

United States Courts
Southern District of Texas
FILED

AUG 21 2019

David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

BARBARA MARINO, M.D. (1),
LETICIA HERRERA (2),
KWANA BROUSSARD (3),
JASMINE JOHNSON (4), and
ROBBY WHITE (5)
Defendants.

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Criminal No. 19 CR 602
UNDER SEAL

Sealed
Public and unofficial staff access
to this instrument are
prohibited by court order.

INDICTMENT

The Grand Jury charges:

GENERAL ALLEGATIONS

At all times material to the 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 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. 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 the drug had a currently accepted medical use with severe restrictions.

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)(xiii). Oxycodone, sometimes prescribed under brand names, including Roxicodone, was used to treat severe pain. Oxycodone, as with other opioids, was highly addictive.

b. At all times relevant, and as of October 6, 2014, Hydrocodone was classified as a Schedule II controlled substance. 21 C.F.R. § 1308.12(b)(1)(vi). Prior to 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. Hydrocodone, as with other opioids, was highly addictive.

c. Carisoprodol, was classified as a Schedule IV controlled substance. Carisoprodol, sometimes prescribed under the brand name Soma, was a purported muscle relaxant and was highly addictive. The FDA recommends carisoprodol only for acute treatment for two to three weeks at a time.

5. It was well known that the combination of high-dose opioids, including oxycodone or hydrocodone and carisoprodol significantly increased the risk of patient intoxication and overdose. Moreover, prescribing oxycodone or hydrocodone and carisoprodol often created a significant risk of diversion because the two drugs, prescribed together, were often highly abused and sought for a non-legitimate medical purpose due to the increased “high” a user may experience from taking hydrocodone or oxycodone along with carisoprodol.

6. Accordingly, for a treating physician to prescribe the combination of high-dose opioids and carisoprodol for a legitimate medical purpose, the physician needed to determine, at a minimum, that the benefits of the drugs outweighed the risks to the patient’s life.

7. Medical practitioners, such as pharmacists, physicians, and nurse practitioners, who were authorized to prescribe or distribute controlled substances by the jurisdiction in which they were licensed to practice 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). Upon application by the practitioner, the Drug Enforcement Administration (“DEA”) assigned a unique registration number to each qualifying medical practitioner including physicians, pharmacies, and nurse practitioners.

8. 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 her 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.”

9. Chapter 21 of the Code of Federal Regulations, Section 1306.06 governed the filling of prescriptions and provided: “A prescription for a controlled substance may only be filled by a pharmacist, acting in the usual course of her professional practice and either registered individually or employed in a registered pharmacy, a registered central fill pharmacy, or registered institutional practitioner.”

10. All prescriptions for controlled substances must 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).

11. The Texas Prescription Monitoring Program (“PMP”) was a database of all reported prescriptions for controlled substances that were issued and dispensed in Texas. The database was maintained by the Texas Department of Public Safety (“DPS”) up until September 1, 2016, and thereafter by the Texas State Board of Pharmacy (“TSBP”). Pharmacies were required to report to the PMP all controlled substances dispensed, including: the patient’s name, the particular controlled substance and dosage dispensed, the quantity dispensed, the number of days supplied, the prescribing physician’s name, the date the prescription was issued, the dispensing pharmacy’s name, the type of payment, and the date the controlled substances were dispensed.

12. A “crew leader” is someone who finds and pays individuals, some of whom are homeless or impoverished, to pose as chronic pain patients; transports them (often in groups) to a clinic; coaches the patients to fill out patient intake documentation to support a prescription for pain medication and pays for the “visit with the doctor” (i.e., the illegitimate prescription); takes the patient (or just the illegitimate prescription) to the pharmacy; and pays for and takes control of the prescription drugs, often to divert and sell them on the street for profit.

13. A “runner” is an individual that works for a crew leader and “runs,” or coordinates taking the individuals posing as patients to clinics and pharmacies to obtain controlled substances. A runner often transports the patients to the clinics or pharmacies for the crew leader, and often pays the patients, clinics, and pharmacies on the behalf of the crew leader.

ENTITIES AND DEFENDANTS

14. **BARBARA MARINO, M.D. (1)** (“**MARINO**”), a resident of Harris County, Texas, was a Medical Doctor, a purported addiction specialist, and has been licensed to practice medicine in the State of Texas since in or around August 1990. According to the Texas Medical Board, **MARINO**’s primary location of practice is at 8118 Long Point Road, in Houston, Texas, which is the location of Angels Clinica Familiar (**ANGELS CLINICA**). **MARINO** prescribed large volumes of controlled substances—primarily hydrocodone 10/325mg, oxycodone 30mg, and carisoprodol 350mg—from **ANGELS CLINICA**.

