

1 KERRY GILLIE,
2 having been first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. VOLLMAN

5 Q Can you please introduce yourself to the ladies
6 and gentlemen of the jury by telling them your name and
7 where you currently work?

8 A My name is Kerry Roger Gillie and I'm employed
9 with the Harris County District Attorney's office,
10 currently assigned to the trial bureau here at the
11 District Attorney's office.

12 Q Where did you work before being hired by the
13 District Attorney's office?

14 A I was with NICB, National Insurance Crime
15 Bureau, for a short time.

16 Q How long were you with them?

17 A A little less than a year.

18 Q Where were you before that?

19 A With the Attorney General's Office, Medicaid
20 fraud unit.

21 Q Can you give us an idea about what type of
22 investigations you handled at NICB, National Insurance
23 Crime Bureau, and what you do for the District
24 Attorney's office before we get to the Attorney
25 General's Office?

1 A Well, with the National Insurance Crime Bureau
2 we investigated all types of insurance fraud, staged
3 accidents, falsifying insurance claims, false claims
4 with clinics, and different things like that.

5 Then here at the DA's office, we pretty
6 much do anything to assist the courts in prosecution,
7 whether it's locating witnesses, locating evidence,
8 transportation of witnesses to and from court, make sure
9 everything there that is needed.

10 Q Okay. Then let's talk about the Attorney
11 General's Office. How long were you the Attorney
12 General's Office, from what date to what date?

13 A 2005 to 2008.

14 Q Okay. And what did you do with the Attorney
15 General's Office?

16 A Investigated Medicare, Medicaid crossover
17 claims.

18 Q Can you explain to us what you mean by Medicaid
19 and Medicare crossover claims?

20 A Medicare usually pays like 80 percent of a
21 claim and for people that can't afford it or have the
22 need, Medicaid will pick up the other 20 percent. And
23 those claims are now merged and they are commonly called
24 crossover claims.

25 Q Is Medicare kind of like what we would normally

1 consider if we're not in Medicare as a primary insurance
2 coverage claim, or insurance policy?

3 A Yes.

4 Q And then the 20 percent, or what would be our
5 supplemental insurance if we had it, would be Medicaid?

6 A Yes, it's like that.

7 Q Okay. Can you give us a brief description of
8 your education, training and experience that qualifies
9 you to do the work you did at the AG's office? Tell us
10 what you did before you went to the AG's office. Just
11 give us an idea about the type of training that you've
12 had before the AG's office and while at the AG's office
13 to do the type of work you were doing for them.

14 A Before the AG's office I was a police officer
15 with the City of Deer Park. Twenty years in service
16 there. Majority of that was in investigations division.
17 While there, extensive amounts of training, obtaining my
18 master of peace officer license, which is thousands of
19 hours of in-service training. While there also got
20 involved in some big white collar crime cases there.
21 And that's what kind of got me recruited to go to the
22 Attorney General's Office. They called and wanted me to
23 come work for them and did so. While at the Attorney
24 General's office there was numerous in-service trainings
25 that we went to on how to investigate the various

1 different types of cases of fraud, involved
2 Medicaid/Medicare fraud.

3 Q Give us an idea about what type of schemes or
4 frauds you saw and investigated at the AG's office.

5 MR. MARTIN: Objection. Relevance.

6 THE COURT: Overruled.

7 A Well, there were numerous types. You have any
8 provider that provides services such as dentist,
9 optometrist, home health care, counseling, durable
10 medical, DME companies, equipment supply companies, all
11 of these services have guidelines that they have to go
12 by. And we would get referrals to investigate those.
13 And the referrals were just allegations of services not
14 being provided. You know, they bill one thing, not
15 being provided that service. We would investigate that,
16 too, to prove that it either was being done or wasn't.
17 If it was being done, then the referral is not founded.
18 If it was a case where they were billing for services
19 not rendered, we would investigate further.

20 Q (By Ms. Vollman) Okay. Can you give us an idea
21 about how many investigations you've worked on involving
22 Medicaid fraud?

23 A Hundreds.

24 Q And are you familiar with the Medicaid
25 guidelines regarding the qualifications of recipients

1 who receive incontinence supplies?

2 A Yes, ma'am.

3 Q Can you briefly tell us what they are? What
4 are those guidelines?

5 A The majority of the recipients have to have
6 what they call a doctor's order or Title 19, which is
7 very similar to a prescription. A doctor will say, this
8 person needs this supply, like insulin, or asthma
9 inhalers. Or, with incontinence supplies, if a person
10 needs diapers or pads or wipes or that kind of thing,
11 they will write an order for that and, or a wheelchair.
12 They will get an order for that. And all of that is,
13 has to be documented and on file.

14 Q Okay. Who is supposed to keep all that
15 documentation?

16 A Of course, the doctors keep some of their stuff
17 but the providers are required -- that is part of their
18 requirement as being a provider. They receive the
19 manuals, training they go through, are supposed to
20 attend, on line and off line, you know, in person that
21 requires them to keep that documentation.

