

J5gldun1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----x

UNITED STATES OF AMERICA,

v.

18 Cr. 289 (SHS)

BRYAN DUNCAN, RYAN RAINFORD,
ROBERT LOCUST,

Defendants.

Trial

-----x

New York, N.Y.
May 16, 2019
9:40 a.m.

Before:

HON. SIDNEY H. STEIN,

District Judge,
-and a Jury-

APPEARANCES

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York
BY: NICHOLAS W. CHIUCHIOLO
ALEXANDRA N. ROTHMAN
NICHOLAS FOLLY
Assistant United States Attorneys

AL-SHABAZZ LAW GROUP, PC
Attorneys for Defendant Bryan Duncan
BY: IKIESHA TAQUET AL-SHABAZZ, ESQ.

THE C.H. SCHOLAR LAW FIRM
Attorneys for Defendant Ryan Rainford
BY: CALVIN H. SCHOLAR, ESQ.

MITCHELL J. DINNERSTEIN, ESQ.
ANTHONY CECUTTI, ESQ.
Attorneys for Defendant Robert Locust

ALSO PRESENT: CAROLINE LEFEVER, Paralegal Specialist, USAO
RICHARD PRINCE, Special Agent, FBI

J5GTDUN2

Kalkanis - Direct

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(Jury present)

THE COURT: Government, call your next witness.

MS. ROTHMAN: The government calls Peter Kalkanis.

PETER KALKANIS,

called as a witness by the Government,

having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MS. ROTHMAN:

THE COURT: You may be seated, sir. Welcome, good morning.

THE WITNESS: Good morning.

THE COURT: Move the microphone down toward your face speak loudly and slowly and clearly.

Your witness, Ms. Rothman.

MS. ROTHMAN: Thank you, your Honor.

BY MS. ROTHMAN:

Q. Good morning, Mr. Kalkanis.

A. Good morning, Ms. Rothman.

Q. How old are you?

A. I'm 72 years old.

Q. Are where do you live?

A. I live in Bayside, Queens, New York.

Q. What, if anything, happened in April 2018?

A. I was arrested by the FBI.

Q. What were you arrested for?

1 A. I was arrested for my role and my participation in a
2 scheme, personal injury scheme, slip and fall accidents.

3 Q. What was the fraud in that scheme?

4 A. The fraud was that these weren't real accidents.

5 Q. What was your role in the scheme?

6 A. I actually directed the traffic. I was a manager in this
7 whole thing.

8 Q. What crimes were you charged with?

9 A. I was charged with conspiracy, mail fraud, wire fraud, and
10 identity theft.

11 Q. Have you pled guilty to those crimes?

12 A. Yes, ma'am, I have.

13 Q. Why did you plead guilty?

14 A. Because I am indeed guilty.

15 Q. When you committed these crimes, were you acting alone or
16 with others?

17 A. Many others.

18 Q. Mr. Kalkanis, I'm going to ask you to look around the
19 courtroom. Please tell me if you see any of the individuals
20 with whom you participated in these crimes. You can stand if
21 you need to.

22 A. I see Mr. Robert Locust, I see --

23 THE COURT: Where is he?

24 THE WITNESS: He's right there.

25 THE COURT: Which table?

J5GTDUN2 Kalkanis - Direct

1 THE WITNESS: Wearing the glasses.

2 THE COURT: The witness identified Mr. Locust.

3 Next?

4 THE WITNESS: Ryan Rainford, also known as Ace, who is
5 sitting right there. He's dressed in a uniform.

6 THE COURT: The witness identified Mr. Rainford.

7 THE WITNESS: And the only other one I see is
8 Mr. Bryan Duncan sitting on the far right.

9 THE COURT: The witness has identified Mr. Duncan.
10 Thank you, you may be seated.

11 THE WITNESS: Thank you.

12 BY MS. ROTHMAN:

13 Q. Mr. Kalkanis, other than Mr. Duncan, Mr. Locust, and
14 Mr. Rainford, were other people involved in this fraud?

15 A. Yes, ma'am.

16 Q. Who else was involved?

17 A. There were two other runners.

18 Q. What were their names?

19 A. One was Reginald Dewitt and the other one was Marion
20 Benjamin.

21 Q. Anyone else? Any other runners that you recall?

22 A. I don't recall any others, no.

23 MS. ROTHMAN: Ms. Lefever, please pull up Government
24 Exhibit 2. This is in evidence, Mr. Kalkanis. Do you
25 recognize this person?