15. **LETICIA HERRERA (2)** (“**HERRERA**”), a resident of Harris County, Texas was the purported office manager at **ANGELS CLINICA** and coordinated with doctors, crew leaders, runners, pharmacies, and others the sale and distribution of illegitimate prescriptions for controlled substances **MARINO** issued.

16. **KWANA BROUSSARD (3)** (“**BROUSSARD**”), a resident of Fort Bend County, Texas, was a crew leader who coordinated with others, including **JOHNSON** and **WHITE**, paying and “running” individuals posing as patients to purchase illegitimate prescriptions at **ANGELS CLINICA** and other clinics, and to have the illegitimate prescriptions filled by Houston-area pharmacies, including those affiliated with **ANGELS CLINICA**.

17. **JASMINE JOHNSON (4)** (“**JOHNSON**”), aka “Jazz,” a resident of Harris County, Texas, was a runner, who worked with **BROUSSARD** and others to coordinate paying and “running” individuals posing as patients to purchase illegitimate prescriptions at **ANGELS**

CLINICA and other clinics, and to have the illegitimate prescriptions filled by Houston-area pharmacies, including those affiliated with ANGELS CLINICA.

18. **ROBBY WHITE (5)** (“**WHITE**”), aka “Sweet Pea,” a resident of Harris County, Texas, was a runner, who worked with **BROUSSARD** and others to coordinate paying and “running” individuals posing as patients to purchase illegitimate prescriptions at ANGELS CLINICA and other clinics, and to have the illegitimate prescriptions filled by Houston-area pharmacies, including those affiliated with ANGELS CLINICA.

COUNT 1

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

19. Paragraphs 1 through 18 of the Indictment are re-alleged and incorporated by reference as if fully set forth herein.

20. From in or around December 2018 through in or around August 2019, the exact dates being unknown to the Grand Jury, in the Houston Division of the Southern District of Texas and elsewhere, Defendants

**BARBARA MARINO, M.D.
LETICIA HERRERA
KWANA BROUSSARD
JASMINE JOHNSON, and
ROBBY WHITE**

knowingly and intentionally combined, conspired, confederated, and agreed together and with each other, and with others known and unknown to the Grand Jury, to violate Title 21, United States Code, Section 841(a)(1), that is, to knowingly and intentionally unlawfully distribute and dispense, mixtures and substances containing a detectable amount of controlled substances,

including oxycodone and hydrocodone, both Schedule II controlled substances, and other controlled substances, outside the usual course of professional practice and not for a legitimate medical purpose.

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

Purpose of the Conspiracy

21. It was a purpose and object of the conspiracy for the Defendants, and others known and unknown to the Grand Jury to unlawfully enrich themselves by, among other things: (a) distributing and dispensing controlled substances outside the usual course of professional practice and not for a legitimate medical purpose; (b) generating large profits from distributing and dispensing those controlled substances; and (c) diverting the proceeds from distributing and dispensing those controlled substances for their personal use and benefit.

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:

22. **MARINO** used her status as a licensed physician, her DEA Registration Number, and her medical practice ANGELS CLINICA, to knowingly and intentionally prescribe controlled substances, including oxycodone, hydrocodone, and carisoprodol, outside the usual course of professional practice and not for a legitimate medical purpose.

23. **MARINO** did not register ANGELS CLINICA with the Texas Medical Board as a pain management clinic, as required under Texas law, and thereby operated ANGELS CLINICA outside the usual course of professional practice.

24. **MARINO** often ignored obvious signs of addiction and drug-diversion, and nevertheless issued prescriptions for controlled substances to her purported patients.

25. **MARINO**'s prescribing practices demonstrated a gross lack of individualized care for her purported patients: the vast majority of **MARINO**'s prescriptions were for oxycodone 30mg, hydrocodone 10/325mg, and carisoprodol 350mg, the highest dosage strengths of hydrocodone and carisoprodol, and the highest short-acting dosage strength of oxycodone, and were for same or substantially similar dosage units (pills)—100 to 120 pills of oxycodone or hydrocodone, and 60 to 90 pills of carisoprodol. The highly addictive and dangerous combination of hydrocodone and carisoprodol, or oxycodone and carisoprodol, two components of the highly diverted "Houston cocktail," was prescribed outside the usual course of professional practice and with no legitimate medical purpose.

