

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Cathy L. Waldor
: :
v. : Mag. No. 19-7134 (CLW)
: :
MYRTHA NICOLAS : **CRIMINAL COMPLAINT**

I, David Carta, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A

I further state that I am a Special Agent with the Federal Bureau of Investigation and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached page and made a part hereof.



David Carta, Special Agent
Federal Bureau of Investigation

Sworn to before me and
subscribed in my presence,
June 5, 2019
at Newark, New Jersey

HONORABLE CATHY L. WALDOR
UNITED STATES MAGISTRATE JUDGE

s/Cathy L. Waldor

Signature of Judicial Officer

ATTACHMENT A

**(Attempted Extortion Under Color of Official Right
Affecting Interstate Commerce)**

From in or about August 2016 to in or about October 2017, in Hudson County, in the District of New Jersey, and elsewhere, defendant

MYRTHA NICOLAS

did knowingly and willfully attempt to obstruct, delay and affect interstate commerce by extortion under color of official right – that is, accepting and agreeing to accept from the CW, with the CW's consent, corrupt cash payments in exchange for agreeing to exercise official action and influence and to violate her official duties as a referral coordinator for the Hudson County Office on Aging pertaining to patient referrals as specific opportunities arose.

In violation of Title 18, United States Code, Section 1951(a).

ATTACHMENT B

I, David Carta, a Special Agent with the Federal Bureau of Investigation, having served as a case agent in an investigation of the conduct of defendant MYRTHA NICOLAS, and having spoken with other law enforcement officers and individuals, have knowledge of the following facts. Because this Complaint is submitted for the limited purpose of establishing probable cause, I have not included all facts known to me concerning this investigation. The contents of documents and the actions, statements, and conversations of individuals referenced below are provided in substance and in part, unless otherwise indicated.

Relevant Individuals and Entities

1. At times relevant to this Criminal Complaint:
 - a. Defendant MYRTHA NICOLAS (“NICOLAS”) was a resident of Jersey City, New Jersey. NICOLAS was employed as a Referral Coordinator at the Hudson County Office on Aging at 830 Bergen Avenue in Jersey City. In her capacity as a Referral Coordinator, NICOLAS exercised control over the coordination and assignment of patients with disabilities in need of home health care services to home health care companies which provide such services through home health care aides. Medicaid would pay reimbursement to the providing home health care company which provided the home health care aide to the patient.
 - b. The Hudson County Office on Aging was an agency of the New Jersey Division of Disability Services (“DDS”), which, in turn, was a division of the State of New Jersey’s Department of Human Services. The DDS worked to streamline access to services and information that promoted and enhanced independent living for individuals with disabilities by facilitating coordination and cooperation among local, county and state government agencies. Included among these services coordinated by DDS were Managed Long Term Services and Supports (“MLTSS”) which provided comprehensive service and support, whether at home, in an assisted living facility, or in a nursing home.
 - c. There was a confidential witness (“CW”) who was self-employed as an executive of a home health care company which provided various services, including the training, hiring and assignment of home health care aides to patients with disabilities. In so doing, the CW and the business for which the CW worked purchased goods and services in interstate commerce. In June 2014, the CW pled guilty to fraud charges in the State of New Jersey.

Overview of the Corrupt Activity

2. On or about June 3, 2016, NICOLAS met with the CW near an office building in Secaucus, New Jersey. While in the CW's car, NICOLAS was informed that the CW's health care business had locations in both Hudson and Ocean Counties. NICOLAS also was informed by the CW that the CW hoped to have patients referred to the CW's business by NICOLAS. NICOLAS informed the CW that she could explain how to obtain referrals. NICOLAS explained that she might be able to talk to various agencies and tell them to refer cases to the CW's agency. NICOLAS identified a woman she knew with a particular agency and told the CW that "I could get the girl – talk to her – and tell her 'look, we need some cases.' . . . We gotta do something for this agency," a reference to the CW's business. NICOLAS then placed a call on her cellphone to this woman and spoke to her in the CW's presence. NICOLAS asked her if "you have any cases, any MLTSS cases that you think you could transfer over?" She subsequently asked the woman "[h]ow soon could you give me an answer?" After completing the phone call, NICOLAS told the CW that the woman "said she'll go back in the office and check." NICOLAS was then informed by the CW that "I'd rather deal with you like before," after which the CW asked "[d]o I have to go above five [hundred] – or five [hundred] and then you'll take care of her?" NICOLAS replied "[n]o, that's it," prompting the CW to ask "[y]ou'll take care of her?" NICOLAS replied "[y]eah." NICOLAS – indicating that the CW would not have to pay more than five hundred dollars per patient – then informed the CW that "you don't go above nothing. No, you're alright." Referring to the previous phone call, NICOLAS stated that "you see what I tell her? She said she gotta go look. 'Cause I did mention you. . . I said this guy is a good friend of mine . . . I said he needs some cases and all that." Subsequently, NICOLAS was informed by the CW that "I'm only going through you, and no one else," prompting NICOLAS to reply "[y]eah, that's it." The CW then asked NICOLAS "and then you'll take care of them yourself," to which NICOLAS replied "[y]eah." NICOLAS told the CW, however, that there were not that many cases which she would be able to have transferred to the CW's company. At the end of the meeting, NICOLAS assured the CW that "[w]e're gonna work it. We're gonna work on it."

