

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

ELZA BUDAGOVA.,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition For A Writ of *Certiorari* To The United States Court of Appeals
for the Ninth Circuit**

**APPENDIX (VOLUME VI) – PRESENTED SEPARATELY UNDER S. CT.
R. 14.1(i)**

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1 use what you understood to be their handwriting in conducting
2 your review of the medical files in this case?

3 A I did.

4 Q The Government moves Government's Exhibit 319 into
5 evidence, if it is not already in?

6 MR. BELTER: No objection, Your Honor.

7 THE COURT: Very well.

8 (Whereupon Government's Exhibit 319 is admitted hereto.)

9 MS. MORTON-OWENS: If you could publish page 134 of

10 319...

11 Based on defendant Budagova's admitted handwriting
12 to you, did you use this as an example of defendant
13 Budagova's handwriting?

14 THE WITNESS: I did.

15 BY MS. MORTON-OWENS:

16 Q And if you could highlight the -- put that page next to
17 page 133. And if you see on the left-hand side, it says,
18 "patient, male, two years old," and on the right-hand side,
19 it says, "patient is female?"

20 A Yes.

21 Q And based on your review of this medical file, is -- is
22 Mr. Robichaud a man or a woman?

23 A Mr. Robichaud is a man.

24 MS. MORTON-OWENS: Can you publish page 98 of that
25 same exhibit...

1 And this is also an example of an individual who
2 had medicare and Medi-Cal; is that right?

3 THE WITNESS: Yes.

4 MS. MORTON-OWENS: Going back to putting page 134
5 and page 133 beside each other...

6 If you could highlight more of where it says
7 "plan"...

8 Is this one of the examples which you understood to
9 be defendant Budagova's admitted handwriting, ordering tests
10 for patients at the Lake Medical Group.

11 THE WITNESS: Yes, it is.

12 BY MS. MORTON-OWENS:

13 O And how frequently did you see that?

14 A Frequently.

14
15 Q How often was defendant Budagova's handwriting based on
her admissions to you in these medical files?
16

16
17 A Of those that I reviewed, they were in many, if not
18 practically all of the charts.

19 MS. MORTON-OWENS: The Government would move
20 Government's Exhibit 303 into evidence...

31 THE COURT: Very well.

22 (Whereupon Government's Exhibit 303 is admitted hereto.)

22
22 MS. MORTON-OWENS: If you could publish page 27 and

24

25 | 29...

1 BY MS. MORTON-OWENS:

2 Q In reviewing these medical files with what you
3 understood to be defendant Budagova's admitted handwriting,
4 how frequently was defendant Budagova writing "patient needs
5 OxyContin, 80 milligrams"?

6 A Frequently.

7 Q In reviewing the almost 2,000 patient files that you
8 personally looked at, how many indicated that a prescription
9 for OxyContin, 80 milligrams was written in the name of the
10 patient?

11 A Virtually all of them.

12 Q How frequently, if at all, did you see another strength
13 for OxyContin?

14 A I might have seen it once or twice.

15 Q Meaning something of a lower dosage, not 80 milligrams?

16 A Of a -- I'm sorry, 80 milligrams, almost always.

17 Q What about for other pain medications instead of
18 OxyContin -- not at the same time but instead of OxyContin,
19 such as Tylenol 3 or another scheduled drug?

20 A I would see that as well on the prescriptions many
21 times.

22 Q In connection with the OxyContin or instead of?

23 A In connection with.

24 Q Now, you mentioned the strength of the OxyContin. What
25 about the number of pills, how frequently did you see

1 (Whereupon Government's Exhibit 348 is admitted hereto.)

2 MS. MORTON-OWENS: If you could publish page 52 and
3 page 114...

4 BY MS. MORTON-OWENS:

5 Q Does this purport to be handwriting on the left-hand
6 side that is not what you understood to be defendant
7 Budagova's handwriting?

8 A Yes.

9 Q And then there are prescriptions written out; is that
10 right?

11 A Yes.

12 Q And are those prescriptions, at least the one on the top
13 in what purports -- based on defendant Budagova's admissions,
14 what appears to be her handwriting to you?

15 A On the top prescription?

16 Q Yes.

17 A That doesn't look like Ms. Budagova.

18 Q Whose handwriting is on the top?

19 A That's Julie Shishalovsky's.

20 Q And how often did you see Julie Shishalovsky's
21 handwriting on the prescriptions?

22 A Frequently.

23 Q And in connection with what purported to be the doctor's
24 handwriting?

25 A I saw them not so frequently but in one or two

1 instances, yes.

