

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

Eilek Más Rivera v. Julio Roldán-Concepción, in his personal and official capacity as Mayor of the City of Aguadilla, et al.

Civil No. 24-1216 (MBA) (D.P.R. Mar. 27, 2026) · No. Civil No. 24-1216 (MBA); 3:24-cv-01216 · Decided March 27, 2026

SUMMARY

The United States District Court for the District of Puerto Rico rules on defendants’ motion to dismiss claims arising from alleged politically discriminatory employment actions under the First Amendment and 42 U.S.C. § 1983, as well as Puerto Rico law. The court dismisses the First Amendment claim against human-resources director Grisell Lausell, allows the claim against Head Start director Melba G. Rivera to proceed, and denies Mayor Julio Roldán-Concepción’s qualified-immunity defense at the pleading stage. The excerpt also addresses claims under Puerto Rico Act 90-2020 and the Puerto Rico Constitution.

CASE DETAILS

COURT	United States District Court for the District of Puerto Rico
WRITING FOR THE COURT	Mariana E. Bauzá-Almonte
JURISDICTION	United States District Court for the District of Puerto Rico
DECIDED	March 27, 2026
DOCKET	Civil No. 24-1216 (MBA); 3:24-cv-01216
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the claims against Rivera and Lausell for failure to state a claim and sought dismissal of the claims against Roldán based on qualified immunity. The court granted the motion in part and denied it in part.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts nonconclusory factual allegations as true, disregards legal conclusions couched as facts, and determines whether the complaint provides fair notice and states a facially plausible claim for relief.
PRECEDENTIAL VALUE	unpublished

PARTIES

Eilek Más Rivera v. Julio Roldán-Concepción, Melba G. Rivera-Delgado, Grisell Lausell, Municipal Government of Aguadilla

TOPICS

section 1983 free speech qualified immunity motions to dismiss civil procedure

PRACTICE AREAS

constitutional law civil rights employment law municipal law civil procedure

QUESTIONS PRESENTED

1. Whether Más plausibly alleged a First Amendment political-discrimination claim against Lausell and Rivera under 42 U.S.C. § 1983.
2. Whether Roldán was entitled to qualified immunity on the First Amendment political-discrimination claim.
3. Whether Más's claim under Puerto Rico Act 90-2020 was barred by the Act's employer and administrative-exhaustion requirements.
4. Whether Más could maintain an Article 1536 Puerto Rico Civil Code tort claim based on the same conduct supporting her Act 90-2020 claim.

HOLDINGS

1. The complaint failed to state a plausible First Amendment political-discrimination claim against Lausell because it did not adequately allege that Lausell knew Más's political affiliation or took an actionable adverse employment action against her.
2. Más plausibly alleged a First Amendment political-discrimination claim against Rivera, so dismissal of that claim was denied.
3. Roldán was not entitled to qualified immunity at the pleading stage because the complaint plausibly alleged violation of a clearly established First Amendment right.
4. The Act 90-2020 claims against Rivera and Lausell were dismissed because they were not the employer subject to liability under the allegations.
5. The court denied without prejudice Roldán's exhaustion-based dismissal argument because the defendants did not establish that an employer procedure and protocol existed for Más to follow.
6. Más could not maintain an Article 1536 tort claim based on the same factual allegations supporting her Act 90-2020 claim.

KEY QUOTATIONS

“Under the First Amendment, government officials are prohibited “from taking adverse action against public employees on the basis of political affiliation, unless political loyalty is an appropriate requirement of the employment.”” (5)

“It is by now beyond dispute that “non-policymaking public employees are protected from adverse employment decisions based on their political affiliation.”” (11)

FACTUAL BACKGROUND

Más Rivera worked for the Municipality of Aguadilla's Head Start programs from 2007 and was affiliated with the New Progressive Party. After a Popular Democratic Party mayor, Julio Roldán-Concepción, took office, Más alleged that municipal officials subjected her to politically motivated instructions, harassment, a deficient performance evaluation, and threats of dismissal. Roldán later notified her that her employment contract would not be renewed. The court treated these allegations as true at the pleading stage.

PROCEDURAL HISTORY

Más Rivera filed a federal civil-rights action under 42 U.S.C. § 1983 alleging First Amendment political discrimination, along with claims under Puerto Rico Act 90-2020, Article 1536 of the Puerto Rico Civil Code, and the Puerto Rico Constitution. Defendants moved to dismiss. The court dismissed the First Amendment claim against Lausell, denied dismissal of the First Amendment claim against Rivera, denied Roldán's qualified-immunity request, dismissed the Act 90-2020 claim against Rivera and Lausell, denied without prejudice Roldán's Act 90 exhaustion argument, and dismissed the Article 1536 claim.

