



United States v. Shah, 981 F.3d 920 (11th Cir. 2020)

Topics Covered: Criminal Law

Outcome: Unfavorable

Issue

The issue in this case was whether a podiatrist violated the anti-kickback statute (AKS) by prescribing medically appropriate drugs because the manufacturer of the medications paid the podiatrist for giving speeches on its behalf.

AMA Interest

The AMA has long-recognized that “[r]elationships among physicians and professional medical organizations and pharmaceutical, biotechnology, and medical device companies help drive innovation in patient care and contribute to the economic well-being of the community to the ultimate benefit of patients and the public.”

Case Summary

Shah, a podiatrist, received fees for giving public speeches on behalf of a pharmaceutical company. Shah believed that the pharmaceutical company’s drugs were superior to similar, competing drugs, and he prescribed them to his patients.

The United States charged Shah with having violated the AKS, as the drug company paid him money for his speeches, and he also prescribed that company’s products to his patients. The judge instructed the jury that they could find Shah guilty under the AKS if any “one purpose” of Shah’s arrangement with the pharmaceutical company was to induce or reward referrals for products reimbursable by a federal health care program. Shah was convicted, and he appealed to the United States Court of Appeals for the Eleventh Circuit challenging the “one purpose” jury instruction. On November 24, 2020, the Eleventh Circuit ruled against Dr. Shah and affirmed his conviction.

AMA Involvement

The AMA filed an *amicus* brief, which argued that the AKS was not violated if Shah was motivated to give the speeches in order to publicize products that he believed would provide medical benefits superior to competing products.

Eleventh Circuit Court of Appeals Brief