

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

JUN 21 2018

David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA

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v.

Criminal No. 17-CR-566

BRYANT PRYOR,
CHARLES WENDELL THOMPSON,
KEVIN DAVIS, and
SCHWANNA FORTENBERRY,

UNDER SEAL

Defendants.

SUPERSEDING INDICTMENT

The Grand Jury charges that:

General Allegations

At all times material 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 knowingly or intentionally . . . to 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 are 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. “Schedule II” means that the drug has a high potential for abuse, the drug has a currently accepted medical use in treatment in the United States or a currently accepted medical

use with severe restrictions, and abuse of the drug may lead to severe psychological or physical dependence. 21 U.S.C. § 812(b)(2).

4. Pursuant to the CSA and its implementing regulations:

a. Oxycodone was classified as a Schedule II controlled substance. 21 C.F.R. § 1308.12(b)(1). Oxycodone, sometimes prescribed under brand names including OxyContin or Roxicodone, was used to treat severe pain and, even if taken only in prescribed amounts, could cause physical and psychological dependence.

b. As of on or about October 6, 2014, Hydrocodone was classified as a Schedule II controlled substance. 21 C.F.R. § 1308.12(b). Prior to on or about October 6, 2014, Hydrocodone was classified as a Schedule III controlled substance. Hydrocodone, sometimes prescribed under brand names including Norco, Lortab, and Vicodin, was used to treat severe pain and, as with other opioids, was highly addictive.

c. Carisoprodol was classified as a Schedule IV controlled substance. 21 C.F.R. § 1308.14(c). Carisoprodol, sometimes prescribed under brand name Soma, was a muscle relaxant.

5. Medical practitioners, such as physicians, who are authorized to prescribe controlled substances by the jurisdiction in which they are licensed to practice medicine are authorized under the CSA to prescribe, or otherwise distribute, controlled substances, if they are registered with the Attorney General of the United States. 21 U.S.C. § 822(b); 21 C.F.R. § 1306.03. A prescription for a controlled substance may only be dispensed, or filled, “by a pharmacist, acting in the usual course of his professional practice, and either registered individually or employed in

a registered pharmacy” 21 C.F.R. § 1306.06. Upon application by the practitioner, the Drug Enforcement Administration (DEA) assigns a unique registration number to each qualifying physician, pharmacist, or pharmacy.

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 filling 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.”

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). “The refilling of a prescription for a controlled substance listed in Schedule II is prohibited.” 21 C.F.R. § 1306.12(a); 21 U.S.C. § 829(a).

8. A pain-management clinic could not operate in Texas without obtaining a certificate from the Texas Medical Board. The Texas Medical Board defined a pain-management clinic as a publicly or privately owned facility for which a majority of patients are issued, on a monthly basis, a prescription for opioids, benzodiazepines, barbiturates, or carisoprodol, but not including suboxone. A pain-management clinic could not operate in Texas unless the clinic is

owned and operated by a medical director who is a physician who practices in Texas and has an unrestricted medical license. A non-physician may not hold any ownership interest.

Clinic

9. PRIORITY WELLNESS Clinic of Houston (“PRIORITY WELLNESS”) was a pain-management clinic, located in Houston, Texas in the Southern District of Texas, and was not certified with the Texas Medical Board as a pain-management clinic.

Defendants

10. Defendant **BRYANT PRYOR**, was a Medical Doctor, licensed by the State of Texas to practice medicine and maintained a Drug Enforcement Administration Registration Number. **BRYANT PRYOR** was listed as the owner of PRIORITY WELLNESS and purported to treat patients for pain but, in fact, issued prescriptions for controlled substances outside the scope of professional practice and without a legitimate medical purpose. **BRYANT PRYOR** was also the Medical Director at PRIORITY WELLNESS.

11. Defendant **CHARLES WENDELL THOMPSON**, was a physician assistant working at PRIORITY WELLNESS, who worked under the purported supervision of **BRYANT PRYOR**. **CHARLES WENDELL THOMPSON** purported to treat patients for pain but, in fact, recommended the issuance of prescriptions for controlled substances outside the scope of professional practice and without a legitimate medical purpose.