2 Q And how frequently did you see what you understood to be
3 defendant Budagova's handwriting in connection with what
4 purported to be the doctor's handwriting?

5 A Frequently.

6 Q And what I mean by that, is it purports to be the
7 doctor's handwriting on the notes and then defendant
8 Budagova's handwriting on the prescription for OxyContin?

9 A Yes, frequently.

10 Q Turning now to defendant Garrison in Government's
11 Exhibit 283 that is already in evidence...

12 MS. MORTON-OWENS: If you could publish page 42...
13 And highlight those notes. And then side by side,
14 put Government's exhibit -- or the same exhibit and page
15 69 -- I apologize -- back out and page 70 -- and we'll go
16 back to 69.

17 Is this visit, notes for a Larry Curry?

18 A Yes.

19 Q And these are purportedly dated August 4th; is that
20 right?

21 A Yes.

22 Q And then prescriptions, one that seems to say "MRI" and
23 one that says "Motrin" and Soma purportedly signed by
24 Dr. August Knebel; did I get that right?

25 A Yes.

1 MS. MORTON-OWENS: And, Agent Zavala, if on the
2 right-hand side you could put page 69 and highlight that.

3 Are you familiar with the handwriting that appears
4 in the body of that prescription?

5 A I am.

6 Q Whose handwriting is that?

7 A That is Mr. Garrison's handwriting.

8 Q Is that based on what he admitted was his handwriting to
9 you?

10 A Yes.

11 Q And what is the date of that prescription?

12 A It's August 5th, 2009.

13 Q Also, for -- and this time for OxyContin?

14 A Yes.

15 Q And, Agent Tran, based on your review of the patient
16 file for Larry Curry, is there even a visit note, dated
17 August 5th?

18 A I was unable to find any visit notes or labs or anything
19 to indicate that the patient was there on the 5th.

20 Q Did you -- in reviewing the roughly 2,000 patient files,
21 did you see examples where defendant Budagova's handwriting
22 appeared on the first visit?

23 A Yes.

24 Q In other words, it purported to be a new patient?

25 A Yes.

1 Q And was that interview recorded?

2 A It was.

3 Q Have you had an opportunity to review that recording?

4 A I have.

5 Q And have you had an opportunity also to review the
6 transcripts that went along with that recording?

7 A I have.

8 Q How was the -- how were the transcripts created?

9 A The original transcript was created by a third-party
10 contractor, and then I reviewed it and made corrections and
11 edits to the transcript.

12 Q And based on your review of the transcripts, are the
13 transcripts now accurate based on your participation in the
14 interview?

15 A Yes.

16 MS. MORTON-OWENS: If you could have
17 Government's Exhibit 1795 placed before the witness, please.

18 BY MS. MORTON-OWENS:

19 Q Have you also reviewed the clips from the audio
20 recording?

21 A Yes, I have.

22 MS. MORTON-OWENS: At this time, the Government
23 would move to admit the clips 1796, 1799, 1800, 1801, 1802,
24 1803, 1804 and 1808.

25 THE COURT: Very well.

1 MS. MORTON-OWENS: And we'd ask now that the
2 transcript binders for those recordings be handed out.

3 THE COURT: Yes.

4 (Whereupon Government's Exhibits 1796, 1799, 1800, 1801,
5 1802, 1803, 1804, and 1808 are admitted hereto.)

6 BY MS. MORTON-OWENS:

7 Q When you were interviewing defendant Budagova, did she
8 tell you that she spoke Russian and Armenian?

9 A Yes.

10 MS. MORTON-OWENS: If you could publish
11 Government's Exhibit 1796 -- and that would be 1796-A...

12 BY MS. MORTON-OWENS:

13 Q Did defendant Budagova tell you anything about whether
14 or not she was a translator at the clinic?

15 A She did.

16 MS. MORTON-OWENS: And if you could publish
17 Government's Exhibit 1799 which is 1799-A...

18 BY MS. MORTON-OWENS:

19 Q So defendant Budagova admitted that she wrote in the
20 prescriptions but that doctors were checking; is that right?

21 A Yes.

22 Q Did defendant Budagova tell you anything about who
23 managed the Lake Medical Group, 8th Street location?

24 A She told me that she did not know who owned the clinic
25 and that she believed Julie was the manager.

1 last name was Mikaelian?

2 A No, she told me.

3 Q So she told you that -- the name -- she offered Mike
4 Mikaelian but then said she didn't know him?

5 A Correct.

6 Q Did defendant Budagova tell you anything about whether
7 or not she was a doctor in another country?

8 A She told me she was a doctor in Russia.

9 MS. MORTON-OWENS: If you could publish
10 Government's Exhibit 1802 and that's 1802-A.

11 (Whereupon audio is played in open court.)