J5GTDUN2 Kalkanis - Direct

1 A. Yes, I do.

2 Q. Who is that?

3 A. That's Mr. Kerry Gordon.

4 Q. What role, if any --

5 MS. AL-SHABAZZ: Objection, leading.

6 THE COURT: Did he have a role in this conspiracy?

7 THE WITNESS: Yes, your Honor.

8 THE COURT: What was that role?

9 BY MS. ROTHMAN:

10 Q. What was his role, Mr. Kalkanis?

11 A. He was a runner.

12 Q. We'll come back to what it means to be a runner in a
13 moment. Before we do, other than the defendants, Mr. Gordon,
14 Mr. Dewitt, were other people involved in the scheme?

15 A. Yes, there were two attorneys.

16 Q. What their names?

17 A. Mr. George Constantine and Mr. Marc Elefant.

18 Q. Anyone else involved?

19 A. There were some finance people, funding companies also.

20 Q. What were the names of the individuals with whom you
21 communicated in connection with this fraud?

22 A. There was Adrian Alexander, there was Jason Krantz, and
23 there was also a Mr. Michael Kimmel.

24 Q. Anyone else involved, Mr. Kalkanis?

25 THE COURT: Are you asking --

J5GTDUN2

Kalkanis - Direct

1 A. The doctors, sorry.

2 Q. What were the names of the doctors who were involved?

3 A. There were physicians. There was a Dr. Sady Ribeiro, there
4 was a Dr. Andrew Dowd, and there was another gentleman by the
5 name of Peter Martin.

6 Q. Thank you, Mr. Kalkanis.

7 A. Thank you.

8 Q. So let's go back in time for a moment. Did you work before
9 you committed these crimes?

10 A. Yes, I did.

11 Q. What did you do for work?

12 A. I was a chiropractor.

13 Q. For how long were you a chiropractor?

14 A. Since 1982 to 2013.

15 Q. Where did you work?

16 A. Mainly Astoria, Queens, New York.

17 Q. What types of patients did you treat as a chiropractor?

18 A. Personal injury.

19 Q. Do you still have your chiropractic license?

20 A. No, ma'am.

21 MS. ROTHMAN: Ms. Lefever, let's pull back up
22 Government Exhibit 2.

23 Q. You identified this as Kerry Gordon, correct?

24 A. That's correct.

25 Q. How did you first meet Mr. Gordon?

J5GTDUN2 Kalkanis - Direct

1 A. Mr. Gordon was a patient of mine back in, I believe it was
2 2012.

3 Q. Did there come a time when Mr. Gordon started working for
4 you?

5 A. That's correct.

6 Q. What was he doing for you?

7 A. He was running patients.

8 Q. What does it mean to run patients?

9 A. Running patients -- patients are recruited by people that
10 we call runners in the industry --

11 Q. What is -- go ahead.

12 A. -- and what they do is they find patients and they refer
13 them to lawyers.

14 Q. What types of patients?

15 A. Sorry?

16 Q. You said that runners find patients. What types of
17 patients do they find?

18 A. What types of patients? Patients that take slip and fall
19 accidents, car accidents, and that sort of thing.

20 Q. Was Mr. Gordon --

21 THE COURT: When you say, "They take slip and fall
22 accidents, car accidents, that type of thing," what do you
23 mean?

24 THE WITNESS: This is usually a result of those
25 occurrences, meaning motor vehicle accidents or trip and fall

J5GTDUN2 Kalkanis - Direct

1 accidents.