12. Defendant **SCHWANNA FORTENBERRY**, was a Nurse Practitioner working at PRIORITY WELLNESS, who worked under the purported supervision of **BRYANT PRYOR**. **SCHWANNA FORTENBERRY** purported to treat patients for pain but, in fact, recommended

the issuance of prescriptions for controlled substances outside the scope of professional practice and without a legitimate medical purpose.

13. Felisha Boyzer was Rhonda Walker's second in command, an office manager, and a purported medical assistant at PRIORITY WELLNESS.

14. Defendant **KEVIN DAVIS** was a self-described "consultant" to PRIORITY WELLNESS who recruited **BRYANT PRYOR** and **SCHWANNA FORTENBERRY** to work at PRIORITY WELLNESS, and received ten percent of their salaries.

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COUNT 1
Conspiracy to Distribute and Dispense Controlled Substances
(21 U.S.C. § 846)

15. Paragraphs 1 through 14 of this Indictment are realleged and incorporated by reference as if fully set forth herein.

16. From in or around December 2016, through in or around July 2017, in the Houston Division of the Southern District of Texas, and elsewhere, the defendants,

BRYANT PRYOR,
CHARLES WENDELL THOMPSON,
KEVIN DAVIS, and
SCHWANNA FORTENBERY

did knowingly and intentionally combine, conspire, confederate, and agree with each other and with others known and unknown, to violate Title 21, United States Code, Section 841(a)(1), that is, to unlawfully distribute and dispense, mixtures and substances containing a detectable amount of Schedule II controlled substances, including hydrocodone and oxycodone, not for a legitimate medical purpose and outside the scope of professional practice.

All in violation of Title 21, United States Code, Sections 846.

Purpose of the Drug Conspiracy

17. The purposes of the conspiracy included, but were not limited to, attracting large numbers of persons interested in obtaining and filling prescriptions for controlled substances; issuing prescriptions for controlled substances to such persons, not for a legitimate medical purpose and outside the scope of professional practice; and generating large profits for the personal enrichment of the defendants.

Manner and Means of the Conspiracy

The manner and means by which the defendants sought to accomplish the purpose and object of the conspiracy included, among other things:

18. Defendant **BRYANT PRYOR** purported to be the owner of PRIORITY WELLNESS in order to comply with Texas law, but in fact Rhonda Walker was the true owner of the clinic. Rhonda Walker received the profits from PRIORITY WELLNESS, paid the bills for PRIORITY WELLNESS, and paid **BRYANT PRYOR, CHARLES WENDELL THOMPSON, Felisha Boyzer, KEVIN DAVIS, and SCHWANNA FORTENBERRY** and other co-conspirators known and unknown to the grand jury, in exchange for their participation in the conspiracy.

19. A majority of PRIORITY WELLNESS patients were issued, on a monthly basis, a prescription for opioids, benzodiazepines, barbiturates, or carisoprodol, not including suboxone, even though PRIORITY WELLNESS had not been certified as a pain-management clinic by the Texas Medical Board, as required by Texas law.

20. **BRYANT PRYOR** would and did use his status as a licensed physician, his DEA Registration Number, and his medical practice PRIORITY WELLNESS, to knowingly prescribe the Schedule II controlled substances of hydrocodone and oxycodone, outside the course of professional practice and not for a legitimate medical purpose.

21. **BRYANT PRYOR** would sign blank Schedule II controlled substance prescriptions, and would leave the prescriptions at PRIORITY WELLNESS for Rhonda Walker, Felisha Boyzer, and other co-conspirators known and unknown to the grand jury, to complete as to the amount and type of controlled substance, and as to the patient's name.

22. **CHARLES WENDELL THOMPSON** would and did use his status as a licensed physician assistant, and **SCHWANNA FORTENBERRY** would and did use her status as a nurse practitioner, to purport to treat patients of **BRYANT PRYOR** and **PRIORITY WELLNESS**, and to recommend that these patients receive a combination of hydrocodone and carisoprodol, or oxycodone and carisoprodol, knowing that these purported treatments and recommendations would be used by **BRYANT PRYOR** and Rhonda Walker to justify the prescription of controlled substances outside the course of professional practice and not for a legitimate medical purpose.