12 BY MS. MORTON-OWENS:

13 Q When you were interviewing defendant Budagova in July,
14 did you show her medical charts?

15 A I did.

16 Q And at that time, did she admit that it was her
17 handwriting in certain medical charts?

18 A Yes, she did.

19 MS. MORTON-OWENS: If you could publish
20 Government's Exhibit 224 that is already in evidence... and
21 page 14...

22 BY MS. MORTON-OWENS:

23 Q Is this the medical chart for Edgar Hovannisyan?

24 A Yes.

25 Q And who is Edgar Hovannisyan?

1 A Edgar Hovannisyan was one of the runners at the clinic.

2 Q So he worked for Lake Medical Group?

3 A He did.

4 Q And was this one of the pages that defendant Budagova
5 admitted was her handwriting?

6 A Yes, it was.

7 MS. MORTON-OWENS: The Government would move
8 Government's Exhibit 309 into evidence.

9 THE COURT: Very well.

10 MS. MORTON-OWENS: If you could publish page 11...

11 BY MS. MORTON-OWENS:

12 Q Is this the medical chart or notes for Stacy Majors?

13 A Yes.

14 Q And is this another example of what defendant Budagova
15 admitted to you was her handwriting?

16 A Yes.

17 MS. MORTON-OWENS: Can you now publish Government's
18 Exhibit 1803 -- and that would be 1803-A in the transcripts.

19 (Whereupon audio is played in open court.)

20 BY MS. MORTON-OWENS:

21 Q Did defendant Budagova claim to you that she was copying
22 what the doctors had told her to write?

23 A She did.

24 Q In your review of the files, did you see any evidence of
25 that?

1 location?

2 A Yes.

3 Q And based on your interview with defendant Garrison and
4 defendant Budagova, did you see their handwriting?

5 A In virtually all of the files I reviewed, yes.

6 MS. MORTON-OWENS: Your Honor, at this time, the
7 Government would like to read a stipulation between the
8 parties, specifically, the Government and defendant,
9 David Garrison.

10 THE COURT: Very well.

11 A stipulation is a statement by the parties, that
12 certain facts are true without requiring additional proof.
13 So you should accept them as true.

14 MS. MORTON-OWENS: It is hereby stipulated and
15 agreed by and between plaintiff United States of America, by
16 and through its counsel of record, the United States
17 Attorney's office for the Central District of California and
18 defendant David Garrison, that David Garrison wrote and
19 signed the prescriptions in Government's Exhibit 152.

20 Can you publish just page one -- oh, Government
21 would move Government's Exhibit 152 into evidence, if it's
22 not already in.

23 THE COURT: Very well.

24 MS. MORTON-OWENS: If you could publish
25 Government's Exhibit 152.

1 THE COURT: It's admitted.

2 (Whereupon Government's Exhibit 283 is admitted hereto.)

3 MS. MORTON-OWENS: Page 69...

4 The handwriting but not the prescription -- I mean,
5 I'm sorry, not the signature. Government's Exhibit 295, I
6 believe, is already in evidence. Pages 29 and 30, and then
7 page 34, a handwriting but not the signature.

8 Government's Exhibit 314 is already in evidence for
9 Charles Pacheco, pages 35 and 36 and the prescription on page
10 40; the handwriting but not the signature.

11 And the Government would move .

12 Government's Exhibit 408 and 446 into evidence, if they're
13 not already in.

14 Page 38 of Government's Exhibit 408...

15 And Government's Exhibit 446, page 10...

16 446, page 10, please...

17 BY MS. MORTON-OWENS:

18 Q Let's go through a few of the files that you reviewed
19 in -- from the Victory location. If you could pull back up
20 Government's Exhibit 408...

21 And put page 21 besides page 37...

22 For this patient, does this purport on the
23 left-hand side to be notes written by Elza Budagova and a
24 prescription written by David Garrison?

25 A It does.

1 Q And in reviewing those notes, did you see any
2 co-signature of any actual doctor?

3 A I did not.

4 Q And page 37 that's admitted handwriting of
5 David Garrison; right?

6 A Yes, that is his handwriting. Yes.

7 MS. MORTON-OWENS: The Government would move
8 Government's Exhibit 405 into evidence.

9 THE COURT: Very well.

10 (Whereupon Government's Exhibit 405 is admitted hereto.)

