They own 93% of Indiana's nursing homes. The HHC Board of Trustees governs HHC. HHC is a seven-member board. The current HHC board members are Gregory S. Fehribach, Carl L. Drummer, Robert W. Lazard, Dr. Geeta Karnik Mantravadi, Monica Crain, Thomas Hanify, and Beverly Mukes-Gaither. You can read more about these individuals [here](#).

You can contact HHC by [sending mail to their address](#):

Health & Hospital Corporation of Marion County
Attn: Board of Trustees
3838 North Rural Street
Indianapolis, IN 46205

You can also attend an HHC meeting in person. [Here](#) is a schedule of their meetings with time and location information.

I LIVE IN INDIANA. HOW DO I CONTACT MY MARION COUNTY CITY-COUNTY COUNCIL MEMBER?

The people of Indiana, especially Indianapolis, IN, play an important role. Three members of the HHC Board are appointed by the [Mayor of Indianapolis Joe Hogsett](#), two members are appointed by the [Marion County City Council](#), and two members are appointed by the [Marion County Commissioners](#).

Use [this tool](#) to enter your address and find the contact information of your city-county council member. You can also attend City-County Council meetings in person. You can find a calendar of their meetings [here](#). Meetings are held at 200 E. Washington St., T24, Indianapolis, IN 46204.

WHAT ELSE CAN I DO TO PROTECT THE INDIVIDUAL RIGHT TO SUE, ACCESS TO CIVIL RIGHTS, & THESE ESSENTIAL SOCIAL WELFARE PROGRAMS?

We need to come together and tell HHC to pull this case from the Supreme Court. Please contact, tweet, and tag HHC officials to drop this petition. You can also say why social programs like Medicaid, Medicare, TANF, SNAP, and other programs mentioned matter to you personally. Below are some ways to reach them:

- **Gregory S. Fehribach**
 - Email: gfehribach@thefehribachgroup.com
 - Phone: (317) 638-2400
 - He created the Gregory S. Fehribach Center through Eskenazi Health. Let them know this case conflicts with the foundation's mission of supporting young people with physical disabilities. Phone: 317-880-3324. Email: larry.markle@eskenazihealth.edu
- **Carl L. Drummer:**
 - Email: cdrummer@taftlaw.com
 - Phone: (317) 713-9545
 - Twitter: @Bushwhacker11

- **Robert W. Lazard:**
 - Email: rlazardo2@hotmail.com
 - Twitter: @LazardRW
- **Dr. Geeta Karnik Mantravadi:**
 - Email: geeta.karnik@gmail.com
 - Twitter: @geeta_karnik
- **Monica Crain:**
 - Emails: mcrainhhc@gmail.com | monica.payne@btlaw.com
 - LinkedIn: <https://www.linkedin.com/in/mcrainpaynehrleader/>
- **Thomas Hanify:**
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