22 Q Can you tell us what types of investigations
23 you were working on in 2006?

24 A Primarily DME, durable medical equipment
25 companies.

1 Q Okay. Can you explain to us what allegations
2 were you investigating during that 2006 timeframe with
3 these DME companies?

4 A It was just -- we've got a lot of allegations
5 of services not being provided, that people were billing
6 for --

7 MR. MARTIN: Judge, at this time, same
8 objection as to relevance.

9 MS. VOLLMAN: Judge, we're just trying to
10 show how you get into, at this point, looking at DME
11 companies.

12 THE COURT: I'll allow him to answer
13 briefly.

14 Q (By Ms. Vollman) Briefly.

15 A In 2006 we received a lot of returned
16 explanation of benefits where people were saying they
17 didn't need incontinence supplies or the durable medical
18 equipment, they didn't order the stuff and they didn't
19 receive it. So I was assigned to investigate further
20 those explanation of benefits.

21 Q Okay. When you were looking at DME companies,
22 are DME companies the type of business susceptible to
23 fraudulent practices by DME owners?

24 MR. MARTIN: Objection. Leading.

25 THE COURT: Sustained.

1 Q (By Ms. Vollman) Are DME companies the type of
2 businesses susceptible to fraudulent practices by DME
3 owners?

4 MR. MARTIN: Same objection, Judge.

5 THE COURT: Overruled.

6 A Yes.

7 Q (By Ms. Vollman) Okay. Can you explain to us
8 why?

9 A The way the system is set up, they can
10 submit -- as long as they submit the claims properly,
11 and it's coded correctly and all authorization codes and
12 everything in there, it's really quick turn around on
13 getting the money back. And then it's looked into later
14 if there is any allegations or problem. They have
15 already got the money. So it's a real easy target.

16 Q Okay. When you talk about if, if the claim is
17 otherwise valid, what do you mean by that?

18 A If you, all of the -- if everything matches
19 when they submit the claim, the Medicaid claim for
20 payment of supplies -- let's say the Medicaid number,
21 the patient's name, date of birth, the codes have to be
22 properly procedure codes and the product codes, the
23 dollar amount, the quantities, if all of that is right,
24 they pass.

25 Q Okay. And when you say "right," are you

1 talking about are inputted into the system correct?

2 A For payment, yeah. If they were inputted and
3 submitted for payment correctly, they get paid.

4 Q At the point a claim is submitted, is there
5 anything that has to be submitted to Medicaid in the
6 form of documents before that money comes to the DME
7 provider?

8 A The providers have to go through a lot of
9 paperwork. They have to apply first to become a
10 provider, have to submit all of their banking
11 information, where the money is to be sent and
12 transferred to. And then after that is the done, on
13 some of the instances they are required to submit the
14 doctor's order or the Title 19 with that.

15 Q Would that be -- is that what is called prior
16 approval amounts?

17 A Yes. They have prior approval amounts for some
18 items, not all items, you know, such as insulin,
19 different things like that, prescriptions. But on
20 incontinence supplies and various other items, they do
21 have prior approval amounts.

22 Q Okay. If a DME provider stays under those
23 prior approval amounts and the claim is facially valid
24 and it's submitted, is there any document they have to
25 submit along with that claim in order to get paid?

1 A No.

2 Q Is that what makes it susceptible to fraud?

3 A Yes.

4 Q Okay. Now, when you work on several different
5 types of investigations, do you work on that particular
6 type of investigation and nothing else or do you handle
7 multiple cases at one time?

8 A Myself, personally, I work on numerous cases at
9 one time.

10 Q Were they all, during that 2006 timeframe,
11 primarily DME companies?

12 A Yes, primarily.

13 Q All right. You told us that you started with
14 the DME companies because of referrals in 2006?

15 A Yes.

16 Q Now, when you were assigned those cases, what
17 patterns were you seeing that you started investigating
18 regarding these particular -- not just this company but
19 during that 2006 timeframe, what pattern were you
20 seeing?

21 A When I started looking at several of the cases,
22 the billing pattern was all the same, no matter the age
23 of the person. It was the same quantity of incontinence
24 supplies, the same number of diapers, same number of bed
25 pads, the same number or boxes of wipes. And all of

1 them were -- and that's all that each company was
2 billing for. They weren't billing for anything else.
3 And it was just unusual to see all the companies having
4 the same patients billing for the same thing and no
5 variation. It was very much unusual as opposed to when
6 you look at another company's billings. It was just --
7 it didn't look right.

8 Q Okay. So what did you do? And about this time
9 how many companies were you seeing -- how many companies
10 were you assigned to investigate that you were seeing
11 the same pattern?

12 A At that time I had over 40 cases I was probably
13 looking at. We had some people at the AG's office
14 retire and going to other places, so I got their old
15 cases and then my new cases. So I started looking at
16 the big ones first, the ones getting paid the most
17 money. And at the time there was probably eight or nine
18 of those.

19 Q Okay. And when you were examining those, did
20 two of the companies that are involved in this case come
21 to the forefront?

