

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
21-20042-CR-COOKE/O'SULLIVAN
CASE NO. _____

Jan 21, 2021

ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

21 U.S.C. § 846
21 U.S.C. § 841(a)(1)
21 U.S.C. § 853
18 U.S.C. § 2

UNITED STATES OF AMERICA

v.

HABIB GEAGEA PALACIOS,

Defendant.

_____ /

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment, unless otherwise specified:

1. The Controlled Substances Act (“CSA”) governed the manufacture, distribution, and dispensing of controlled substances in the United States. With limited exceptions for medical professionals, the CSA made it unlawful for any person to knowingly or intentionally manufacture, distribute, or dispense a controlled substance or conspire to do so.

2. The CSA and its implementing regulations set forth which drugs and other substances were defined by law as “controlled substances,” and assigned those controlled substances to one of five schedules (Schedule I, II, III, IV, or V) depending on their potential for abuse, likelihood of physical or psychological dependency, accepted medical use, and accepted safety for use under medical supervision.

3. A controlled substance assigned to “Schedule II” meant that the drug had a high potential for abuse, the drug had a currently accepted medical use in treatment in the United States, or a currently accepted medical use with severe restrictions.

4. Pursuant to the CSA and its implementing regulations, Oxycodone was classified as a Schedule II controlled substance. 21 C.F.R. § 1308.12(b). Oxycodone, sometimes prescribed under the brand name OxyContin or in combination with acetaminophen under the brand name Percocet, was used to treat severe pain. Oxycodone, as with other opioids, was highly addictive.

5. Medical practitioners, such as physicians and nurse practitioners, who were authorized to prescribe controlled substances by the jurisdiction in which they were licensed to practice medicine, were authorized under the CSA to prescribe, or otherwise distribute, controlled substances, if they were registered with the Attorney General of the United States. 21 U.S.C. § 822(b); 21 C.F.R. § 1306.03. Upon application by the practitioner, the Drug Enforcement Administration (“DEA”) assigned a unique registration number to each qualifying medical practitioner, including physicians and nurse practitioners.

6. Chapter 21 of the Code of Federal Regulations, Section 1306.04, governed the issuance of prescriptions and provided, among other things, that a prescription for a controlled substance “must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.” Moreover, “[a]n order purporting to be a prescription issued not in the usual course of professional treatment . . . is not a prescription within the meaning and intent of [the CSA] and the person knowingly filing such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.” *Id.*

7. All prescriptions for controlled substances had to be “dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner.” 21 C.F.R. § 1306.05(a).

8. Pursuant to Florida Statute Title XXXII Chapter 458, a physician who provided professional services in a pain-management clinic was required to “perform a physical examination of a patient on the same day that the physician prescribes a controlled substance to a patient at a pain-management clinic.” Additionally, “[i]f the physician prescribes more than a 72-hour dose of controlled substances for the treatment of chronic nonmalignant pain, the physician must document in the patient’s record the reason for prescribing that quantity.” Fla. Stat. Ann. § 458.3265.

THE DEFENDANT AND RELATED ENTITY AND INDIVIDUAL

9. General Care Center Inc. (“GCC”) was a corporation organized under the laws of the State of Florida and a registered pain management clinic doing business at 7805 SW 24th Street/Coral Way, Suite 101, Miami, Florida 33155.

10. Defendant **HABIB GEAGEA PALACIOS**, a resident of Miami-Dade County, was the operator, and de facto owner of GCC.

11. Physician 1, a resident of Miami-Dade County, was a pediatrician employed at GCC from in or around December 2018 through in or around July 2019.

COUNT 1
CONSPIRACY TO DISPENSE AND DISTRIBUTE CONTROLLED SUBSTANCES
(21 U.S.C. § 846)

12. The allegations set forth in paragraphs 1 through 11 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth

13. From in or around July 2017 through in or around October 2020, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

HABIB GEAGEA PALACIOS,

did knowingly and willfully combine, conspire, and agree with Physician 1 and others, known and unknown to the Grand Jury, to dispense and distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1); all in violation of Title 21, United States Code, Section 846.

The controlled substance involved in the conspiracy attributable to the defendant as a result of his own conduct, and the conduct of other conspirators reasonably foreseeable to him, is a mixture and substance containing a detectable amount of Oxycodone, a Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(b)(1)(C).

COUNTS 2-6
DISPENSING AND DISTRIBUTING CONTROLLED SUBSTANCES
(21 U.S.C. § 841(a)(1))

14. The allegations set forth in paragraphs 1 through 11 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

15. On or about the dates set forth as to each Count below, in Miami-Dade County, in the Southern District of Florida, the defendant,

HABIB GEAGEA PALACIOS,

did knowingly and intentionally dispense and distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), and Title 18, United States Code, Section 2:

<u>Count</u>	<u>Approximate Date</u>	<u>Patient</u>	<u>Controlled Substance</u>
2	February 23, 2018	A.L.	90 tablets of Oxycodone 30 mg
3	February 23, 2018	C.N.	130 tablets of Oxycodone 30 mg
4	March 7, 2018	A.A.	120 tablets of Oxycodone 30 mg
5	November 21, 2019	A.G.	90 tablets of Percocet 10mg/325mg
6	January 3, 2020	A.L.	110 tablets of Oxycodone 30 mg

Pursuant to Title 21, United States Code, Section 841(b)(1)(C), it is further alleged that these violations involved a mixture and substance containing a detectable amount of Oxycodone, a Schedule II controlled substance.