26. **BROUSSARD, JOHNSON, WHITE**, and other crew leaders and runners often paid individuals to pose as patients in exchange for their obtaining prescriptions for controlled substances at Houston-area clinics, including ANGELS CLINICA, and for filling those prescriptions at Houston-area pharmacies, including those affiliated with ANGELS CLINICA.

27. **HERRERA, MARINO** and other employees of ANGELS CLINICA accepted cash only—ranging from \$200 to \$300 for hydrocodone, and \$450 to \$500 for oxycodone—from crew leader and runners, including **BROUSSARD, JOHNSON**, and **WHITE**, in exchange for illegitimate prescriptions for oxycodone, hydrocodone, carisoprodol, and other drugs that **MARINO** knowingly prescribed to individuals posing as patients at ANGELS CLINICA.

28. After **MARINO** issued prescriptions for hydrocodone, oxycodone, and carisoprodol to the "patients" of crew leaders and runners, including **BROUSSARD, JOHNSON**,

WHITE, they filled, or had the individuals posing as patients fill, those prescriptions at Houston-area pharmacies, including pharmacies affiliated to ANGELS CLINICA.

29. **BROUSSARD, JOHNSON, and WHITE**, obtained these illegitimate prescriptions and pills purportedly prescribed by **MARINO** and other medical providers and dispensed by pharmacies affiliated with ANGELS CLINICA with the intent to sell them on the black market.

30. From in or around September 2018 through in or around August 2019, **MARINO** issued prescriptions for approximately 1,060,000 controlled substance pills, including 518,000 pills of hydrocodone, approximately 65,000 pills of oxycodone, and approximately 416,000 pills of carisoprodol.

31. During the time of the conspiracy, ANGELS CLINICA made approximately \$1.7 million dollars by distributing prescriptions for hydrocodone, oxycodone, and carisoprodol that were outside the usual course of professional practice and without a legitimate medical purpose.

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

COUNTS 2 and 3
Unlawfully Distributing and Dispensing Controlled Substances and Aiding and Abetting
(21 U.S.C. § 841 & 18 U.S.C. § 2)

32. Paragraphs 1 through 18 and 22 through 31 of the Indictment are re-alleged and incorporated by reference as if fully set forth herein.

33. On or about the dates specified below, in the Houston Division of the Southern District of Texas, Defendant

BARBARA MARINO, M.D.

aiding and abetting and aided and abetted by others known and unknown to the Grand Jury, did knowingly and intentionally unlawfully distribute and dispense, outside the usual course of

professional practice and not for a legitimate medical purpose, the controlled substances alleged below:

Count	Defendant	Controlled Substance	On Or About Date	"Patient"
2	MARINO	Hydrocodone 10/325mg	06/19/19	Patient A
3	MARINO	Hydrocodone 10/325mg	08/14/19	Patient A

All in violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), (b)(2) & Title 18, United States Code, Section 2.

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

34. Pursuant to Title 21, United States Code, Section 853(a), the United States of America gives notice to Defendants, that upon conviction of an offense in violation of Title 21, United States Code, Sections 841 and 846, the following is subject to forfeiture:

- a. all property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such violation; and
- b. all property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.
- c. approximately \$1.7 million in funds derived from the selling of controlled substances.

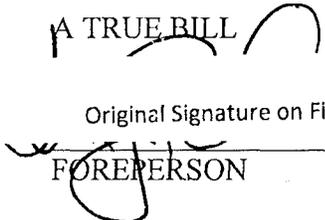
Money Judgment and Substitute Assets

35. The United States will seek the imposition of a money judgment against Defendants upon conviction.

36. Defendant is notified that in the event that one or more conditions listed in Title 21, United States Code, Section 853(p) exists, the United States will seek to forfeit any other property of the Defendants up to the amount of the money judgment as to each Defendant.

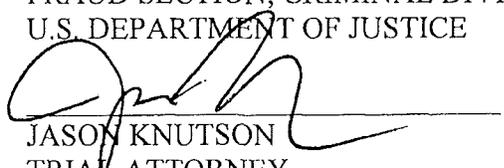
A TRUE BILL

Original Signature on File


FOREPERSON

RYAN K. PATRICK
UNITED STATES ATTORNEY

ALLAN MEDINA
ACTING CHIEF, HEALTH CARE FRAUD UNIT
FRAUD SECTION, CRIMINAL DIVISION
U.S. DEPARTMENT OF JUSTICE


JASON KNUTSON
TRIAL ATTORNEY
FRAUD SECTION, CRIMINAL DIVISION
U.S. DEPARTMENT OF JUSTICE