

## Unwarranted benefit fiasco

August 19, 2010, 03:31 AM By Bill Silverfarb Daily Journal staff



*Bill Silverfarb/Daily Journal*  
*Attorney Chris Douglas, left, and his client Jose Alvaro Munevar were able to get the Social Security Administration to restore \$14,000 in back payments that were wrongfully withheld.*

Jose Alvaro Munevar, 55, was laid up in the hospital recovering from knee surgery when notified that his Supplemental Security Disability Insurance payments were suspended.

His payments were cut off because he bounced a \$300 check in Las Vegas back in 2007, a felony in Nevada.

Munevar, who has lived with cerebral palsy since birth, relied on the nearly \$1,800 a month he got from Social Security to help support himself and two teenage daughters as he struggled to make money as an accountant and financial consultant through the recession.

Munevar had overdrawn his account by only \$15, a mistake that would ultimately cost the man several months of income and a little pride.

"I was embarrassed. It was the first time in my life I ever bounced a check," said Munevar, a Redwood Shores resident.

Munevar tried to clear up the warrant with Clark County, Nev. prosecutors but was unable to do it on his own.

So, he turned to the Legal Aid Society of San Mateo County for help.

As it turned out, one of the nonprofit's staff attorneys was intimately familiar with the Social Security Administration withholding payments from persons with outstanding warrants.

Staff attorney Chris Douglas represented a Redwood City woman, Rosa Martinez, who had her SSI payments withheld based on a nearly 30-year-old warrant out of Florida.

Martinez's payments, \$870 a month, were withheld based on a 1996 law which prohibited

payment of benefits to people who are “fleeing to avoid prosecution” for a felony.

Martinez, however, had never even been to Florida. Social Security cut off the payments to Martinez based on name and date-of-birth only. Douglas fought on Martinez’s behalf but Social Security refused to rescind its decision to stop her benefits.

Douglas got the National Senior Citizens Law Center in on the discussion and Martinez’s case quickly turned into a class-action lawsuit as it became clear Social Security was wrongfully withholding payments from more than just a few people.

In fact, it wrongfully withheld payments from more than 200,000 people and owes about \$700 million in back payments.

The Legal Aid Society and other plaintiffs were victorious in reaching a settlement in *Martinez v. Astrue* in early 2009 and the Social Security Administration has since changed the way it withholds payments from persons with outstanding warrants.

Social Security has even compiled a list, called the “Martinez List,” that shows all the names who had payments withheld based on the old law. That list, however, has not been made public for privacy reasons.

“The Martinez settlement changes the types of felony arrest warrants that we will use to prohibit payment of Social Security, SSI and special veterans benefits. This settlement does not apply to persons whose benefits we denied or stopped because of an arrest warrant due to a parole or probation violation,” according to the Social Security Administration.

In the Munevar case, Douglas was able to get the Clark County arrest warrant “quashed” and Social Security paid Munevar \$14,000 in back payments and restored his benefits.

Douglas also found a couple of others locally who fell victim to the Social Security Administration’s “machete-like” approach to applying the old law.

“Basically Social Security was using a machete instead of a surgical knife when applying the law,” said Douglas, who suspects there are hundreds and maybe even thousands of people in San Mateo County who fell victim to the administration’s broad approach to the law.

The Social Security Administration is sending letters to those 200,000 people from whom it wrongfully withheld payments. However, the letters are being sent to last-known addresses and in English only.

Douglas has a passion for working with people with disabilities and wants to make sure everyone in the county who is entitled to the Social Security benefit gets their fair share.

Douglas helped reduce Munevar’s stress and anxiety while fighting to get his benefits restored.

“When you go to Social Security, they make you feel like you owe them something,” Munerva said. “I had to beg for help. I was blessed by meeting Chris.”

To view the notice of final settlement in the Martinez court case visit

[www.ssa.gov/martinezsettlement/](http://www.ssa.gov/martinezsettlement/).

Bill Silverfarb can be reached by e-mail: [silverfarb@smdailyjournal.com](mailto:silverfarb@smdailyjournal.com) or by phone: (650) 344-5200 ext. 106.