11 MS. MORTON-OWENS: If could you publish page 12 and
12 then page 13...

13 Those purport to be the notes from -- in defendant
14 Budagova's handwriting on the right-hand side?

15 A Yes.

16 Q And on the left-hand side?

17 A Correct.

18 Q And then if you could publish pages 22 and 24...

19 Is that the prescriptions purportedly signed by
20 defendant David Garrison on the right-hand side but with
21 Elza Budagova's handwriting in the body?

22 A Yes.

23 MS. MORTON-OWENS: Government moves
24 Government's Exhibit 417 into evidence.

25 THE COURT: Very well.

1 (Whereupon Government's Exhibit 417 is admitted hereto.)

2 MS. MORTON-OWENS: Publish page 35.

3 BY MS. MORTON-OWENS:

4 Again, is this an example of defendant Elza Budagova's
5 handwriting and then signed by defendant David Garrison?

6 A Yes.

7 MS. MORTON-OWENS: One last one...

8 Government's Exhibit 411 -- if Government would
9 move Government's Exhibit 411 into evidence...

10 THE COURT: Very well.

11 MS. MORTON-OWENS: And publish pages 44 and 47.

12 (Whereupon Government's Exhibit 411 is admitted hereto.)

13 May I have a moment, Your Honor...

14 No further questions.

15 THE COURT: I'm going to take one more break.

16 Shall we do it now?

17 MR. BELTER: Yes, Your Honor.

18 (Recess).

19 **CROSS-EXAMINATION**

20 BY MR. BELTER:

21 Q Good afternoon, Special Agent Tran.

22 Special Agent Tran, you started off your testimony
23 this afternoon or this morning by saying that you were
24 involved in a surveillance of a Lake Street clinic?

25 A Yes.

1 A No.

2 Q So she understood that it was a voluntary interview she
3 was submitting to?

4 A I believe so.

5 Q And one of the things she told you during those
6 interviews was that she wrote in patient files, progress
7 notes of the patient's care at the clinic?

8 A Yes.

9 Q And that she wrote prescription forms?

10 A She wrote in the body of the prescriptions, yes.

11 Q But she didn't sign any of the prescriptions?

12 A She said she did not.

13 Q And in your investigation, you didn't develop any
14 evidence that would indicate she did sign those
15 prescriptions, did you?

16 A You're correct.

17 Q No evidence?

18 A None.

19 Q And she also told you she had been a doctor in Russia?

20 A Yes.

21 Q Did she tell you whether or not she practiced as a
22 doctor in Russia?

23 A I don't believe that was ever brought up.

24 Q Now, again, switching -- switching topics to focus your
25 attention...

1 the far left wearing, I think it is a silver dress, did all
2 of those other people work at the Lake Medical Group?

3 A Yes.

4 Q Based on your surveillance, as well as the review of the
5 undercover recording, how out in the open was the capping?

6 A It was out in the open in the parking lot, as well as in
7 the waiting room.

8 Q And on the video itself, isn't Green Eyes actually
9 helping the patient complete the paperwork?

10 A He was.

11 Q And Green Eyes is actually the one that goes up to the
12 reception in place of the patient?

13 A Yes.

14 Q You were asked on cross-examination about the protocol
15 of when the patients would go into the clinic; do you recall
16 that line of questioning?

17 A Yes.

18 Q What was the protocol?

19 THE COURT: Do you mean her opinion?

20 MS. MORTON-OWENS: No, based on -- she was asked
21 based on the review of that report, what was the protocol --
22 or that there was a protocol --

23 THE COURT: Do you mean what the report says?

24 MS. MORTON-OWENS: Yes, Your Honor.

25 MR. CANTALUPO: I would object to --

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PROOF OF SERVICE

I, David A. Schlesinger, declare that on April 17, 2019, as required by Supreme Court Rule 29, I served Petitioner Elza Budagova's MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on counsel for Respondent by depositing an envelope containing the motion and the petition in the United States mail (Priority, first-class), properly addressed to him, and with first-class postage prepaid.

The name and address of counsel for Respondent is as follows:

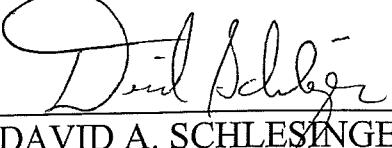
The Honorable Noel J. Francisco, Esq.
Solicitor General of the United States
United States Department of Justice
950 Pennsylvania Ave., N.W., Room 5614
Washington, DC 20530-0001
Counsel for Respondent

Additionally, I mailed a copy of the motion and the petition to my client, Petitioner Elza Budagova., by depositing an envelope containing the documents in the United States mail, postage prepaid, and sending it to the following address:

Elza Budagova
c/o Armen Shahbyza
Los Angeles, CA 90029

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 17, 2019



DAVID A. SCHLESINGER
Declarant