2 BY MS. ROTHMAN:

3 Q. Was Mr. Gordon acting under your direction, Mr. Kalkanis?

4 A. Yes.

5 MS. ROTHMAN: Let's pull up Government Exhibit 1 side
6 by side with Government Exhibit 2, Ms. Lefever.

7 Q. Who do you see in Government Exhibit 1, Mr. Kalkanis?

8 A. That's Mr. Bryan Duncan.

9 Q. How did you meet Mr. Duncan?

10 A. He was a past client of mine.

11 Q. Who brought his case to you?

12 MS. AL-SHABAZZ: Objection, leading.

13 THE COURT: Yes, sustained.

14 Just state your objection for the record, please.

15 Q. Who, if anyone, brought his case to you?

16 A. The gentleman on my left, Mr. Kerry Gordon.

17 Q. Now Mr. Kalkanis, did there come a time when Mr. Duncan
18 started working for you?

19 A. Yes, ma'am.

20 Q. What was Mr. Duncan doing for you?

21 A. He was also running.

22 Q. He was a runner?

23 A. Yes, ma'am.

24 Q. Thank you. Do you know how Mr. Gordon and Mr. Duncan knew
25 each other?

J5GTDUN2 Kalkanis - Direct

- 1 A. This is Mr. Reginald Dewitt.
- 2 Q. What was his role?
- 3 A. He was a major runner.
- 4 Q. It he also have his own case?
- 5 A. He certainly did.
- 6 Q. Now as the manager, Mr. Kalkanis, did you manage the
- 7 runners?
- 8 A. Yes, I did.
- 9 Q. Did you direct the runners to find patients?
- 10 A. Yes, I did.
- 11 Q. Were runners paid for the patients that they found?
- 12 A. Yes, ma'am.
- 13 Q. Who paid them?
- 14 A. The attorneys.
- 15 Q. How much were they paid?
- 16 A. Well, approximately anywhere between 800 to a thousand
- 17 dollars per patient, sometimes more.
- 18 Q. Who physically gave the money to the runners?
- 19 A. Combination of the attorney and myself.

20 MS. ROTHMAN: Ms. Lefever, please pull up Government
21 Exhibit 3.

- 22 Q. Who is that, Mr. Kalkanis?
- 23 A. That would be me.

24 MS. ROTHMAN: Your Honor, the government offers
25 Government Exhibit 3A, which is the name plate for Peter

J5GTDUN2 Kalkanis - Direct

1 Kalkanis.

2 THE COURT: Admitted without objection.

3 (Government's Exhibit 3A received in evidence)

4 MS. ROTHMAN: Your Honor, could we publish to face
5 board the people the witness has identified?

6 THE COURT: Yes.

7 MS. ROTHMAN: Thank you.

8 Q. Mr. Kalkanis, I want to go through the process of the cases
9 that you managed from start to finish. I want to start with
10 the role of a runner. What did the runner do?

11 A. A runner would be responsible for finding a location where
12 there was a defect, for example, in the ground at a commercial
13 site, would make sure that that patient actually went to that
14 vicinity to that particular location and stage a slip and fall.

15 After that, the patient would be -- would call an
16 ambulance, the police would arrive, the ambulance would take
17 them to closest emergency room, the nearest hospital, and the
18 patient would be attended by the emergency room physician. And
19 upon release, they would take the release papers from the
20 hospital emergency room, and the following day or two they
21 would be directed to go to a lawyer.

22 Q. Let me stop you there and ask you a few questions about
23 that, Mr. Kalkanis.

24 You testified that runners would find locations for
25 patients to stage accidents. When the runners did this, were

1 they acting at your direction?

2 A. They were. I was given these orders from the lawyer and
3 then I would pass them down and relate these necessary
4 obligations.

5 Q. What types of accidents would patients claim to have?

6 A. Every one of them were slip and fall accidents or trip and
7 fall accidents.

8 Q. And what types of things would patients claim to have
9 tripped over?

10 A. There would be holes in the ground, raised and broken
11 concrete, raised metal gratings in walkways mainly.

12 Q. You testified after this accident the patient would go to
13 the hospital, correct?

14 A. That's correct.

15 Q. Why did that happen?

16 A. Well, it was part of the plan.

17 Q. What do you mean by that?

18 A. Well, the plan was the patient would go to the hospital and
19 get the necessary papers needed for the purposes of bringing it
20 to the attorney of record.

21 Q. Why were those discharge papers necessary?

22 A. Because on there was a short narrative to what happened to
23 the patient and the injuries that they sustained.

24 Q. Why was that information important?

25 A. It was part and parcel of the case.

J5GTDUN2 Kalkanis - Direct

1 Q. What would you do once you got that request?

2 A. I would put that request in to the finance company and
3 write a short note to the finance company requesting 500, 600
4 or a thousand dollars at a time for each patient.

