

A Painful Decision

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A Virginia doctor has become the latest victim of the government's crusade to enforce federal drug laws that make it difficult for sufferers of chronic pain to obtain effective medication able to ease their distress.

Dr. William E. Hurwitz may face life in prison for prescribing medication to sufferers of chronic pain as a result of the federal government successfully prosecuting him in the federal district court in Alexandria, Virginia. He was convicted on December 16 on 50 counts, including illegally prescribing narcotic pain medication to patients, causing the death of one patient, and seriously injuring two others.

When Hurwitz was arrested, Assistant U.S. Attorney Gene Rossi declared that the government would do its best to "root out" over prescribing prescription pain doctors "like the Taliban." Prosecutor Mark Lytle said in court that Hurwitz "is no better than a crack dealer, simply because he has a medical degree."

The trial of Hurwitz has a larger significance than his own personal guilt or innocence. It is a landmark in the fight between sufferers of chronic pain and federal drug law enforcement.

A very large number of Americans -- some estimates run as high as 50 million -- suffer from recurrent, often debilitating pain. Hurwitz was one of the leading advocates of prescribing very high doses of pain medication necessary to relieve their suffering.

In the case, the government took the position that Hurwitz was running a "pill mill" for profit and that it was necessary to prosecute him and other pain doctors in order to stem the growing use of OxyContin and other potent prescription painkillers.

Prosecutors claimed that Dr. Hurwitz fraudulently earned about \$900,000 from 1999 to 2002, by supplying prescription narcotics to 500 pain patients. He charged a \$1,000 initiation fee for each patient plus monthly fees between \$150 and \$250.

But the government glossed over the fact that, for this modest fee, Hurwitz's patients had 24-hour access to his services and they never paid him for any of their drug prescriptions. He screened them for drug abuse and, indeed, required that they sign a treatment agreement which included drug testing. He dropped patients for non-compliance or for re-selling the drugs he prescribed.

None of the three patients' deaths were attributable to Hurwitz's treatment or drugs prescribed by him. One patient's death is not even claimed to have been drug-related; it was caused by the underlying disease of pancreatitis. Another patient's death was undetermined and the third case was due to a tragic error committed by a pharmacy that dispensed morphine instead of the drug that Hurwitz had prescribed.

It was a small criminal element among Hurwitz's largely blue collar patients whom he was trying to help that scammed him. Once they were arrested, they turned against Dr. Hurwitz in a plea agreement with the government to escape punishment.

Dr. Hurwitz's compassion greatly assisted the government prosecutors. He did not immediately cut off patients he discovered were addicts or had criminal histories. He took the position that the abrupt termination of pain medication needed by patients would be "tantamount to torture." Unfortunately, that was exploited by some.

More than 15 convicted felons mostly from Manassas, Virginia testified against Dr. Hurwitz. His defense attorney Patrick S. Hallinan called the convicted drug dealers "predators" who lied to the doctor by inventing or exaggerating their pain to get drugs from him, only to testify against him in return for reduced sentences.

Those felons and the government have done a great disservice to millions of patients who suffer from intractable pain and to the physicians who treat them. As a consequence of the Hurwitz trial, doctors will now view every pain patient they see with suspicion and as a potential criminal or undercover government agent. Pain patients will now find it even more difficult to find a doctor willing to treat them and risk the fate of William Hurwitz.

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