

LDR650-OB: Medical Law

Legal Summary of United States v. McClatchey

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LEGAL SUMMARY OF UNITED STATES V. MCCLATCHEY**217 F.3D 823 (10TH CIR. 2000)**

Facts: Mr. McClatchey was serving as the Chief Operating Officer of Baptist Medical Center in Kansas City, Missouri. The hospital, at the time Baptist Medical Center and later Health Midwest, was approached by two physicians requesting the hospital to purchase their practice. The physicians would then move all patients to Baptist Medical Center. The hospital rejected the proposal, but the doctors would offer their services to the hospital for a set fee. A fee of \$75,000 per year each was set without setting forth the services to be provided. With this contract in place, the physicians started admitting their patients to Baptist Medical Center. The hospital CEO, the COO (McClatchey) and the two physicians were convicted of violating the anti-kickback statute (AKS). McClatchey's motion for acquittal was granted based on the fact that no jury could find that he deliberately intended to violate the law. This is an appeal by the U.S. government to review the case against McClatchey by showing the type of criminal intent necessary to violate the AKS.

Issues: May an employer newspaper require its reporters to abstain from political activism in order to protect the newspaper's editorial discretion? The issue concerns the type of criminal intent necessary, was it "in part" or the "whole purpose" to violate the AKS by entering into a contract with the physicians? Did Mr. McClatchey violate the anti-kickback statute? McClatchey feels the jury was given improper instruction on the rule and asked for an acquittal, which . The U.S. government is appealing.

Rules: An employer newspaper may require its reporters to abstain from political activism in order to protect the newspaper's editorial discretion.

Analysis: The court holds that the reasoning found in the Greber case is sound and that McClatchey does violate the Act because he did, as part of the purpose, seek referrals and that the jury was, in fact, appropriately informed of the law. McClatchey feels he should not be convicted because his financial offer was only in part motivated by the possibility of patient referrals by the physicians to Baptist Medical. His argument is that it should be the primary purpose. The court is reviewing the "in part" or "one purpose" and refers to the Greber case. "In both cases, the court held that even if the remuneration was also given for legitimate reasons, the statute was violated if another of its purposes was to induce referrals".

Conclusion: The government showed sufficient evidence that a reasonable jury would see that McClatchey "knowingly, voluntarily and purposefully" created a contract with said physicians that violates the anti-kickback act. McClatchey was not entitled to a new trial. The court reversed the acquittal and the verdict given by the jury was reinstated.

References

Leagle. (2014). United States v. McClatchey. Retrieved from

http://www.leagle.com/decision/20031438316F3d1122_11316.xml/U.S.%20v.%20McCLATCHEY

Showalter, J.S. (2017) The Law of Healthcare Administration (6th ed.). Chicago, IL: Health Administration Press.