5 Q. Was it common for patients to request additional money?

6 A. Very.

7 Q. So Mr. --

8 THE COURT: On that additional loan, did you receive
9 something yourself?

10 THE WITNESS: Yes, your Honor.

11 THE COURT: What?

12 THE WITNESS: I received also a different fees,
13 sometimes \$300, sometimes \$500.

14 Q. How much money do you believe you made during the course of
15 this scheme, Mr. Kalkanis?

16 A. I would say roughly about \$2 million.

17 Q. So let's go back and take these cases step by step. You
18 testified the first thing that happened is that runners would
19 find locations for accidents, is that correct?

20 A. That's correct, ma'am.

21 Q. What, if anything, would you get relating to these accident
22 sites?

23 A. I don't understand the question.

24 Q. Let me back up. What were the types of locations where
25 patients would claim to have --

J5GTDUN2 Kalkanis - Direct

1 A. These were commercial locations.

2 Q. Such as?

3 A. Gasoline stations, Wendy's, different eateries, parking
4 lots of commercial places, at the malls.

5 Q. Did you personally visit these accident sites?

6 A. No, ma'am.

7 Q. How would you know what they looked like?

8 A. Photographs were provided to me.

9 Q. Who gave you photographs?

10 A. The runners gave them to me.

11 Q. Why did you get photographs?

12 A. Why were they sent to me?

13 Q. Yes.

14 A. They were sent to me because this is what -- the attorney
15 needed to identify the area and to put it into the suit.

16 MS. ROTHMAN: Your Honor, may I approach the witness?

17 THE COURT: Yes.

18 Q. Mr. Kalkanis, I handed you a binder which contains exhibits
19 1001 to 1067. Do you recognize that binder?

20 A. Yes, I do.

21 Q. How do you recognize it?

22 A. I signed for it.

23 Q. Have you reviewed the documents in that binder before?

24 A. Yes, every one.

25 Q. You can take a moment to refamiliarize yourself, but what

J5dldun3 Kalkanis - Direct

1 BY MS. ROTHMAN:

2 Q. Thank you.

3 MS. ROTHMAN: And Ms. Lefever, if you can turn to the
4 second page of this document.

5 A. Got it.

6 Q. Mr. Kalkanis, it may be easier for you to use the screen.

7 A. For some reason or another, it's not -- it's a little
8 blurry. I don't want to make any errors.

9 Q. All right. What do you see on the second page of
10 Government Exhibit 1001?

11 A. Second page I see what appears to be holes in the ground in
12 the parking lot of some -- some area, and broken concrete.

13 Q. What does Mr. Gordon attach to the email that's been sent
14 to you?

15 MS. AL-SHABAZZ: Objection. Leading.

16 THE COURT: What is attached?

17 THE WITNESS: Oh, sorry. What is attached is the
18 actual photograph of the site that he sent me.

19 THE COURT: Who sent you?

20 THE WITNESS: Mr. Gordon.

21 THE COURT: Next.

22 MS. ROTHMAN: Thank you, your Honor.

23 BY MS. ROTHMAN:

24 Q. Do you know how runners would find accident sites?

25 A. They would choose their own accident sites -- again,

J5dldun3 Kalkanis - Direct

1 commercial properties. They would find them.

2 Q. Let's turn to Government Exhibit 1002.

3 A. Got it.

4 MS. ROTHMAN: And Ms. Lefever, if you can zoom in on
5 the bottom. Yes, perfect. Thank you.

6 Q. Looking at the bottom email, who was this an email from,
7 Mr. Kalkanis?

8 A. This is from Mr. Kerry Gordon to me.

9 Q. What is the subject name, subject line?

10 A. The subject name is Malik Walker.

11 Q. And who do you understand Malik Walker to be?

12 A. Malik Walker is one of the patients.

13 Q. And can you describe the photograph attached to this email.

14 A. This appears to be some broken concrete on the sidewalk.

15 Q. Thank you, Mr. Kalkanis.

16 A. You're welcome.

17 MS. ROTHMAN: Ms. