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U.S. Department of Justice

*Executive Office for United States Attorneys
Office of the Director*

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JUN 12 2002

Ms. Jane M. Orient, M.D.
Association of American Physicians
and Surgeons
1601 N. Tucson Blvd. Suite 9
Tucson, AZ 85716-4230

Dear Dr. Orient:

Your letter dated January 22, 2002, to Attorney General Ashcroft regarding the Department of Justice's health care fraud enforcement efforts was forwarded to this office for response. Let me begin by assuring you that the Department of Justice and its United States Attorneys' offices are committed to a fair and proper enforcement of federal civil and criminal laws, and that this commitment is unaffected by the occupation of any particular individual who is alleged to have engaged in unlawful activity.


Unfortunately, the law, various ethical rules and Constitutional considerations limit our ability to comment on the merits of the pending cases referenced in your letter. We would, however, offer the following information from the public record related to your concerns. In Dr. Mitrone's case the various issues you raised were considered and rejected by the District Court and Court of Appeals. Dr. McCarthy and his wife whose civil case is still pending have changed attorneys multiple times during the course of this matter which has added to the delay. Since the date of your letter, Dr. Sergius Rinaldi has plead guilty to fraud against the Illinois Medicaid program, as well as to a charge of obstruction of justice. In Dr. Krizek's case, the judgement has been affirmed by the Court of Appeals for the District of Columbia. Finally, the delays in Dr. Sell's case are attributable to a finding that he is not presently competent to stand trial and his refusal to take anti-psychotic medications prescribed by his treating psychiatrist. Since the date of your letter, the Court of Appeals for the Eight Circuit has affirmed the District Court's order that Dr. Sell be given anti-psychotic medication in order to render him competent to stand trial.¹

¹United States v. Sell, 282 F.3d 560 (8th Cir. 2002)

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We hope that the above information is of assistance to you and your organization.

Sincerely,


Louis DeFalaise
Senior Counsel to the Director