

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

NEIL ANAND, *et al.*,

*Plaintiffs,*

v.

U.S. DEPARTMENT OF HEALTH AND  
HUMAN SERVICES, *et al.*,

*Defendants.*

Civil Action No. 21-1635 (CKK)

**[PROPOSED] ORDER**

Upon consideration of the parties' December 2, 2021 Joint Status Report, it is hereby **ORDERED** that Defendants Drug Enforcement Agency and Health and Human Services provide all confidential information held by these agencies, including the parties' Joint Status Reports in the present civil litigation, as pertaining to the targeting of physicians Xiulu Ruan (No. 20-1410) and Patrick Couch (No. 20-7934) by Blue Cross Blue Shield, HHS, DEA, Qlarant, or USDOJ to: the Office of U.S. Solicitor General, Elizabeth B. Prelogar; Clerk of the U.S. Supreme Court; Xiulu Ruan's counsels, Lawrence Saul Robbins and Professor Jennifer D. Oliva; and Patrick Couch's counsel, Ronald William Chapman II, so that these attorneys and Supreme Court Justices have complete and total unredacted information in preparation for arguments in *Ruan v. United States*, No. 20-1410, in the U.S. Supreme Court where on Nov 05, 2021 Petition was GRANTED for a writ of certiorari (No. 21-5261).

It is **SO ORDERED** this \_\_\_\_\_ day of December, 2021.

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HON. COLLEEN KOLLAR-KOTELLY  
United States District Judge



**U.S. Department of Justice**

Office of the Solicitor General

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Washington, D.C. 20532

February 5, 2024

**VIA U.S. MAIL and VIA EMAIL to <cardiacgasman@gmail.com>**

Neil Anand  
1313 Cheltenham Drive,  
Bensalem, PA, 19020

Re: OSG FOIA No. **2024-128193**

Dear Mr. Anand:

This letter acknowledges our receipt of your Freedom of Information Act (FOIA) request dated March 8, 2022. This request was referred to the Office of the Solicitor General (OSG) by the Office of Information Policy/ Department of Justice on January 19, 2024, in which you requested the following:

1. All documents within USDOJ possession pertaining to USAO identified “bad actor” physician lists, CMS preclusion lists of physicians/healthcare providers and/or Healthcare Fraud Preventive Partnership (HFPP) “provider alert” lists.
2. All documents within USDOJ possession of “bad actor” healthcare insurers or payors, CMS preclusion lists of healthcare insurers or payors, and HFPP insurers or health insurers that (1) are revoked from Medicare and the conduct that led to the revocation is detrimental to the best interests of Medicare or (2) have engaged in behavior for which they could have been revoked had they been enrolled in Medicare and the conduct that would have led to the revocation is detrimental to the best interests of Medicare.
3. All USDOJ or Office of Solicitor General “red flags”, indicators of “outside the usual course of medical practice” or other indicators of diversion as identified by USDOJ or Office of Solicitor General as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410).
4. All USDOJ or Office of Solicitor General identified dangerous drugs, “crazy” drugs, highly addictive drugs, dangerous drug combinations and/or lethal dosages of drugs as prescribed by U.S. physicians to trusting and

vulnerable patients as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410).

5. All USDOJ or Office of Solicitor General documents pertaining to U.S. physician “honest effort standard and/or legal elements”, “objective honest effort standard and/or legal elements”, “objectively grounded mens rea and/or legal elements” or “honest effort mens rea and/or legal elements” as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410).

6. All USDOJ or Office of Solicitor General documents pertaining to the identities of U.S. physicians as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410) who don’t follow up on the background of their patients, don’t make sure their patients are taking the prescribed medications, don’t conduct physical exams, don’t check a computer database to see who else is prescribing opioids.

7. All USDOJ or Office of Solicitor General documents pertaining to the identities of nurse practitioners as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410), who aren’t DEA registrants, who do most of the prescribing of controlled substances in the United States.

8. All USDOJ or Office of Solicitor General documents pertaining to the identities of U.S. physician experts as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410) who inform the public or U.S. Court of Law through expert testimony the “usual course of medical practice”.