22 A Yes.

23 Q Which companies?

24 A Anointed Medical Supply and C & M Medical
25 Supply.

1 Q Okay. Who was the owner of C & M; do you
2 remember off hand?

3 A Vincent, Broderick Carter -- I can't remember.

4 Q Let me ask you this: Do you need your reports,
5 your binders, just as we go through this?

6 A It would help me. It might have been
7 Christopher Williams, I'm not sure. It was so --
8 Demetria Boston was the --

9 Q Big one?

10 A Of Anointed.

11 Q Now, Anointed, you said, was one of them and
12 that was Demetria Boston's company?

13 A Yes, ma'am.

14 Q When you went to look at these various
15 companies -- I'm sorry?

16 A I said Broderick Carter, yeah. C & M was
17 Broderick Carter.

18 Q Those two companies came to the forefront. At
19 the time you were investigating C & M and Anointed, did
20 the other companies associated with them come to light
21 at that time or were you dealing with these companies
22 and other companies?

23 A I had requested the Business Objects Reports
24 for several of the companies that we were looking at and
25 in getting that back -- that's the billing, the claims

1 billing for the companies -- it was really easy to see
2 that they were all doing the same thing. But these, the
3 two big ones, were the ones I focused on at that time,
4 because they were getting paid a lot of money every
5 month, a lot.

6 Q Okay. When you look at companies like C & M
7 and Anointed, what action do you take to investigate
8 those companies to determine whether or not they are
9 truly providing services or are they billing for
10 services not provided?

11 A It's a process. I do every one the same way,
12 or try to if possible. First thing you do is look at
13 the file that came with the referral. Some of them will
14 have a case file, like if the Medicaid provider had
15 previously looked at it, their file would be attached on
16 kind of what they had done, or another. I go through
17 all their notes and make sure I didn't miss anything or
18 duplicate anything.

19 The second thing, after doing that, and
20 looking at the Business Objects Report, I would develop
21 a witness list; that is, Medicaid recipients who had
22 allegedly received this stuff, all the DME supplies.
23 And I would formulate a list by zip code so I could
24 interview as many as possible in one area in one day.
25 And I would go to the house and interview these Medicaid

1 recipients and ask them if they were receiving these
2 supplies that is being billed in their name.

3 Q Let me ask you this: On these two companies, C
4 & M and Anointed, when you got the case referral for C &
5 M, was somebody else working on that case prior to you
6 getting it?

7 A Yes, but it wasn't a lot being done. Some was,
8 but --

9 Q Okay. Did you then take the lead on Anointed?

10 A Yes.

11 Q Okay. Did you go out and talk to these
12 individuals, some of the recipients?

13 A Yes.

14 Q And did you prepare a document of the witnesses
15 that you went out to interview?

16 A Yes.

17 Q Let me show you what has been marked State's
18 Exhibit 857. Do you recognize this document?

19 A Yes.

20 Q Can you tell us what it is? Without going into
21 detail, what is it?

22 A It's the witnesses I interviewed.

23 Q Did you prepare this document?

24 A Yes, I did.

25 MS. VOLLMAN: Judge, we would offer

1 State's Exhibit 857.

2 MR. MARTIN: Judge, we object on the basis
3 of hearsay, prepared by the DA's office.

4 MS. VOLLMAN: Prepared by the
5 investigator.

6 THE COURT: I'll allow it. Objection is
7 overruled.

8 Q (By Ms. Vollman) When you talked to these
9 folks, did you -- what information were you trying to
10 obtain?

11 A It was several -- just to obtain if they were
12 getting the supplies that were being billed in their
13 name.

14 Q Okay. And if they had gotten all the supplies
15 that were billed to their name under their Medicaid
16 number, would you continue the investigation?

17 A I would go further than just one or two
18 recipients. I interviewed several. If everybody that I
19 could talk to that day say they were getting them or
20 they had these problems or these illnesses that needed
21 that, then that would be unfounded and case closed.

22 Q Okay. When you were talking to all the folks
23 that are listed on State's Exhibit Number 857, did you
24 continue your investigation?

25 A Yes.

1 Q What was the next step after you have a chance
2 to review the file that was done when the complaint came
3 in? You went out to talk, to interview some of the
4 witnesses. What did you do next?

5 A After I interviewed one day's worth of witness
6 and everybody said they weren't getting the stuff --

7 MR. MARTIN: Object.

8 Q (By Ms. Vollman) You can't say what they are
9 saying.

10 A Sorry.

11 Q But after you interviewed those and you
12 continued your investigation, what action did you take?

13 A I obtained a Grand Jury subpoena for the bank
14 records of the provider.

15 Q And what is the purpose of obtaining a subpoena
16 for bank records? What is the point of that? What are
17 you looking for?

18 A This is to verify in the company's bank records
19 if they are purchasing the supplies and if they are
20 delivering them, employees, who works there, just to
21 further investigate into the company's business.

