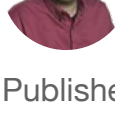


MICHIGAN

Jury acquits Metro Detroit doctors feds accused of health care fraud scheme



Mark Hicks

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In 2018, federal authorities alleged Dr. Rajendra Bothra and several of his colleagues were involved in a multi-million-dollar health care fraud scheme.

The renowned surgeon, humanitarian and politician who once received India's highest civilian honor went on to spend more than three years behind bars as a trial was delayed amid the COVID-19 pandemic. The now-79-year-old had maintained his innocence throughout the ordeal.

On Wednesday, a jury sided with him and his co-defendants.

During a hearing in U.S. District Court in Detroit, they walked out of the courtroom cleared of the accusations.



The south exterior of the Pain Center on Van Dyke in Warren in 2019. The clinic, once owned by Dr. Rajendra Bothra of Bloomfield Township was shut down by federal agents. *Todd McInturf, The Detroit News*

“He was absolutely ecstatic,” his attorney, Al Rogalski, told The Detroit News. “It was one of the most remarkable moments of my professional career watching him taking his first steps back to a normal life.”

Bothra and his former employees, Ganiu Edu, David Lewis, Christopher Russo, were found not guilty of more than 40 federal counts, a significant loss to the government but a win for the medical professionals whose legal team says their lives were upended.

“Employment opportunities for physicians facing these kinds of charges are very difficult,” said Ronald W. Chapman II, the attorney who represented Lewis in the proceedings.

The assistant United States attorneys involved in the case did not immediately respond to a request for comment Wednesday about the verdict. Neither did a representative for the U.S. Attorney's Office in Detroit, which initiated the case.

In December 2018, Bothra, Edu, Lewis, Russo and two others were charged in a 56-count unsealed indictment with cheating Medicare and Medicaid out of nearly \$500 million.

Authorities accused them of fueling the nation's opioid epidemic by illegally prescribing more than 13 million doses of prescription pain medication.

They alleged the scheme started in 2013 and was centered on clinics Bothra owned in Macomb County: Pain Center USA and Interventional Pain Center.

Investigators claimed the doctors forced patients to undergo painful, unnecessary or ineligible medical procedures in exchange for illegally receiving more than 13 million doses of prescription pain medication, including OxyContin, Vicodin, hydrocodone and Percocet.

“Collectively, the defendants submitted, or caused to be submitted, over \$182.5 million in claims to Medicare, \$272.6 million to Medicaid, and over \$9.2 million to Blue Cross/Blue Shield of Michigan,” assistant United States attorneys wrote in a federal court filing last month.

In another filing, authorities alleged the doctors prescribed opioids "without conducting sufficient medical examinations, without considering the appropriateness of non-opioid medication or lower dosages of opioids, and without warning patients of the risks associated with opioids."

Bothra and his co-workers all had not-guilty pleas entered on their behalf.

The Indian native, who also had a real estate company and was estimated to be worth \$35 million, faced 17 charges, including health care fraud conspiracy, conspiracy to possess with intent to distribute drugs, as well as aiding and abetting the unlawful distribution of drugs.

Despite multiple attempts to be released on a \$7 million bond, he was deemed a flight risk and ordered to remain in federal detention.

During that time, Bothra endured “3 ½ years of hell,” Rogalski said, including contracting COVID-19, falling several times and hospitalizations. “His health suffered terribly as a result of this.”

Rajendra Bothra The Pain Center

Meanwhile, FBI agents seized at least \$17.2 million from bank accounts linked to Bothra and his family, according to a forfeiture notice filed in federal court. His pain clinic also closed.

In all, the FBI seized money from 19 bank accounts linked to Bothra and his team of doctors with at least \$25.9 million.

His co-defendants remained free for years but faced many challenges as the case wound through court. Two initially charged in the case, Eric Backos and Ronald Kufner, eventually reached plea deals, records show.

Backos pleaded guilty in March to conspiracy to distribute and possess with intent to distribute controlled substances.

Last year, Kufner pleaded guilty to conspiracy to commit health care fraud. He must pay at least \$1,657,280.

Both men are scheduled for sentencing Aug. 25 before U.S. District Court Judge Stephen Murphy.

Bothra and the others pressed on, though, and their trial began the week of May 18 with 12 jurors as well as two alternates.

In filings before the start, the government said it planned to have at least one special agent testify and reference evidence such as patient files, medical claims data, prescription data and financial records.

"Because the charged offenses in this case are specific intent crimes, the defendants' intent is an essential and material element that the government must prove beyond a reasonable doubt," federal officials said in another court filing in May.

During the trial, an expert witness “only focused on about six patients,” Chapman said. “When the jury saw that and our defense of those patients, they came to the right decision.”

Rogalski, a partner with Warner Norcross + Judd LLP, added: “The government's case hinged on five key pillars, each of which crumbled under careful cross-examination.”

Chapman, Lewis' attorney, noted a recent U.S. Supreme Court decision backing doctors accused of overprescribing opioids “heightened the standards” for proving medical professionals knowingly violated laws or committed misconduct in their treatments.

“When you're looking at cases involving complex medical decisions, those are better left to the regulators and even Medicare to determine if the doctors are treating appropriately.”

Larry Margolis, an attorney who represented Russo, said it was a "great vindication" for his client.

"(The) government had it wrong from the start and never looked at the actual medicine or patients who suffer from chronic pain," he said, adding the jury "sent a message today."

The attorney representing Edu did not immediately respond to a request for comment on the verdict Wednesday night.

With the case behind him, Lewis, an interventional anesthesiologist, plans to open a pain management clinic, Chapman said.

Bothra seeks to reconnect with his family, including a daughter whose wedding he missed while locked up, and focus on recovering physically, Rogalski said.

Once presented with the highest physician honor bestowed in India, known as the Padmashri, and a well-respected physician, Bothra is left with a permanently tarnished reputation, the attorney said.

“The effect on his professional and personal life and the effect on his family has been horrendous,” he said. "His business which was incredibly successful — this was something he had spent his entire professional career developing and it was taken from him.”

The patients at his clinics were affected, as well, Rogalski said. “It made it very difficult for these patients to find health care practitioners who would take care of them.”

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