FORFEITURE
(21 U.S.C. § 853)

1. The allegations of this Indictment are hereby re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant, **HABIB GEAGEA PALACIOS**, has an interest.

2. Upon conviction of a violation of Title 21, United States Code, Sections 846 and 841, as alleged in this Indictment, the defendant shall forfeit to the United States any property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of such offense, and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such offense, pursuant to Title 21, United States Code, Section 853.

3. The property subject to forfeiture as a result of the alleged offenses includes, but is not limited to, the following:

- (i) Real property located at 6120 SW 156th Court, Miami, FL 33193;
- (ii) Real property located at 416 East 32nd Street, Hialeah, Florida, 33013; and

(iii) Real property located at 8505 SW 2nd Street, Miami, Florida, 33144.

4. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States shall be entitled to the forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), and such substitute property includes, but is not limited to, the following:

- (i) Real property located at 11600 SW 183rd Street, Miami, FL 33157;
- (ii) Real property located at 3079 NW 1st Street Miami, Florida, 33125;
- (iii) Real property located at 5974 SW 5th Terrace, Miami, Florida 33144;
- (iv) Real property located at 10431 SW 207th Street Cutler Bay, FL 33189;
- (v) Real property located at 2353 SW 2nd Street, Miami, Florida 33126; and

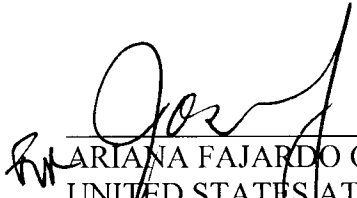
(vi) Real property located at 400 NW 74th Avenue, Miami, Florida 33126.

All pursuant to Title 21, United States Code, Section 853.

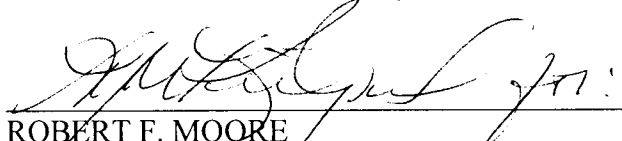
A TRUE BILL

FOREPERSON

VV




ARIANA FAJARDO ORSHAN
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA



ROBERT F. MOORE
ASSISTANT UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF FLORIDA

DANIEL KAHN
ACTING CHIEF
FRAUD SECTION, CRIMINAL DIVISION
U.S. DEPARTMENT OF JUSTICE



ALEXANDER THOR POGOELSKI
TRIAL ATTORNEY
CRIMINAL DIVISION, FRAUD SECTION
U.S. DEPARTMENT OF JUSTICE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. _____

v.

CERTIFICATE OF TRIAL ATTORNEY*

HABIB GEAGEA PALACIOS

Superseding Case Information:

Defendant. _____/

Court Division: (Select One)

Miami Key West
 FTL WPB FTP

New defendant(s) Yes No
Number of new defendants _____
Total number of counts _____

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
- Interpreter: (Yes or No) Yes
List language and/or dialect Spanish
- This case will take 6 days for the parties to try.
- Please check appropriate category and type of offense listed below:

(Check only one)

(Check only one)

- I 0 to 5 days _____
- II 6 to 10 days ✓
- III 11 to 20 days _____
- IV 21 to 60 days _____
- V 61 days and over _____

- Petty _____
- Minor _____
- Misdem. _____
- Felony _____

6. Has this case previously been filed in this District Court? (Yes or No) No

If yes: Judge Case No. _____

(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) Yes
If yes: Magistrate Case No. 20-MJ-03851-AOR

Related miscellaneous numbers: _____
Defendant(s) in federal custody as of 10-21-2020
Defendant(s) in state custody as of _____
Rule 20 from the District of _____

Is this a potential death penalty case? (Yes or No) No

- Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to August 9, 2013 (Mag. Judge Alicia O. Valle)? Yes No X
- Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to August 8, 2014 (Mag. Judge Shaniek Maynard)? Yes No X
- Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to October 3, 2019 (Mag. Judge Jared Strauss)? Yes No X

Robert F. Moore

ASSISTANT UNITED STATES ATTORNEY
ROBERT F. MOORE

*Penalty Sheet(s) attached

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: HABIB GEAGEA PALACIOS

Case No: _____

Count #: 1

Conspiracy to Dispense and Distribute Controlled Substances

Title 21, United States Code, Section 846

***Max. Penalty:** 20 years' imprisonment

Count #: 2-6

Dispensing and Distributing Controlled Substance

Title 21, United States Code, Section 841(a)(1)

***Max. Penalty:** 20 years' imprisonment

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**