22 Q And at this point during this 2006 timeframe,
23 did you continue your investigation into Anointed?

24 A Yes.

25 Q And did you continue your investigation into C

1 & M?

2 A Yes.

3 Q And at some point in time did the number of
4 companies that were involved in -- with the same
5 pattern, become bigger?

6 A Yes.

7 Q Did you go to anybody in your office seeking
8 additional help?

9 A Yes, I did.

10 Q Can you explain what happened?

11 A I went to my supervisor and told him that the
12 money was going out so fast, it was getting paid so fast
13 and the billing was all the same. And when you looked
14 at the billing, you can't find any related injuries or
15 any kind of related illnesses for different kinds of
16 supplies where someone has incontinence supplies. So I
17 asked for help to get investigators down here so we
18 could speed up and work on more than one investigation
19 than just one at a time to try and stop the money going
20 out for those services that weren't getting provided.

21 Q Now, at some point in time did you, in fact,
22 find several companies that were all involved in this
23 group with Anointed and C & M Medical Supply?

24 A Yes.

25 Q Okay. Can you tell us, how did that come

1 about?

2 A Through bank records from the other companies
3 that we investigated them the same way, with the
4 interviewing recipients and getting bank records through
5 subpoenas.

6 Q Did you do this or how did it come about that
7 these companies were all being investigated?

8 A It was a team effort between the auditors, the
9 Attorney General's Medicaid unit and investigators in
10 looking at bank records and the billing records.

11 Q Now, did you also see that this same pattern
12 was outside of this eight company group?

13 MR. MARTIN: Objection. Leading.

14 THE COURT: Overruled.

15 A Yes. The more we looked at the other
16 companies, we would find the same billing pattern but
17 less numbers. Some were billing a little less every
18 month than the other ones.

19 Q (By Ms. Vollman) Okay. And at some point in
20 this timeframe, were other investigators needed to
21 investigate other companies?

22 A Yes.

23 Q Okay. Did you stay on this main group
24 involving the eight?

25 A Yes.

1 Q What do you do after you have done some field
2 interviews and learned that the recipients' supplies
3 were not being -- the recipients were not being
4 serviced? What happens next?

5 A Well, we contact the providers and deliver what
6 we call a demand letter to them, asking for their
7 records for those patients. They are required to
8 provide those records. That's part of being a provider.
9 And we would ask for their, if there was Title 19,
10 those, billing records, delivery records; basically
11 their -- each file for each Medicaid/Medicare recipient.

12 Q When you were working on these demand letters,
13 were you finding in this group of eight companies that
14 you were, in fact, getting the records?

15 A No. We weren't getting any records.

16 Q Okay. What does that tell you as an
17 investigator looking into these DME companies, when
18 you've done interviews and now you've asked for records
19 and they don't have them?

20 A Supplies are not being delivered.

21 Q What is your next step then?

22 A The next step then is to finalize the bank
23 records, interview as many recipients as you can contact
24 or get -- just to make sure, go back over there and try
25 to expand your list. And from that point we would

1 finalize a report, bring it to the DA's office and
2 present the case.

3 Q Let me ask you this: Let's go back to the bank
4 records for a second. Is there a reason to get bank
5 records? When you're looking at those bank records,
6 what other types of information other than the fact that
7 Medicaid money went into the bank account what, else are
8 you looking for that would help you or assist you in
9 finding out whether or not services are rendered in a
10 particular company or not?

11 A As would be any case, I always try to follow
12 the money. And if the money is going to, in these
13 cases -- if it was all going to Fed X or to a delivery
14 service and they were doing that, that would help prove
15 they were delivering stuff. But if they are just paying
16 one certain person like half of the cash, you know, it's
17 a split or something, you would want to look at that
18 person as also being involved in this scheme.

19 The other thing would show on the bank
20 records is if there is cash -- like as soon as the money
21 goes in, all the cash is taken out, and then, you know,
22 that is a sign of something that is not a normal
23 business practice.

24 Q Now, when you had -- when you were looking at
25 all of this, you were looking at the bank records, you

1 were looking at the interviews, you were trying to get
2 records and there were none, what -- how does this go
3 into or develop into other companies such as what
4 happened here?

5 A Well, the referrals keep coming in, for one
6 thing, you know, from other companies. And then I just
7 look at that one and it's the same as this one, or when
8 you are doing the demand letters that I previously spoke
9 of, sometimes you'll talk to the company owners when you
10 are delivering them and they will tell you, so and so is
11 doing this, too, or somebody is doing this, too, you
12 know. If they are doing the same thing, you would
13 automatically go look at them, too, you know.

14 Q Did you have that occurring in this particular
15 case when you started off with C & M and Anointed?

16 A Yes.

17 Q Did you notice anything between their bank
18 accounts, all eight of them, that were leading you into
19 the direction that another person or company was
20 involved in addition to the eight?

21 A Yes.

22 Q What did you notice?

23 A That there was checks being wrote to this
24 Frazier Medical Marketing or Dyain or Tajuana Frazier.

25 Q Okay. How is it that you look into -- because

1 their names are not on any of the documentation as far
2 as being a provider, correct?

