

August 13, 2020
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David J. Bradley, Clerk of Court

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

v.

**JAMES DARIAN PIERRE and
CHARLES WENDELL THOMPSON,**

Defendants.

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Criminal No. 4:17-CR-414

SUPERSEDING INDICTMENT

The Grand Jury charges:

General Allegations

At all times material to this Superseding Indictment, unless otherwise specified:

1. The Controlled Substances Act (“CSA”) governed the manufacture, distribution, and dispensing of controlled substances in the United States. With limited exceptions for medical professionals, the CSA made it “unlawful for any person knowingly or intentionally . . . to manufacture, distribute, or dispense . . . a controlled substance” or conspire to do so.

2. The CSA and its implementing regulations set forth which drugs and other substances were defined by law as “controlled substances,” and assigned those controlled substances to one of five schedules (Schedule I, II, III, IV, or V) depending on their potential for abuse, likelihood of physical or psychological dependency, accepted medical use, and accepted safety for use under medical supervision.

3. A controlled substance assigned to Schedule II meant that the drug had a high potential for abuse, potentially leading to severe psychological or physical dependence, and the drug had a currently accepted medical use in treatment in the United States or the drug had a

currently accepted medical use with severe restrictions. 21 U.S.C. § 812(b)(2). A controlled substance assigned to Schedule IV meant the drug had a lower potential for abuse and a lower risk of dependence, and the drug had a currently accepted medical use for treatment in the United States. 21 U.S.C. § 812(b)(4).

4. Pursuant to the CSA and its implementing regulations:

a. At all times relevant, and as of on or about October 6, 2014, hydrocodone was classified as a Schedule II controlled substance. 21 C.F.R. § 1308.12(b). Prior to on or about October 6, 2014, hydrocodone was classified as a Schedule III controlled substance. Hydrocodone, sometimes prescribed under brand names including Norco, Lortab, and Vicodin, was used to treat severe pain. Hydrocodone, as with other opioids, was highly addictive.

b. Carisoprodol was classified as a Schedule IV controlled substance. 21 C.F.R. § 1308.14(c). Carisoprodol, sometimes prescribed under brand name Soma, was a muscle relaxant and was highly addictive. The U.S. Food and Drug Administration (“FDA”) recommended carisoprodol only for acute treatment for two to three weeks at a time.

5. Medical practitioners, such as physicians and physician assistants, who were authorized to prescribe controlled substances by the jurisdiction in which they were licensed to practice medicine were authorized under the CSA to prescribe, or otherwise distribute, controlled substances, if they were registered with the Attorney General of the United States. 21 U.S.C. § 822(b); 21 C.F.R. § 1306.03. A prescription for a controlled substance may have only been

dispensed, or filled, “by a pharmacist, acting in the usual course of his professional practice, and either registered individually or employed in a registered pharmacy” 21 C.F.R. § 1306.06. Upon application by the practitioner, the Drug Enforcement Administration (“DEA”) assigned a unique registration number (a “DEA Registration Number”) to each qualifying physician, physician assistant, pharmacist, or pharmacy.

6. Chapter 21 of the Code of Federal Regulations, Section 1306.04(a), provided that a prescription for a controlled substance “must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research [is] not a prescription within the meaning and intent of [the CSA] and the person knowingly filling such a purported prescription, as well as the person issuing it, [is] subject to the penalties provided for violations of the provisions of law relating to controlled substances.”

7. The Code of Federal Regulations further stated that all prescriptions for controlled substances “shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner.” 21 C.F.R. § 1306.05(a). “The refilling of a prescription for a controlled substance listed in Schedule II is prohibited.” 21 C.F.R. § 1306.12(a); 21 U.S.C. § 829(a).

8. A pain management clinic was not allowed to operate in Texas without obtaining a certificate from the Texas Medical Board. Tex. Occ. Code § 168.101(a). The Texas Medical Board defined a pain management clinic as a publicly or privately owned facility for which a majority of patients are issued, on a monthly basis, a prescription for opioids, benzodiazepines, barbiturates, or carisoprodol, but not including suboxone. Tex. Occ. Code § 168.001(1). A person was exempt from the Texas Medical Board's certification requirement if the clinic was owned or operated by a physician "who treats patients within the physician's area of specialty and who personally uses other forms of treatment, including surgery, with the issuance of a prescription for the majority of the patients." Tex. Occ. Code § 168.002(7).

Clinic

9. ODOF Medical P.A., d/b/a First Parker Medical Clinic, a/k/a West Parker Medical Clinic ("WPM") was a pain management clinic, located in Houston, Texas, in the Southern District of Texas, which was not certified with the Texas Medical Board as a pain management clinic.

Defendants and Related Individuals

10. Defendant **JAMES DARIAN PIERRE**, a Medical Doctor, was licensed by the State of Texas to practice medicine and maintained a DEA Registration Number. **JAMES DARIAN PIERRE** was listed as the owner of WPM and purported to treat patients for pain but, in fact, issued prescriptions for controlled substances outside the usual course of professional practice and without a legitimate medical purpose. **JAMES DARIAN PIERRE** was also the Medical Director at WPM and the sole physician at WPM.

11. Defendant **CHARLES WENDELL THOMPSON** was a physician assistant licensed by the State of Texas, working at WPM, who collaborated with **JAMES DARIAN PIERRE** and worked under the supervision of **JAMES DARIAN PIERRE**, and purported to treat pain but, in fact, issued prescriptions for controlled substances outside the usual course of professional practice and without a legitimate medical purpose.

12. Rhonda Renee Walker (“Walker”) was the manager and operator of WPM who also owned the management company RRW Management Company (“RRW”). RRW sub-leased the clinic space to WPM and paid in cash all of WPM’s employees, including **JAMES DARIAN PIERRE** and **CHARLES WENDELL THOMPSON**, paid the utilities and other bills, and kept all of the profits from WPM. Walker was not a medical professional licensed in any capacity in the State of Texas.

COUNT 1
Conspiracy to Distribute and Dispense Controlled Substances
(21 U.S.C. § 846)

13. Paragraphs 1 through 12 of this Superseding Indictment are realleged and incorporated by reference as if fully set forth herein.

14. From in or around June 2015, through in or around July 2016, in the Houston Division of the Southern District of Texas, and elsewhere, the defendants,

JAMES DARIAN PIERRE and
CHARLES WENDELL THOMPSON,

did knowingly and intentionally combine, conspire, confederate, and agree with each other and with others known and unknown to the Grand Jury, to violate Title 21, United States Code, Section 841(a)(1), that is, to knowingly and intentionally distribute and dispense mixtures and substances

containing a detectable amount of Schedule II controlled substances, including hydrocodone, and other controlled substances, not for a legitimate medical purpose and outside the usual course of professional practice.

All in violation of Title 21, United States Code, Section 846.

Purpose of the Drug Conspiracy

15. The purpose of the conspiracy included, but was not limited to, attracting large numbers of persons interested in obtaining and filling prescriptions for controlled substances; issuing prescriptions for controlled substances to such persons, not for a legitimate medical purpose and outside the usual course of professional practice; and generating large profits for the personal enrichment of the defendants and their coconspirators.

Manner and Means of the Conspiracy

The manner and means by which the defendants sought to accomplish the purpose and object of the conspiracy included, among other things:

16. It was a part of the conspiracy that defendant **JAMES DARIAN PIERRE** purported to be the owner of WPM in order to comply with Texas law, but in fact Walker was the true owner of the clinic. Walker received the profits from WPM, paid the bills for WPM, and paid **JAMES DARIAN PIERRE** and **CHARLES WENDELL THOMPSON** a cash salary in exchange for **JAMES DARIAN PIERRE** and **CHARLES WENDELL THOMPSON** unlawfully prescribing controlled substances to patients of WPM.

17. It was further part of the conspiracy that a majority of WPM patients received similar prescriptions for hydrocodone and carisoprodol—which rendered WPM a pain

management clinic as defined by Texas law—even though WPM had not been certified as a pain management clinic by the Texas Medical Board, as required by Texas law.

18. It was further part of the conspiracy that **JAMES DARIAN PIERRE** would and did use his status as a licensed physician, his DEA Registration Number, and his medical practice WPM, to knowingly and intentionally prescribe hydrocodone, a Schedule II controlled substance, outside the usual course of professional practice and not for a legitimate medical purpose.

19. It was further part of the conspiracy that **CHARLES WENDELL THOMPSON** would and did use his status as a licensed physician assistant, and his DEA Registration Number, to purport to treat patients of **JAMES DARIAN PIERRE** and WPM knowing that this purported treatment would be used by **JAMES DARIAN PIERRE** and Walker to justify the unlawful prescription of controlled substances outside the usual course of professional practice and not for a legitimate medical purpose.