23. It was further a part of the conspiracy that Rhonda Walker and Felisha Boyzer would and did normally collect cash payments from persons who visited **PRIORITY WELLNESS** based upon the controlled substance the person would receive. Rhonda Walker and Felisha Boyzer collected \$300 in cash for persons who would receive hydrocodone and carisoprodol, and \$600 for patients who would receive oxycodone and carisoprodol. These payments were required before coconspirator **BRYANT PRYOR** would prescribe the controlled substances.

24. **KEVIN DAVIS**, recruited **BRYANT PRYOR**, **SCHWANNA FORTENBERRY**, and others known and unknown to the grand jury, to work at **PRIORITY WELLNESS**, and acted as a consultant to **PRIORITY WELLNESS**, knowing that controlled substances were being prescribed outside the usual course of professional practice and without a legitimate medical purpose, in exchange for ten percent of the salaries of **BRYANT PRYOR** and **SCHWANNA FORTENBERRY**.

25. From in or around December of 2016, through in or around July 2017, **BRYANT PRYOR**, **CHARLES WENDELL THOMPSON**, **KEVIN DAVIS**, **SCHWANNA FORTENBERRY** and their co-conspirators known and unknown, would receive approximately \$1.1 million dollars as a result of the conspiracy.

All in violation of Title 21, United States Code, Section 846.

COUNTS 2-5

**Unlawfully Distributing and Dispensing Controlled Substances and Aiding and Abetting
(21 U.S.C. § 841 and 18 U.S.C. § 2)**

26. Paragraphs 1 through 14 and 18 through 25 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

27. On or about the dates specified below, in the Houston Division of the Southern District of Texas and elsewhere, the Defendants specified below, aided and abetted by others and aiding and abetting others, did knowingly and intentionally distribute and dispense, and caused to be distributed and dispensed, not for a legitimate medical purpose and outside the scope of professional practice, a quantity of a mixture and substance containing the controlled substances alleged below:

Count	Defendants	On or about date	Controlled Substances	"Patient"
2	BRYANT PRYOR	March 8, 2017	Hydrocodone Carisoprodol	H.R.
3	BRYANT PRYOR SCHWANNA FORTENBERRY	May 19, 2017	Oxycodone Carisoprodol	H.R.
4	BRYANT PRYOR	March 8, 2017	Hydrocodone Carisoprodol	D.W.
5	CHARLES WENDELL THOMPSON	May 19, 2017	Hydrocodone Carisoprodol	D.W.

All in violation of Title 21, United States Code, Section 841 and Title 18, United States Code, Section 2.

NOTICE OF CRIMINAL FORFEITURE
(21 U.S.C. § 853)

28. The allegations contained in Count 1 of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 21, United States Code, Section 853.

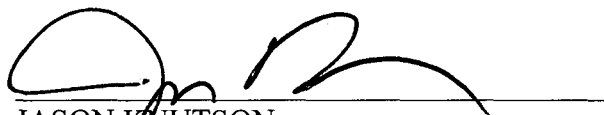
29. Pursuant to Title 21, United States Code, Section 853, the United States gives notice to the defendants **BRYANT PRYOR, CHARLES WENDELL THOMPSON, KEVIN DAVIS,** and **SCHWANNA FORTENBERRY** that upon conviction of an offense in violation of Title 21, United States Code, Section 846 and 841, the following property shall be subject to forfeiture:

- a. All property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such offense; and
- b. All property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the offense.

30. The property subject to forfeiture is approximately \$1,100,000.00. In the event that a condition listed in Title 21, United States Code, Section 853(p) exists, the United States will seek to forfeit any other property of the defendants in substitution up to the total value of the property subject to forfeiture. The United States may seek the imposition of a money judgment.

RYAN K. PATRICK
UNITED STATES ATTORNEY

A TRUE BILL



JASON KNUTSON
Trial Attorney
Fraud Section, Criminal Division
Department of Justice


ORIGINAL SIGNATURE ON FILE
FOREPERSON