3 A Correct.

4 Q How do you develop it past the eight companies
5 you have, their names coming up on these cashier's or
6 the bank records? How do you go and develop it further
7 from that?

8 A You start looking at all the other companies
9 you were looking at and their bank records. And the
10 auditors are told to look for these things. You know,
11 we're trying to find a connection. And sure enough,
12 there was a connection. The procedure was the same.
13 The money would go into the account and a lot of times
14 for the first couple of months there would be cashier's
15 check or checks made right after, made payable to the
16 Fraziers' corporation, Frazier Medical Marketing. And
17 then at that time -- well, as soon as that stopped, then
18 the cash started coming out. So we would start trying
19 to find out where the cash was coming from.

20 Q Okay. And when you started talking -- at some
21 point when you come to the DA's office, do you do
22 investigations where it's almost like a stair step?

23 A Yes.

24 Q You start with the base group and then you just
25 move your way up?

1 A Yes.

2 Q Did you do that in this case?

3 A Yes.

4 Q When you had enough evidence, according to what
5 you had regarding the eight companies, is that when you
6 came to the DA's office?

7 A Yes.

8 Q Okay. And were charges filed on the eight?

9 A Yes.

10 Q Now, the next layer, was what, that you started
11 doing investigation?

12 A There was 30 something other cases, I believe.

13 Q Okay. And in investigating those 30 other
14 companies, did you seek additional help?

15 A Yes.

16 Q Okay. And was help had?

17 A Yes.

18 Q Okay. Can you explain to us how that came
19 about?

20 MR. MARTIN: Objection. Relevance.

21 THE COURT: What is the relevance of the
22 other companies in this case?

23 MS. VOLLMAN: Well, my next question was,
24 did any of those companies have anything to do with this
25 eight?

1 THE COURT: I'll let you ask that
2 question.

3 Q (By Ms. Vollman) Okay. Did all the other
4 companies that you're looking into, these 30 other
5 companies, did any of those eventually result in having
6 to be a part of these eight that you could prove?

7 A Yes. The billing scheme was identical.

8 Q Okay. Was it narrowed down to these eight?

9 A Yes.

10 Q Okay. All right. So let's talk about, as far
11 as these folks, these eight, were charges filed on all
12 eight?

13 A Yes.

14 Q And after charges were filed, did you have an
15 opportunity to then interview them with their attorneys?

16 A Yes, some.

17 Q Okay. Which ones did you talk with with their
18 attorney after they were charged?

19 A Wilma Gibson and Broderick Carter, I believe,
20 Charles Wickware and Demetria Boston.

21 Q Okay. Did you at any time talk with
22 Christopher Williams, Robert Turner, Jacqueline Briscoe?

23 A Yes, Christopher Williams and Jacqueline
24 Briscoe.

25 Q Okay. Now --

1 A I don't recall Robert Turner.

2 Q Okay. Now, at some point in time, did you meet
3 with and talk with Demetria Boston?

4 A Yes.

5 Q And when you were talking -- you've got your
6 eight companies. What was the next layer that you
7 started looking into?

8 A The --

9 Q Based on the banking statements and everything,
10 what was the next layer up?

11 A The, the ones who owned the companies that were
12 getting the money, we started going toward them, talking
13 with them, or attempting to.

14 Q Once they were all arrested, what is the next
15 level up?

16 A All the other DME companies that were doing the
17 same billing scheme.

18 Q But I guess my question is, did you find from
19 these eight certain information in their bank accounts
20 that led you to who was doing their billing?

21 A Yes.

22 Q Okay. Who were they?

23 A The Fraziers.

24 Q Okay. And when you -- when you're going to
25 that next level, how are you working on the

1 investigation? What are you looking for as far as that
2 level?

3 A Trying to get the providers, the DME company
4 providers, to advise us who they were, how they were
5 getting all their customers, how they were getting the
6 information to do this billing. And all of them
7 indicated that it was coming from the Fraziers and the
8 Fraziers handled everything.

9 Q Okay. At some point in time did you take any
10 action regarding the Fraziers?

11 A Yes.

12 MS. VOLLMAN: Judge, can I have a minute?

13 THE COURT: Yes. One.

14 (Pause)

15 Q (By Ms. Vollman) All right. I want to get to
16 the Fraziers in a minute, but let's do one other thing.
17 As far as the Fraziers, that is one level. Was there
18 also another issue involved in these eight providers
19 that caused you concern that you wanted to follow up on?

20 MR. BRODEN: Objection. Leading.

21 THE COURT: Overruled.

22 A Where the numbers were coming from. That was
23 the problem.

24 Q (By Ms. Vollman) What was it about the numbers
25 involved? And when you say "numbers," when you talk

1 numbers, what are you talking about?

2 A The Medicaid recipient numbers.

3 Q What was it about the numbers involved in these
4 eight companies that caused concern to you as an
5 investigator investigating Medicaid fraud?