3. On or about August 4, 2016, NICOLAS met the CW outside NICOLAS' office building in Jersey City, in the CW's car. After exchanging greetings, NICOLAS accepted a cash payment of \$600, which was handed to her by the CW. NICOLAS scolded the CW stating "[y]ou can't," but retained the cash as the CW explained that "I want to be the top," a request to be given priority in receiving patient referrals. The CW reiterated shortly thereafter that "I wanna be the, your number one guy." The CW then informed NICOLAS that "I put an extra hundred in," indicating that the amount was therefore "600 instead of 500." Subsequently, the CW explained that the CW wanted NICOLAS to forward "the easy patients," explaining that the patient that NICOLAS had referred to the CW – and for which the CW had provided the \$600 payment – "is crazy." NICOLAS explained that she had spoken directly with this patient and had told the patient "here's an agency," an apparent reference to the CW's agency. NICOLAS explained that she had told the patient "[c]all that one. That's the way it is." NICOLAS told the CW that "[i]t's after you got the client then you tell me that the client is, is a nut job." NICOLAS assured the CW not to "worry – you will get the easy ones." Subsequently, NICOLAS counseled the CW to meet with other agencies face to face and explained "[t]hen I could push it." NICOLAS then asked rhetorically, "[i]f you don't show your face, how am I gonna push it?" Later, NICOLAS informed the CW that she would arrange for meetings with various agencies who were potential sources of

patients and that she would talk to their representatives separately. The CW then stated: “[I]emme ask you – I could continue 600 [dollars]? Maybe give ‘em a hundred and then keep 500?” NICOLAS replied “[y]eah, yeah. That’s it. Yeah, one hundred bucks.” NICOLAS cautioned the CW not to offer the \$100 initially, but recommended that he offer some food item first. NICOLAS then stated “[t]hen you wait. Now I’m just telling you how it works. So after the bite, then we could push.” The CW then inquired “[b]ut who’s gonna push, me or you?” NICOLAS responded that “I will push.” The CW reiterated that the CW had passed on the patient whom NICOLAS had referred to the CW’s business to another agency. NICOLAS was then informed by the CW that “I want quality, okay? That’s why I gave you another hundred.”

4. On or about January 23, 2017, NICOLAS met with the CW in the CW’s car outside of NICOLAS’ office building in Jersey City. Shortly after NICOLAS entered the car, NICOLAS accepted an envelope containing \$600 in cash from the CW. As the envelope was handed to her, NICOLAS asked “[w]hat is this?” The CW replied “[w]hat do you mean ‘what is this?’” The CW then stated the name of the patient who had been referred to his company by NICOLAS, thus explaining to NICOLAS that the payment was for NICOLAS’ efforts on behalf of the CW’s company. NICOLAS was then informed by the CW that “the patient is in the hospital. I only serviced that patient for two, um for two days.” NICOLAS asked, by way of clarification, “[w]hich patient?” In response, the CW cited the patient’s first name, and identified the patient as “the one that you gave me.” NICOLAS informed the CW that the patient had been in the hospital but that “she had moved down in Ocean County.” NICOLAS explained to the CW that she had confirmed that the CW’s company had an office in Ocean County and would therefore be able to accept the patient as a client after the patient had moved to Ocean County. NICOLAS also assured the CW that there would be a “couple” of additional patients “coming up,” whom NICOLAS would attempt to direct to the CW’s company. During the same conversation, the CW asked NICOLAS to “[g]et me clients.” NICOLAS replied that she would call “Bayonne” because “[m]ost of the clients will be from Bayonne.”

5. During the same conversation, referring to past payments that NICOLAS accepted from the CW, the CW asked NICOLAS “[b]efore, I, wh--, I gave you gift cards, no?” NICOLAS replied “[y]eah, it was gift cards, yeah.” NICOLAS was then asked by the CW “[d]o you want gift cards maybe or it doesn’t matter for you . . . ?” NICOLAS responded “[i]t doesn’t matter,” thus expressing no preference whether future corrupt payments she anticipated accepting from the CW would be in the form of gift cards or cash.

6. On or about October 17, 2017, NICOLAS met with the CW in the CW’s car outside of NICOLAS’ office building in Jersey City. After NICOLAS entered the vehicle, the CW complained that “[y]ou stopped giving us intakes in June,” a reference to patient referrals. NICOLAS replied that “I didn’t stop,” adding “whatever I have, you’ll have.” NICOLAS then accepted \$1000 in cash from the CW while stating “[y]ou’re not supposed to do that” several times. NICOLAS then placed the cash in her jacket pocket.

7. On or about January 26, 2018, FBI agents interviewed NICOLAS at a location in Jersey City. NICOLAS stated that her organization, the Hudson County Office on Aging, maintained contracts with health care agencies to which she referred patients in need of home health care aides. NICOLAS stated that she had first met the CW in approximately 2011 at which

time the CW began receiving patient referrals from NICOLAS' office. NICOLAS explained that she reconnected with the CW in approximately the summer of 2016 at which time she wished to check out the CW's new health care agency. NICOLAS admitted to accepting payments from the CW on three subsequent occasions, and stated that she believed the first payment was in the amount of \$300 while the latter two payments were both \$500 payments. When asked whether she referred the CW's agency to patients, NICOLAS replied "[y]ou could put it that way, I guess." NICOLAS stated that she took money from the CW to pass his name along to patients, but also described the payments as Christmas presents. NICOLAS also explained that she did not tell anyone else about the payments she received from the CW because she knew it was wrong to accept those payments.