

The oblivious encroachment on the practice of Psychiatry: The Case of the United States of America v Muhamad Aly Rifai

Muhamad Aly Rifai, MD, FACP, FAPA, FACLP

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :
v. : NO. 22-CR-390
MUHAMAD ALY RIFAI :

ORDER

AND NOW this 9th day of May, 2024, the Verdict of the jury is hereby recorded as NOT GUILTY on Counts 1 through 4.

BY THE COURT:

/s/ Jeffrey L. Schmehl
JEFFREY L. SCHMEHL, J.

On November 8, 2022, the government of the United States of America indicted me on four counts of healthcare fraud. The counts involved four services of psychotherapy that the government alleged were not provided in late 2017. The government extrapolated those services each worth 43.59 \$ to 7 years (2015-2022) and demanded forfeiture of 1.3 million dollars. These charges stemmed from the care of hundreds of poor Medicare beneficiaries, living in the underserved rural areas in Pennsylvania, that no other provider wanted to see but I willingly agreed to care for.

On the face of it, these charges were overwhelming and calamitous. The government prosecutor added a litany of erroneous, misleading but scandalous and headline-grabbing analytics suggesting that on some days in 2015 services were billed for more than 24 hours of work and that my practice sent bills on deceased Medicare beneficiaries after the date of death. The government investigators and prosecutor believed that this Middle

Eastern, Muslim, solo-practicing, minority Physician will quickly relent and submit to a plea agreement.

In Muhamad Aly Rifai, MD, those representing the Government of the United States of America met a conscientious, law-abiding physician, but also a tenacious advocate who believed in his profession, probity, and innocence. I was educated in the United States in top tier training institutions such as the University of Virginia and the National Institute of Mental Health. I am the president of the local psychiatric society and hold five active board certifications in Internal Medicine, Psychiatry, Addiction Medicine, and Consultations Psychiatry. None of this really mattered, but calling on my legal experience and prior expert witness familiarity with the legal system I assembled an experienced trial team. I resolved to go to trial which was delayed till May 2024.

During the protracted investigation that yielded only four charges over seven years (2015-2022), the prosecutor representing the United States of America misunderstood the practice of psychiatry. She wantonly and benightedly mischaracterized the services of psychotherapy as “15 minutes med checks” a term eliminated from the American Medical Association current procedural terminology (CPT) in 2013.

During this six-day trial ordeal the government failed to produce a certified coder to support the veracity of the four charges. Instead, the government relied on the opinions of a few disgruntled former employees who were quickly discredited. A high school graduate representing the government contracted auditor quickly retracted his testimony when confronted about the flawed and erroneous analytics he presented. A registered nurse also representing the government contracted auditor conceded while being reduced to tears that her integrity did not allow her to support the government charges and audit results.

As part of investigation, the prosecutor involved the drug enforcement agency, in an attempt to portray, as diversion, the legitimate prescribing of controlled medications for attention deficit disorder to children under eighteen. During the trial the jury heard but

quickly disregarded the testimony of an undercover police officer who failed to illicit any diversion activities and alleged that forms that she forgot she had completed, several years earlier, were forgeries.

My brilliant attorney Law Professor Paul Hetznecker defended my rights and presented my case in an intelligent and compassionate manner to those twelve courageous Pennsylvanian men and women who heard my case. Our extraordinary coder/ auditor David Klein presented a simplified primer on psychotherapy coding to an attentive jury, he also debunked the flawed audits and analytics. Our expert Psychiatrist, who practices in the rural areas of Georgia explained how psychotherapy was the bread and butter of psychiatry, cementing to the jury that our billing practices were legitimate and lawful.

The jury had no faith in the case presented by the prosecutor on behalf of the government of the United States of America, while being sympathetic to the fact that what we provided were medically appropriate psychotherapy services. The jury quickly and unanimously returned a not-guilty verdict after only a few hours of deliberations.

Prosecutors from the United States Department of Justice are still seeking a mulligan after the not guilty jury verdict, trying to administratively effect damage to my ability to practice the field of psychiatry. I will continue to defend my rights and the rights of my physician colleagues to be of service to our fellow Americans.