6 A It was a large part of them appeared to be new
7 enrollees, new Medicaid numbers, recently obtained. So
8 we started looking at that.

9 Q And when you say, "we started looking at that,"
10 how did you go about looking at that? At this point did
11 you have a name yet of somebody who could have been
12 providing numbers? Tell us the progression of how did
13 that develop? You talk about the eight companies. You
14 saw through the bank records that the Fraziers was
15 becoming a common denominator. Explain to us how it is
16 that a direction came for you as to where to go to find
17 out who was providing the numbers. How did that come
18 about? Each one of the companies, when we would talk to
19 the providers, give them the demand letters, they would
20 the tell us -- eventually they would say, we don't have
21 any records. We're really not doing that much. Then
22 they would say it's the Fraziers that are doing it. And
23 then we would say, where are they getting their numbers?
24 Are they paying to get the numbers, are they paying, are
25 they marketing, are you advertising, are you going to

1 the hospital, the nursing homes, are you going door to
2 door fliers, how are y'all getting the patients? It was
3 thousands of Medicaid recipients. How do you get this
4 much business, you know. And so one of the DME
5 companies eventually told me that --

6 MR. MARTIN: Objection. Hearsay.

7 MS. VOLLMAN: Judge, it's a direction on
8 how he came up with the names to go in a particular
9 direction. So we're not offering as far as that it's
10 true. It's a direction he's taking in the investigation
11 that led him further.

12 THE COURT: Approach the Bench.

13 (Discussion at the Bench, off the record)

14 (In the hearing of the jury)

15 Q (By Ms. Vollman) Who was the person that you
16 talked to that led you in the direction as to the person
17 who was providing the numbers?

18 A Demetria Boston.

19 Q Okay. When you talked with her, was it after
20 she was charged with a criminal offense?

21 A No, before.

22 Q Okay. When you talked to her, could you tell
23 us what it was that she provided you that led you in a
24 direction as to who was providing the numbers?

25 A Demetria first told me that she had been with

1 the Fraziers and had talked with them about these,
2 everybody trying to get medical records from her, and
3 that they were needing information and that the Attorney
4 General's office was there with a demand letter and all
5 this stuff. And she said she was told that, by the
6 Fraziers, that don't worry about it, they have got a
7 relative that works for the State -- and she only had a
8 first name at that time -- by the name of Marcus. And
9 she was told, don't worry about it. We got it.

10 Q Did she ever tell you about a phone call that
11 she had with this person named Marcus?

12 A She mentioned it, yes.

13 Q Okay. All right. So when you have a name --
14 did she give you -- when you first talked to her about
15 a Marcus and this relative, did she give you a last
16 name?

17 A Not when she first talked to me.

18 Q When she first talked to you and gave you this
19 name of Marcus, what action did you take to follow up on
20 what she said?

21 A I was looking at every State employee with the
22 first name of Marcus.

23 Q Can you give us an idea about how many Marcuses
24 work for the State of Texas?

25 A Thousands.

1 Q Okay.

2 A It was a lot.

3 Q So what actions did you take?

4 A Started looking at those thousands and going
5 through internal affairs with the State in trying to
6 find Marcuses that may have had a prior problem or
7 Marcus that has this access to these kind of numbers.
8 And we're in the process of doing that when I was
9 contacted again by Demetria.

10 Q When she contacted you again, what did she tell
11 you?

12 A She told me she had found out the guy's last
13 name, and his last name was Jefferson.

14 Q Does that aid you in narrowing down which
15 Marcus you were going to be looking at?

16 A Yes. We eventually narrowed it down to the
17 only one that possibly could have access of this as
18 working for the State, is the defendant.

19 Q Okay. Now, just because somebody like Demetria
20 Boston says, oh, this is what I was told and you have a
21 name, explain to us how you go about trying to determine
22 whether that is true and whether there is any evidence
23 to corroborate that?

24 A Well, you follow up. Because Demetria said the
25 reason, she believed she saw Marcus before at a function

1 with the Fraziers. And because a lot of them had grew
2 up together or went to school together. I'm really not
3 sure exactly what she said. So we showed her a photo
4 lineup.

5 Q Did she identify who?

6 A Marcus.

7 Q Okay. Then what did you do to verify or try to
8 find out whether or not he was the person that was
9 providing the Fraziers with the numbers?

10 A We had to get in touch with his employer. It
11 wasn't a direct statement. It was a business called
12 Maximus, which is kind of a broker for Medicare/Medicaid
13 patients for services. Once we realized that he did
14 have this access, then we started submitting the numbers
15 that we had in our billing to TMHP. When I say "we,"
16 I'm speaking of the auditors.

17 Q Who specifically?

18 A Candace Gonzales specifically.

19 Q Okay. So you basically took what, as far as
20 the recipients for which company?

21 A The first ones was Anointed and C & M. But
22 eventually all the companies' billing records were sent
23 to see if these numbers were ones he had access to.

