

# Flores de Otero v. Examining Board (1973)

## CASE SUMMARY

In *Flores de Otero v. Examining Board* (1974), Maria Flores de Otero (plaintiff), a Mexican citizen and legal resident of Puerto Rico, was denied an engineering license because she was not a U.S. citizen. She filed a lawsuit against the Examining Board (defendant) arguing that the citizenship requirement in Puerto Rico’s licensing law violated her constitutional rights. A few months later, Sergio Perez Nogueiro, a legal resident of Puerto Rico anda native citizen of Spain, filed an identical suit. A three-judge federal panel heard both cases and applied **strict scrutiny**, since the law discriminated based on alienage, a suspect classification. The government’s arguments, that the rule protected against foreign competition and ensured accountability, were found to be weak and based on discriminatory assumptions. The court ruled that the law violated the Equal Protection Clause, which applies to Puerto Rico through the Fifth and Fourteenth Amendments; nevertheless, while they ruled the statute unconstitutional the Supreme Court never arrived at a consensus on which amendment applied to Puerto Rico. The panel struck down the law and ordered that Flores and Perez be granted their licenses, reinforcing equal protection rights for non-citizens in U.S. territories.



Plaintiff's Attorney  
Max Ramirez



Defense Attorney  
Solicitor General of Puerto Rico  
Miriam Naveira Merly

## THE COURT PROCEEDING

### ARGUMENTS FOR THE PLAINTIFF

#### Violation of the Equal Protection Clause:

- Licensing restriction violated the Equal Protection Clause by discriminating against lawful permanent residents solely based on alienage.
- Such legal distinctions must undergo strict scrutiny and require a compelling state interest.

#### Unfair Discrimination:

- Excluding non-citizens from licensure unfairly generalizes their capabilities and trustworthiness without individual evaluation.
- This categorical exclusion lacked a rational basis.

#### Federal Law Supremacy:

- Puerto Rico’s law conflicted with federal immigration statutes that permit lawful residents to work, thereby violating the Supremacy Clause.

#### Economic Harm and Exclusion

- By preventing them from practicing their profession, the law inflicted unjust economic hardship and denied him the right to fully participate in the workforce. The plaintiff highlighted the long-term impact on his career, financial stability, and contribution to society.

### ARGUMENTS FOR THE DEFENDANTS

#### Protection of Public Interests:

- Restricting licensure to citizens protected public welfare, particularly in professions impacting safety and infrastructure.
- Loyalty to the nation is more assured in citizens.

#### Autonomy of Puerto Rican Law:

- Puerto Rico, while a U.S. territory, retains authority to regulate its internal affairs, including professional standards.
- Local autonomy permits the establishment of licensing criteria based on legitimate community interests.

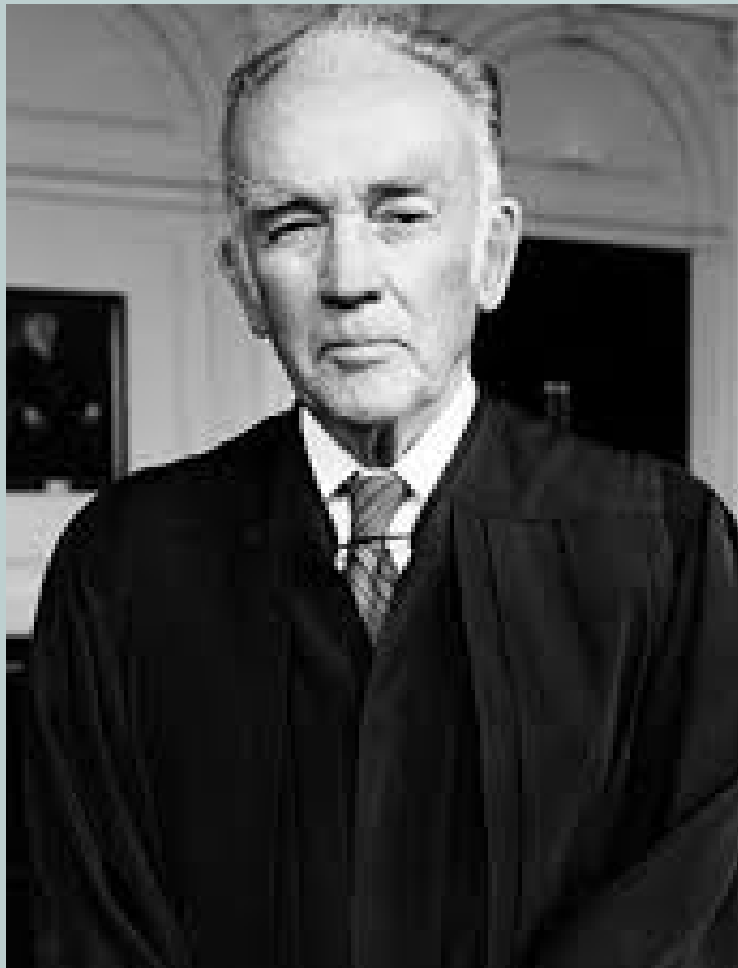
#### State Interest in Professional Integrity:

- Citizenship ensures a baseline understanding of civic duties and legal systems, which are critical for ethical conduct in licensed professions.

#### Not a Blanket Exclusion:

- The law did not bar non-citizens from all employment, only from specific licensed roles where public trust was paramount.
- The restriction was narrowly tailored.

## THREE-JUDGE DISTRICT PANEL



Chief Judge Frank M. Coffin,  
United States Court of Appeals  
for the First Circuit



Chief Judge Jose V. Toledo,  
United States District Court  
for the District of Puerto Rico



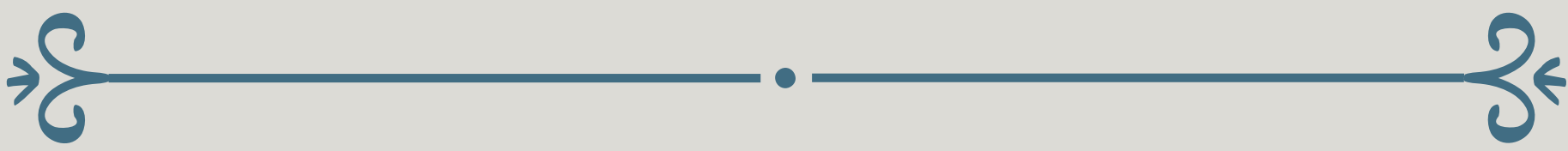
Judge Hernan G. Pesquera,  
United States District Court  
for the District of Puerto Rico

## WHY THE THREE-JUDGE PANEL?

Three-judge panels are convened for cases that involve significant constitutional issues, such as challenges to state or territorial laws, congressional redistricting, or voting rights (constitutional challenges to state or federal laws). These panels are important because they offer a more balanced and thorough review by including judges from different federal courts, and their decisions bypass the usual appeals process, going directly to the Supreme Court, which must hear the case. This ensures that high-stakes legal questions receive immediate and careful attention at the national level. The *Flores v. Examining Board* case required a three-judge panel because it involved a serious constitutional challenge to a Puerto Rican law.

## THE MAJORITY OPINION

- **Citizenship Requirement Is a “Suspect Classification”**
  - Laws that discriminate based on citizenship must meet strict scrutiny, they must serve a compelling government interest.
- **Government’s Justifications Failed**
  - Arguments like preventing an “invasion of foreign engineers” or ensuring responsibility for building safety were not backed by evidence and were too weak to justify discrimination.
- **Discrimination Alone is Not Valid**
  - The court rejected the idea that denying licenses to non-citizens could be justified by fear or assumptions, which is unconstitutional.
- **Supreme Court Precedent Applied**
  - The court relied on *In re Griffiths* (1973), which also struck down citizenship requirements for professional licensing.



*“There is no demonstrated relationship between citizenship and the likelihood that an individual will meet this obligation, and we think it clear that whatever link may exist is too tenuous to establish a compelling interest in denying licenses to all aliens.”*

*-Chief Judge Coffin, U.S. Court of Appeals for the First Circuit*



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