DISPOSITION

other

CASES CITED

- Ocasio-Hernández v. Fortuño-Burset, 640 F.3d 1 (1st Cir. 2011)
- Ashcroft v. Iqbal, 556 U.S. 662 (2009)
- Sepúlveda-Villarini v. Department of Education of Puerto Rico, 628 F.3d 25 (1st Cir. 2010)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007)
- Rodríguez-Reyes v. Moline-Rodríguez, 711 F.3d 49 (1st Cir. 2013)
- Graham v. M.S. Connor, 490 U.S. 386 (1989)
- Lamboy-Ortiz v. Ortiz-Velez, 630 F.3d 228 (1st Cir. 2010)
- Penalbert-Rosa v. Fortuno-Burset, 631 F.3d 592 (1st Cir. 2011)
- Sanchez v. Pereira-Castillo, 590 F.3d 31 (1st Cir. 2009)
- Rodríguez-Cirilo v. García, 115 F.3d 50 (1st Cir. 1997)
- Rodriguez-Garcia v. Miranda-Marin, 610 F.3d 756 (1st Cir. 2010)
- Reyes-Orta v. Puerto Rico Highway & Transportation Authority, 811 F.3d 67 (1st Cir. 2016)
- Martínez-Vélez v. Rey-Hernández, 506 F.3d 32 (1st Cir. 2007)
- Agosto-de-Feliciano v. Aponte-Roque, 889 F.2d 1209 (1st Cir. 1989) (en banc)
- Cordero-Suárez v. Rodríguez, 689 F.3d 77 (1st Cir. 2012)
- Pearson v. Callahan, 555 U.S. 223 (2009)

- Maldonado v. Fontanes, 568 F.3d 263 (1st Cir. 2009)
- Anderson v. Creighton, 483 U.S. 635 (1987)
- Díaz v. Concepción, No. 22-1319 (BJM), 2023 U.S. Dist. LEXIS 36164, *19, 2023 WL 2351732, *7 (D.P.R. Mar. 3, 2023)
- Padilla-Garcia v. Guillermo Rodriguez, 212 F.3d 69 (1st Cir. 2000)
- Elrod v. Burns, 427 U.S. 347 (1976)
- Branti v. Finkel, 445 U.S. 507 (1980)
- Rutan v. Republican Party, 497 U.S. 62 (1990)
- Figueroa v. Aponte-Roque, 864 F.2d 947 (1st Cir. 1989)
- Remus-Milan v. Irizarry-Pagan, 81 F. Supp. 3d 174 (D.P.R. 2015)
- Velásquez-Vélez v. Molina-Rodríguez, 327 F. Supp. 3d 373 (D.P.R. 2018)
- Mercado-Vázquez v. Olivera-Olivera, No. 21-1620 (CVR), 2022 U.S. Dist. LEXIS 191208, *10-11, 2024 WL 1468486, *4 (D.P.R. Oct. 18, 2022)
- Rosario v. Valdés, No. 07-1508 (CCC), 2008 U.S. Dist. LEXIS 13113, *5, 2008 WL 509204, *2 (D.P.R. Feb. 21, 2008)
- Santini Rivera v. Serv. Air, Inc., 137 P.R. Dec. 1, 5 n.3, 16 (1994)
- Morales-Díaz v. Roldán-Concepción, No. 22-1319 (BJM), 2023 U.S. Dist. LEXIS 36164, *26, 2023 WL 2351732, *9 (D.P.R. Mar. 3, 2023)
- Medina v. Adecco, 561 F. Supp. 2d 162, 176 (D.P.R. 2008)
- Cabrera v. Romano's Macaroni Grill P.R., Inc., No. 22-1449 (MEL), 2024 U.S. Dist. LEXIS 216816, *10 n.4, 2024 WL 4905665, *4 n.4 (D.P.R. Nov. 27, 2024)
- Orellano-Laureno v. Instituto Médico del Norte, Inc., No. 22-01322 (MAJ), 2023 U.S. Dist. LEXIS 121650, *14 n.4, 2023 WL 4532418, *6 n.4 (D.P.R. July 13, 2023)
- Dumanian v. FirstBank P.R., No. 22-1543 (CVR), 2024 U.S. Dist. LEXIS 12122, *7 n.4, 2024 WL 197429, *3 n.4 (D.P.R. Jan. 17, 2024)

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