24 Q Okay. And was she the person that provided
25 that information to Maximus?

1 A Myself and her, yes. We were both in constant
2 communication with Maximus because we were also trying
3 to stop this, figure it out, and stop it because it was
4 so large.

5 Q Okay. Eventually did you receive an answer
6 from Maximus regarding the recipients that you had asked
7 them to check?

8 A Yes.

9 Q And did they provide you with an answer?

10 A Yes.

11 Q Can you tell us what that was?

12 A It was a large percentage -- I want to say
13 90 percent or more -- if I remember correctly -- was the
14 numbers that he had access to, but they were still
15 looking into it because there was programming and stuff
16 issues, and they were diligently looking at. But, yes,
17 he has access to all of those numbers.

18 Q Okay. Did that part of the investigation
19 continue?

20 A Yes.

21 Q All right. Now, let's talk a little bit more
22 about progression as you were going through the
23 investigation. You've got the eight folks charged,
24 correct, the eight company owners charged?

25 A Yes.

1 Q All right. Now, so you were -- when you were
2 starting to look at the Fraziers and to find out whether
3 or not they had any type of involvement or to gather
4 evidence from them, what action did you take?

5 A We obtained search warrants.

6 Q Okay.

7 MS. VOLLMAN: Judge, can we approach?

8 THE COURT: Yes.

9 (Discussion at the Bench, off the record)

10 (In the hearing of the jury)

11 THE COURT: All right. Ladies and
12 gentlemen, we are going to break for the evening so that
13 the testimony tomorrow can be somewhat expedited. And
14 let me ask you a scheduling question about tomorrow.
15 Obviously it's election day. If we keep the regular
16 schedule starting at 10:00 and ending at 5:00, is that
17 going to impair anybody from getting to the polls
18 tomorrow that wants to? Can everybody, if they want to
19 go vote, do it either in the morning or after 5:00?
20 Okay.

21 Then we will keep the same schedule for
22 tomorrow.

23 Please be back at 10:00. Remember all my
24 earlier instructions about not talking about the case or
25 doing any independent investigation.

1 See you tomorrow at 10:00.

2 *(Jury leaves courtroom)*

3 *THE COURT:* Everything that we can go
4 over, any objections to documents, or anything else?

5 *MS. VOLLMAN:* There's a couple things I
6 would like to do, Judge, we could do outside the
7 presence, because I'm getting to the point where I'm
8 getting close to what we had talked about before. I
9 just didn't want to go there. Do you mind --

10 *THE COURT:* Go ahead.

11 *(Outside the presence of the jury,*
12 *defendant present)*

13 *Q* *(By Ms. Vollman)* Investigator Gillie, can you
14 tell us how many times did you talked with Marcus
15 Jefferson?

16 *A* Including phone calls?

17 *Q* Including phone calls.

18 *A* Trying to contact him or him calling me, no
19 more than ten, I would say.

20 *Q* Okay. When Demetria Boston provided you with
21 his full name and you identified who he was, can you
22 tell us at that point what did you do to contact him?

23 *A* I called his work.

24 *Q* Okay. At Maximus?

25 *A* Uh-huh.

1 Q And that is at the local office here downtown?

2 A Yes, ma'am.

3 Q Did you call him up?

4 A Yes, ma'am.

5 Q Did you get a chance to talk to him there?

6 A Yes. Not there.

7 Q But you made contact with him over the phone?

8 A Yes.

9 Q And at that point what happened next? What did
10 you tell him?

11 A I told him we were investigating a Medicaid
12 fraud case and his name came up in the investigation
13 and --

14 Q Go ahead.

15 A Asked him if he would come in and talk to me
16 about it.

17 Q Okay. Did he voluntarily agree to come talk to
18 you about it?

19 A Yes.

20 Q Okay. Was he under arrest at this point in
21 time?

22 A No.

23 Q Was he -- did you even have any evidence to
24 charge him at this point?

25 A Other than what Demetria told me. And I

1 believe we had found one check for like a thousand
2 dollars.

3 Q Going from where -- what account to who?

4 A Going from one of the Frazier's accounts to
5 Marcus.

6 Q Okay.

7 A We had subpoenaed theirs.

8 Q Okay. Did you know at that point what that
9 check was for?

10 A No. I don't believe it said anything.

11 Q So at the time that you talked to Marcus, he
12 was -- was he a suspect in the investigation?

13 A No, not at that time.

14 Q Okay. Did he come and meet with you?

15 A Yes, he did.

16 Q Voluntarily?

17 A Yes, he did.

18 Q When you met with him, what office or where did
19 you meet with him?

20 A At the Attorney General's office at that time.

21 Q Did he come in voluntarily?

22 A Yes, he did.

23 Q Did you talk to him at that time?

24 A Yes, I did.

25 Q Was he in custody?

1 A No, he was not.

2 Q Did you tell him what his rights were at that
3 time?

4 A Yes, I did.

5 Q Did he tell you that he understood?

6 A Yes, he did.

7 Q At that point in time, was that interview
8 recorded in any way?

9 A No, it wasn't.

10 Q When you talked with him, what information did
11 he provide you?

12 A He told me that he had been giving the numbers
13 to the Fraziers.

14 Q During that first conversation, at that point,
15 did he give you any other information other than that?

16 A That he just said he was sad and that, you
17 know, he was emotional. He said he knew it was wrong
18 and that -- to do that.