9. All USDOJ or Office of Solicitor General documents pertaining to the entire list or identities of medical experts used by USDOJ in criminal cases against medical providers who prescribe substances that are crazy, lethal, not for a legitimate purpose, or outside the usual course of medical practice.

10. All USDOJ or Office of Solicitor General documents pertaining to the identities of U.S. physicians whom USDOJ experts and/or physician experts have previously identified, analyzed, or evaluated as successfully or correctly practicing within the usual course of medical practice.

11. All documents as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410) that describe the “usual course of medical practice” and/or the legal elements of legitimate medical purpose as well as documents pertaining to the legal elements of acting in the usual course of professional medical practice.

12. All USDOJ or Office of Solicitor General documents pertaining to identified and/or previously identified “reasonable mistakes about what legitimate medical purposes are” as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410).

13. All USDOJ or Office of Solicitor General documents pertaining to identified objective components that are incredibly doctor protective and/or identified indicators of attempts to recognizably practice medicine, as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410).

14. All USDOJ or Office of Solicitor General documents pertaining to identified situations that could exist where a prescription was not issued for a legitimate medical purpose but still is in the usual course of professional practice as argued to the U.S. Supreme Court on March 1, 2022, in *Ruan and Khan v. United States* (Case 20-1410).

15. All USDOJ or Office of Solicitor General documents pertaining to identified legitimate medical purposes for opiate controlled substance medications.

16. All USDOJ or Office of Solicitor General documents pertaining the identities of U.S. physicians who are handing out prescriptions on a street corner, or identities of doctors who “meets someone on the street who says, I have pain, writes out a script, and hands it to him without even examining him or doing any of the other things you'd think a doctor would, other than signing an illegible signature on the bottom of a prescription” as argued to the U.S. Supreme Court on March 1, 2022 in *Ruan and Khan v. United States* (Case 20-1410).

17. All USDOJ or Office of Solicitor General documents pertaining to price information of opioids, and street drug supply as well as the described “situations like we had after raiding Ruan's clinic where the price of opioids on the streets doubles because suddenly the supply has been cut off” as argued to the U.S. Supreme Court on March 1, 2022 in *Ruan and Khan v. United States* (Case 20-1410).

18. All USDOJ or Office of Solicitor General documents pertaining to price information of opioids, and street drug supply pertaining to the situations after raiding Dr. Shakeel Khan’s clinics where the price of opioids on the streets changes because suddenly the supply has been cut off.

19. All USDOJ or Office of Solicitor General documents pertaining to price information of opioids, prices of drugs of abuse, spreadsheets or databases of street drug supply and street drug prices.

20. All USDOJ or Office of Solicitor General documents, price information of opioids, prices of drugs of abuse, spreadsheets or databases of street drug supply and prices after raiding of a particular U.S. physician in a particular geographic location (i.e. Greater Philadelphia area, Monroe Michigan area etc).

21. All USDOJ or Office of Solicitor General documents, pertaining to the minimum level of physical exam deemed adequate, prior to the prescribing of controlled substances as well as documents identifying criminal or civil conflicts concerning identified U.S. Physicians who do not perform physical

examinations of patients because Medicare Physical Exams Coverage pursuant to Title 42 Chapter IV Subchapter B Part 411 § 411.15 including Initial Preventive Physical Exam (IPPE) Covered only once within 12 months of first Part B enrollment, Annual Wellness Visit (AWV) Covered once every 12 months and/or Routine Physical Exam not covered by Medicare and prohibited by statute. See <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/preventive-services/medicare-wellness-visits.html>

22. All USDOJ or Office of Solicitor General documents, pertaining to the elements, mens rea and/or evidentiary standard of a “Pill Mill” and/or “Money Mill”.

23. All USDOJ or Office of Solicitor General documents pertaining to physicians who prescribe Food and Drug Administration (FDA) approved medications “off label” and fall under a criminal standard including documents that describe the procedural and substantive safeguards that protect doctors who prescribe off- label FDA medications (i.e. evidentiary standard, reasonable suspicion, preponderance of evidence, clear and convincing evidence, or beyond a reasonable doubt evidence, mens rea, purpose, and knowledge).

24. All USDOJ or Office of Solicitor General documents pertaining to the differences in legal standards and legal elements of medical criminality versus medical malpractice.

