

STATEMENT BY RODNEY J. JACOB
Committee on Natural Resources Hearing (July 28, 2021)

Good morning from Guam.

I would like to thank Chairman Grijalva and to all serving on this Committee for inviting my testimony on this very important matter.

My testimony will focus on the real human impact that the denial of Supplemental Security Income (or SSI) benefits means for those living on Guam. I wanted to focus on one concrete example involving our national SSI program.

My name is Rodney Jacob. I am from Guam. I am attorney. I am also one of the lawyers who brought suit in the District Court of Guam to rectify a grave injustice to Katrina Schaller, and her sister and brother in law Kim Fegurur and Dr. John Fegurur – who are also Katrina’s guardians.

SSI is a program that provides financial assistance to low-income elderly, blind, or disabled Americans. It supports millions of qualified Americans throughout the fifty States, the District of Columbia, and Commonwealth of the Northern Mariana Islands (which lies just 60 miles north of Guam). Guam’s Legislature found that should Congress extend SSI to Guam, some 24,000 residents would be eligible for benefits. The District Court of Guam determined that the cost of extending SSI to Guam would be between \$17M and \$175M, or .03 to .3% of the annual 2017 SSI budget (54.5 billion). In the June 11, 2020 Stephens Memo, the SSA determined that extension of SSI benefits to the territories other than Puerto Rico (Guam, Am. Samoa and the Virgin Islands) would cost approximately \$700M for the rest of the decade and an estimated long range effect (percentage change in baseline Federal SSI payments) of just .1%

Katrina and her twin sister, Leslie, were born in, Pennsylvania in 1970. They both have myotonic dystrophy, which is a debilitating and incurable genetic disorder that causes long-term degeneration of muscle function. For most of her life, Katrina lived with her Mom in Pennsylvania. There, Katrina and Leslie applied for, and were granted, SSI benefits by the Social Security Administration. When their mother died in October 2007, Katrina had no other living family able to care for her other than her older sister and brother-in-law, Kim and Dr. John Fegurur, who live here in Guam. Dr. Fegurur was born and raised Guam. He attended the

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University of Guam. And, he and his five brothers and sisters are part of a larger, deep rooted family on Guam.

And, John is a great doctor. He was the product of many high profile residency programs and could have had his choice of any medical career in the mainland or Hawaii. But, he chose his home – Guam, USA -- and he and Kim have raised three beautiful kids here – 2 in college and 1 about to be a senior in high school. But that choice to come home - would mean many years later that his family would have to make an anguishing choice because of the discriminatory application of SSI to Guam.

When they told the SSA official in Pennsylvania that Katrina would be relocating to Guam, the official told them that “the SSA would terminate Katrina’s benefits” if she moved “because residents of Guam are not eligible for SSI benefits.”

Katrina’s medical needs required her to live with the Fegurgurs, and so Katrina came to Guam in late 2008. The SSA terminated her benefits on January 1, 2009. What is even more heartbreaking is the story concerning twin sister Leslie who is in assisted living, for now. Katrina and Leslie Facetime each other every day. They have not seen each other since 2008 – a reunion is what they dream of every day. However, because Guam is not part of the United States for purposes of SSI, Leslie will lose her benefits if she travels to Guam for more than 30 days. She is physically incapable of a trip of that short of duration – as she suffers from the same debilitating disease that Katrina suffers from – and it is progressing.

Is this situation unfair? Of course it is. Is it wrong? Without question. Is it discriminatory? Absolutely. It is contrary to common sense, human decency and sound public policy to deny these important public benefits to a set of American citizens just because they live on Guam. But what is true, is that the harm on Guam is real, it is not hypothetical. It deeply affects real people – real Americans – here.

Chief Judge Tydingco-Gatewood of the US District Court for Guam found that United States’ application of SSI as to Katrina violated the Equal Protection Clause of the U.S. Constitution on

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grounds that the Commonwealth of the Northern Mariana Islands and Guam are similarly situated and there is no rational basis to treat residents of Guam differently. In essence, the Court found that a sixty-mile stretch of ocean could not be the basis of eligibility for this essential program intended to provide for those with serious medical and financial needs.

The United States has fought us every step of the way – on grounds that the Insular Case doctrine permits the gross and unfair discrimination against Katrina. They have appealed and the case is pending in the Ninth Circuit and has been stayed pending the outcome of the Supreme Court’s decision in the Vaello-Madero case.

Thank you.

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