

Report on Patient Privacy Volume 18, Number 5. May 31, 2018 Physician Asks Judge to Overturn HIPAA Conviction

By HCCA Staff

Later this month, a Massachusetts judge will decide whether to toss an April 30 jury verdict against a former Massachusetts gynecologist who was found guilty of a rare criminal violation of HIPAA. In court filings, Stephen Spelman, the attorney for Rita Luthra, M.D., says she was the victim of “selective and vindictive prosecution.”

U.S. District Judge Mark Mastroianni of the District of Massachusetts is scheduled on May 16 to consider Spelman’s motion for judgment of acquittal.

The granting of what is called a Rule 29 hearing is “very unusual,” Spelman tells *RPP*. “Never happened to me in my 25 years of trying criminal cases.”

Rule 29 affords a judge the opportunity to consider the question of whether the evidence presented justifies a guilty verdict. “It’s really up to the judge to decide whether the evidence was sufficient” for a conviction, Spelman says, adding that neither he nor the government will present any briefings.

Dr. Luthra’s hearing is another twist in a story that began nearly 10 years ago with a government investigation not of her, but of Warner Chilcott U.S. Sales LLC, a subsidiary of pharmaceutical manufacturer Warner Chilcott PLC.

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