25. All USDOJ or Office of Solicitor General documents pertaining to the total amounts of criminal or civil asset forfeiture or restitution obtained by the United States after referral of a healthcare provider from a Blue Cross Blue Shield company.

This Office has assigned the following FOIA tracking number to your request: **2024-128193**.

Your request for records would require this Office to conduct an unreasonably burdensome search. Accordingly, your request falls within “unusual circumstances,” and has been classified as “complex.” See 5 U.S.C. § 552 (a)(b)(B)(i)-(iii). As a result, we are extending the time limit to respond to your request beyond the ten additional days provided by the statute. The time needed to process your request will necessarily depend on the volume and complexity of the potentially responsive records. For a more expedited response, it is recommended you narrow the scope of your request to maximize the number of potentially responsive records.

Please be advised that due to necessary operational changes as a result of the national emergency concerning the novel coronavirus disease (COVID-19) outbreak, there may be some delay in the processing of your request.

If you have any questions, if you wish to discuss reformulation or an alternative time frame for the processing of your request, or if you wish to discuss any aspect of your request, you may contact our FOIA Coordinator at [osgfoia@usdoj.gov](mailto:osgfoia@usdoj.gov) or at 202-514-2203, using the assigned FOIA tracking number. You may also write to OSG at:

OSG FOIA Coordinator  
Office of the Solicitor General  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0009

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001

Email: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: 202-741-5770; toll free at 1-877-684-6448  
Facsimile: 202-741-5769

Due to the high volume of correspondence received by this office, we have adopted a first in/first out practice of processing all incoming requests. Your request has been placed in chronological order based on the date of receipt and will be handled as quickly as possible when it is assigned for processing.

Sincerely,

Office of the Solicitor General

OSG/bt

IN THE SUPREME COURT OF THE UNITED STATES

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No. 22-585

HALIMA TARIFFA CULLEY, ET AL., PETITIONERS

v.

STEVEN T. MARSHALL, ATTORNEY GENERAL OF ALABAMA, ET AL.

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ON WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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MOTION OF THE UNITED STATES FOR LEAVE TO PARTICIPATE  
IN ORAL ARGUMENT AS AMICUS CURIAE AND FOR DIVIDED ARGUMENT

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Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae supporting respondents and requests that the United States be allowed ten minutes of argument time. Respondents have agreed to cede ten minutes of argument time to the United States, and consent to this motion.

This case presents the question of what constitutional standard should be used to evaluate the process that is due after property that is subject to forfeiture is taken into custody. Petitioners owned vehicles that were seized incident to arrests and subject to civil-forfeiture proceedings under the pre-2022

version of Alabama law. See Ala. Code § 20-2-93 (West 2015). The State instituted forfeiture proceedings for each vehicle within 14 days of the seizures. In the forfeiture proceedings, the state courts ultimately concluded that petitioners were innocent owners and ordered their vehicles returned to them. The brief for the United States explains that petitioners' due process rights -- and the due process rights of similarly situated claimants -- are fully protected by the requirement that the State timely commence forfeiture proceedings, thereby ensuring judicial oversight of the property's disposition. See United States v. Von Neumann, 474 U.S. 242, 249 (1986); United States v. \$8,850 in U.S. Currency, 461 U.S. 555, 562-570 (1983).

The United States has a substantial interest in the resolution of the question presented. The United States regularly conducts forfeiture proceedings against seized property. See, e.g., 18 U.S.C. 981, 983; see also \$8,850, 461 U.S. at 558 (noting that "[t]he Customs Service processes over 50,000 noncontraband forfeitures per year"). It therefore has a direct interest in the standards for assessing the constitutionality of the forfeiture process.

The United States has previously presented oral argument as a party and as amicus curiae in other cases involving the constitutional standard for evaluating the process that is due after property that is subject to forfeiture is taken into custody. See,

e.g., Alvarez v. Smith, 558 U.S. 87 (2009); Bennis v. Michigan, 516 U.S. 442 (1996); Von Neumann, 474 U.S. 242; \$8,850, 461 U.S. 555. In light of the government's substantial interests in the question presented, the United States' participation at oral argument would materially assist the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR  
Solicitor General  
Counsel of Record

AUGUST 2023