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Jury Acquits DFW Doctor Accused in Alleged University Athletic Billing Scheme

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SHERMAN — A jury dealt federal prosecutors a rare acquittal Tuesday in the trial of a Dallas-area doctor accused in an alleged fraudulent scheme to bill insurance companies for medical services provided to injured university student athletes.

Jurors deliberated about four hours before finding Dr. Kyle Carter not guilty of a single count of conspiracy to commit wire fraud.

Jeff Ansley, of Vedder Price, had told jurors in closing arguments Tuesday morning that the government's case against his client was built on "assumption upon assumption upon assumptions" and was a "remarkable failure of proof."

"We're incredibly pleased and proud the jury listened to the evidence, heard our defense and did justice with its verdict," Ansley told *The Texas Lawbook*.

Prosecutors declined to comment as they left the courtroom in Grayson County. A public information officer for the U.S. Attorney's Office for the Eastern District did not immediately respond to a request for comment.

The prosecution surprisingly rested their case sooner than expected on Monday morning — with a witness still in the hallway — after presenting two and a half days of testimony. Defense lawyers told U.S. District Judge Amos L. Mazzant III they expected the government to call three more witnesses. The defense rested its case Tuesday morning.

Prosecutors sought to persuade jurors that Carter had allowed Addison-based Vivature, a third-party billing company, to bill insurance companies using his provider identification number when, in fact, the services were rendered by athletic trainers.

In most cases, Carter was in his Carrollton office on the dates cited in insurance claims and, in other instances, he appeared to be on personal trips, according to flight ticket information prosecutors published for the jury. In exchange, Carter was paid more than \$80,000 over four years, FBI Special Agent Jason Rennie testified.

The government's case rested largely on emails between Carter and a Vivature employee, as well as between Carter and his staff, that showed Carter asking whether his credentials were being used for billing.

In January 2015, Carter emailed a Vivature employee, telling him, "You should not be billing under my license without the greenlight from me" or another doctor. Carter emailed a Vivature employee again in February 2015, asking about billing under his credentials. In an email to his office manager, Carter said he asked the Vivature employee to call her about billing. The office manager emailed Carter, relaying Vivature said nothing should've been billed under Carter's credentials and it would be looked into.

Rennie, the special agent, told jurors the emails were clear evidence that Carter knew billing was going on under his credentials. But Ansley said it showed Carter accepted the answers he received. Prosecutors alleged Carter turned a blind eye after he started receiving checks from Vivature.

Carter again inquired about billing taking place under his credentials in December 2016; Ansley pointed to an email from Carter's office manager to a Vivature employee stating that Carter wanted to make sure billing was being done properly.

Someone involved in a scheme wouldn't

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write emails creating a paper trail, Ansley suggested during closing statements.

“This is not evidence of fraud. This is the opposite of fraud,” Ansley said.

But prosecutors said there was no evidence Carter ever instructed Vivature not to bill under his credentials, or that he requested claims records from the insurance companies to ensure his credentials weren't being used inappropriately or call law enforcement to report suspicious activity.

Vivature continued to file a cumulative 8,000 claims between 2014 and 2018 under Carter's name.

“The question is this: Is it reasonable that the defendant didn't know or agree to even one of those claims?” Anand Varadarajan, an assistant U.S. attorney, asked the jury in closing statements. “Of course he knew.”

Carter believed his role was supervisory, his lawyers argued. He was tasked with reviewing charts and providing consultation to athletic trainers when called upon. Carter gave more money than he earned from Vivature to churches and charities, his lawyers said to rebut the prosecution's assertion Carter was in the scheme to make money. Carter resigned from Vivature in 2018 and, in a resignation letter, said he did not have time to adequately monitor the work being performed.

Carter was indicted in October. In January, another doctor and two businessmen were also indicted in the alleged scheme:

Mouzon “Muzzy” Bass III of Highland Park; Lance West Wilson of Allen; and Dr. Robert Brent Scott of La Quinta, California. Bass, Wilson and Scott, whose trials are pending, were also indicted in a separate alleged conspiracy to fraudulently obtain government funds for Covid-19 testing. The defendants received more than \$70 million between the two alleged schemes, the U.S. Attorney's Office for the Eastern District of Texas has claimed.

Carter never should have been indicted, Ansley said after the verdict. An emotional Carter hugged his lawyers as the verdict was read while his family clung to each other in the gallery and wept.

“We're pleased the jury saw everything we saw, everything we told the government was the case for years,” Ansley said.

Carter is also represented by Arianna Goodman and Sam Deau of Vedder Price.

The government is also represented by Adrian Garcia, Glenn Jackson and Tom Gibson of the U.S. Attorney's Office.

The case number is 4:23-CR-225.

Bass is represented by Scott Thomas, Alexander Nowakowski and Tom Melsheimer of Winston & Strawn.

Wilson is represented by Arnold Spencer of Spencer & Associates in Fort Worth.

Scott is represented by Gene Besen, Scarlett Nokes and Stephen K. Moulton of Bradley Arant Boult Cummings.

That case number is 4:24-cr-00007.