19 Q So what did you tell him in response to what he
20 was telling you?

21 A You know, he was asking me what was going to
22 happen to him and I told him I didn't know, that I have
23 to investigate the cases and present everything to the
24 DA's office. There is nothing I could promise him.

25 Q Did you make any promises to him?

1 A No. The only thing I told him is if he is
2 indicted, because he was concerned about his family, and
3 his co-workers and stuff, the only thing I told him is I
4 would call him if he was indicted and let him have time
5 to post a non arrest bond.

6 Q Okay.

7 A That's all.

8 Q And at the end of that interview, was he free
9 to leave?

10 A Yes, he left.

11 Q And he left on his own accord?

12 A Yes.

13 Q Okay. Do you remember when that original
14 conversation took place?

15 A February 7 or 8, I believe.

16 Q Was this before or after the search warrant at
17 the Fraziers' location and at his location?

18 A Before.

19 Q Okay.

20 A I believe. I believe.

21 Q Okay. Just to let you know, February 7 was the
22 date that the search warrant occurred at both locations,
23 I believe. Was it before or after that date? Is there
24 somewhere you can look and get back with us to let us
25 know when that was?

1 A Yes.

2 Q And that would have been in 2008, correct?

3 A Correct.

4 Q And then after -- while you're looking for
5 that, after -- after the conversation, did Marcus
6 Jefferson freely walk out of your office?

7 A Yes.

8 Q Did you talk to him at a different time after
9 that? You mentioned you talked to him several times.
10 When was the next time you talked to him on the phone or
11 in person?

12 A A couple of times he called, wanted to know the
13 status of the case, what was happening, you know, if he
14 needed to get a bond prepared or something of that kind.
15 And then there was a time we talked to him here at the
16 DA's office.

17 Q That's the one that is videotaped?

18 A Yes, ma'am.

19 Q Can you explain to us how that occurred? We've
20 given the transcript to the Judge, but can you tell us
21 what happened before, what was said to him for him to
22 come to the DA's office, who was present? Explain that
23 for us.

24 A Marcus had obtained an attorney at some point
25 named Crystal --

1 Q Moody?

2 A Moody.

3 Q Okay.

4 A And he wanted to set the record straight. And
5 in conversation, him and his attorney, that the Fraziers
6 were the bad guys and he wasn't a bad guy.

7 Q Okay.

8 A And so they wanted to come down here and talk.

9 Q Okay. Let me ask you this: How was the
10 meeting arranged to come down to the DA's office and you
11 do the interview? How did that come about?

12 A Well, I spoke to you about the case and you
13 said go ahead and let him come down and have the
14 interview recorded.

15 Q Okay. And who did you talk to to set it up?
16 Did you talk to the lawyer, did you talk to Marcus, how
17 did you set it up?

18 A Well, I spoke to Marcus and he said he would
19 speak to his attorney.

20 Q Did they come down and talk? Did both of the
21 come or just one or the other?

22 A Marcus came. I believe the attorney came with
23 him and then she left, I think, if I'm not mistaken.

24 Q Was she there with him when they first walked
25 in the office?

1 A Yes.

2 Q Okay. And was Marcus under arrest at that
3 point in time?

4 A No.

5 Q Had he been indicted at this point?

6 A No.

7 Q Did he voluntarily come and talk to you?

8 A Yes.

9 Q And with the concurrence of the lawyer?

10 A Yes.

11 Q And is everything that took place in the
12 interview recorded on the tape that you made?

13 A Yes.

14 Q Okay. And did you talk with him about the
15 facts of the case?

16 A Yes.

17 Q And did he provide you with information and did
18 you ask him questions about what happened?

19 A Yes.

20 Q At the end of that interview, did you make any
21 promises to him?

22 A No.

23 Q Was he free to leave when he left?

24 A Yes, and he did.

25 Q Was he in custody at the time?

1 A No.

2 Q Did you read him his rights on the tape?

3 A I don't recall. I believe I did.

4 Q Okay. If you didn't, was he in custody at that
5 point anyway?

6 A No.

7 Q Okay. And he was free to leave and he, in
8 fact, left?

9 A Yes.

10 Q Okay. During that -- did you ever have another
11 interview with him while you were at the AG's office
12 about this case?

13 A No, not that I recall.

14 Q Did you talk to him several times on the phone?

15 A Yes.

16 Q Okay. Did you, in fact, after he was indicted,
17 let him know that he could make a no arrest bond?

18 A Yes.

19 Q Okay. And did he, in fact, make that?

20 A Yes.

21 MS. VOLLMAN: I think that's all I have at
22 this point.

23 THE COURT: Anything, Mr. Martin?

24 CROSS-EXAMINATION

25