20. It was further part of the conspiracy that **CHARLES WENDELL THOMPSON** would and did use his status as a licensed physician assistant, and his DEA Registration Number, to knowingly prescribe the controlled substance carisoprodol, a Schedule IV controlled substance, to WPM customers, knowing that **JAMES DARIAN PIERRE** would prescribe hydrocodone to the same customers, and thereby form a drug cocktail, outside the usual course of professional practice and not for a legitimate medical purpose.

21. It was further part of the conspiracy that **JAMES DARIAN PIERRE** and **CHARLES WENDELL THOMPSON** would and did allow persons to visit WPM under the guise and pretext of treating them as “patients,” knowing these persons were visiting WPM for the purpose of obtaining prescriptions for hydrocodone, carisoprodol, and other drugs, and not for a legitimate medical purpose.

22. It was further part of the conspiracy that Walker would and did normally collect cash payments from persons who visited WPM seeking hydrocodone, carisoprodol, and other drugs. These payments were required before coconspirators **JAMES DARIAN PIERRE** and **CHARLES WENDELL THOMPSON** would prescribe hydrocodone, carisoprodol, and other drugs, outside the usual course of professional practice and not for a legitimate medical purpose.

23. It was further part of the conspiracy that **JAMES DARIAN PIERRE** and **CHARLES WENDELL THOMPSON** purported to treat dozens of pain patients per day at WPM and that a large majority of their patients would receive similar prescriptions for the combination of hydrocodone and carisoprodol. **JAMES DARIAN PIERRE** would purportedly conduct visits with the new patients and **CHARLES WENDELL THOMPSON** would purportedly conduct visits with repeat patients.

24. It was further part of the conspiracy that coconspirators **JAMES DARIAN PIERRE** and **CHARLES WENDELL THOMPSON** would knowingly and intentionally prescribe hydrocodone and carisoprodol, without consulting the patient's primary care physician or other doctors treating the patient, without conducting an adequate evaluation of the patient, without exhausting evidence-based treatments, and without reviewing the appropriate medical records, outside the usual course of professional practice and without a legitimate medical purpose.

25. It was further part of the conspiracy that, from in or around June 2015, through in or around July 2016, **JAMES DARIAN PIERRE**, **CHARLES WENDELL THOMPSON**, Walker, and others, received approximately \$2.4 million dollars in cash from WPM as a result of the prescription of approximately 1,068,843 dosage units of hydrocodone outside the usual course of professional practice and not for a legitimate medical purpose.

All in violation of Title 21, United States Code, Section 846.

COUNTS TWO–EIGHT**Unlawfully Distributing and Dispensing Controlled Substances and Aiding and Abetting
(21 U.S.C. § 841 & 18 U.S.C. § 2)**

26. Paragraphs 1 through 12 and 16 through 25 of this Superseding Indictment are realleged and incorporated by reference as if fully set forth herein.

27. On or about the dates specified as to each count below, in the Houston Division of the Southern District of Texas and elsewhere, the defendants,

**JAMES DARIAN PIERRE and
CHARLES WENDELL THOMPSON,**

aiding and abetting and aided and abetted by others known and unknown to the Grand Jury, did knowingly and intentionally distribute and dispense hydrocodone, a/k/a “Norco,” a Schedule II controlled substance, outside the usual course of professional practice and not for a legitimate medical purpose:

Count	Date	Purported Patient
2	September 15, 2015	C.Y.
3	October 15, 2015	C.Y.
4	November 16, 2015	C.Y.
5	December 16, 2015	C.Y.
6	January 19, 2016	C.Y.
7	May 26, 2016	J.C.
8	June 29, 2016	J.C.

All in violation of Title 21, United States Code, Sections 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

**NOTICE OF CRIMINAL FORFEITURE
(21 U.S.C. § 853)**

28. The allegations contained in Counts 1 through 8 of this Superseding Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 21, United States Code, Section 853.

29. Pursuant to Title 21, United States Code, Section 853, the United States gives notice to the defendants, **JAMES DARIAN PIERRE** and **CHARLES WENDELL THOMPSON**, that upon conviction of an offense in violation of Title 21, United States Code, Sections 841(a)(1) and 846, the following property shall be subject to forfeiture:

- a. All property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such offense; and
- b. All property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the offense.

30. The defendants, **JAMES DARIAN PIERRE** and **CHARLES WENDELL THOMPSON**, are notified that upon conviction, a money judgment may be imposed equal to the total value of the property subject to forfeiture, which is at least \$2.4 million in United States currency.

31. In the event that one or more conditions listed in Title 21, United States Code, Section 853(p) exists, the United States will seek to forfeit any other property of the defendants up to the total value of the property subject to forfeiture.

A TRUE BILL

Original Signature on File

FOREPERSON

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