UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION



UNITED STATES OF AMERICA,

Plaintiff,

v.

TAMARA JO NYACHIRA,
a/k/a TAMARA JO KOLANCY,

Defendant.

4:20CR275 RWS/PLC

**INDICTMENT**

The Grand Jury charges that:

**The Defendant**

1. At all times relevant to this Indictment, defendant Tamara Jo Nyachira ("Nyachira"), a/k/a Tamara Jo Kolancy, was a resident of Crawford County, Kansas. Nyachira is a licensed pharmacist in Missouri and Kansas, and was employed by a large company that operated pharmacies throughout Missouri and Kansas. Nyachira's licensure in Missouri and access to Missouri pharmacies enabled her scheme to use forged prescriptions to obtain drugs. Nyachira worked at pharmacies located in St. Francois County, Missouri and Taney County, Missouri. As such, defendant committed offenses in the Eastern Division of the Eastern District of Missouri, and also began, continued, and completed offenses in this District.

**Background**

2. At times relevant and material herein: oseltamivir (sometimes marketed as Tamiflu®), azithromycin (sometimes marketed as Zithromax®), amoxicillin clavulanate potassium (sometimes marketed as Augmentin®), hydroxychloroquine sulfate (sometimes marketed as Plaquenil®), and codeine/butalbital/acetaminophen/caffeine (sometimes marketed

as Fioricet® with Codeine) were all drugs within the meaning of 21 U.S.C. § 321(g)(l). Further, all of these drugs were prescription drugs within the meaning of 21 U.S.C. § 353(b)(l)(A) in that, due to their toxicity and other potentiality for harmful effect, and the method of their use, these drugs were not safe for use except under the supervision of a practitioner licensed by law to administer such drugs. Finally, these drugs were also prescription drugs within the meaning of 21 U.S.C. § 353(b)(1)(B) because the U.S. Food and Drug Administration ("FDA") required them to be administered under the supervision of a practitioner licensed by law to administer such drug as a condition of the FDA's approvals for each drug, respectively.

3. Hydroxychloroquine sulfate (sometimes marketed as Plaquenil®) has been approved by FDA to treat malaria, lupus, and rheumatoid arthritis. FDA issued an Emergency Use Authorization (EUA), pursuant to 21 U.S.C. § 360bbb-3, to permit the emergency use of hydroxychloroquine sulfate supplied from the Strategic National Stockpile to treat adults and adolescents who weigh 50 kg or more and are hospitalized with COVID-19 for whom a clinical trial is not available, or participation is not feasible. FDA has also cautioned against using outpatient prescriptions for hydroxychloroquine sulfate and azithromycin to prevent infection from the COVID-19 virus, as these drugs can cause abnormal heart rhythms. Although clinical trials regarding these drugs are ongoing, hydroxychloroquine sulfate and azithromycin have not yet been shown to be safe and effective for treating or preventing COVID-19. FDA has further advised health care professionals that are considering use of hydroxychloroquine sulfate to treat or prevent COVID-19 to find a suitable clinical trial and consider enrolling the patient.

4. Certain prescription drugs and other substances are defined by federal and state law as "controlled substances" because of their potential for abuse or dependence. Controlled substances are placed into one of five schedules, based on the potential for abuse and the severity

of the effects if a person abuses the drug. Codeine/butalbital/acetaminophen/caffeine (sometimes marketed as Fioricet® with Codeine) is an opioid drug and Schedule III controlled substance.

**COUNT ONE**

5. Paragraphs 1-4 are incorporated herein by reference.

6. On or about March 15, 2020, in Farmington, Missouri, in the Eastern District of Missouri, and elsewhere,

**TAMARA JO NYACHIRA,**

the defendant herein, with the intent to defraud and mislead, did cause to be dispensed 20 chew tablets of the prescription drug, amoxicillin/clavulanate potassium (400mg/57mg), without the valid prescription of a practitioner licensed by law to administer such drugs, while the drugs were held for sale and after the drugs had been shipped in interstate commerce, in that defendant forged a prescription falsely indicating that Dr. J.H. had prescribed amoxicillin/ clavulanate potassium to patient O.S., when, in truth and in fact, Dr. J.H. had not authorized this prescription, which acts resulted in the drugs being misbranded within the meaning of 21 U.S.C. § 353(b)(1). All in violation of 21 U.S.C. §§ 331(k) and 333(a)(2), and 18 U.S.C. § 2.

**COUNT TWO**

7. Paragraphs 1-4 are incorporated herein by reference.

8. On or about March 20, 2020, in Farmington Missouri, and Branson, Missouri, in the Eastern and Western Districts of Missouri, and elsewhere,

**TAMARA JO NYACHIRA,**

the defendant herein, with the intent to defraud and mislead, did cause to be dispensed 60 tablets of the prescription drug, hydroxychloroquine sulfate (200mg), without the valid prescription of a practitioner licensed by law to administer such drugs, while the drugs were held for sale and after

the drugs had been shipped in interstate commerce, in that defendant forged a prescription falsely indicating that Dr. J.H. had prescribed hydroxychloroquine sulfate (200mg), to patient B.S., when, in truth and in fact, Dr. J.H. had not authorized this prescription, which acts resulted in the drugs being misbranded within the meaning of 21 U.S.C. § 353(b)(1). All in violation of 21 U.S.C. §§ 331(k) and 333(a)(2), and 18 U.S.C. § 2.

**COUNT THREE**

9. Paragraphs 1-4 are incorporated herein by reference.

10. On or about January 25, 2019, in the District of Kansas, the Eastern District of Missouri, and elsewhere,

**TAMARA JO NYACHIRA,**

the defendant herein, knowingly and intentionally obtained and acquired a Schedule III controlled substance, namely 100 capsules of Fioricet® with Codeine, a mixture of butalbital (50mg)/acetaminophen (325mg)/caffeine (40mg)/codeine (30mg), by misrepresentation, fraud, forgery, deception, and subterfuge, in that defendant forged, and then presented to a pharmacy for dispensing, a prescription for Fiorcet® with Codeine that falsely represented that Dr. K.M., a pediatrician, had prescribed this drug for the defendant with 5 refills, when, in truth and fact, Dr. K.M. had not authorized this prescription. All in violation of Title 21, United States Code, Section 843(a)(3) and 18 U.S.C. § 2.

A TRUE BILL.

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FOREPERSON

JEFFREY B. JENSEN
United States Attorney

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Andrew J. Lay #39937MO
Assistant United States Attorney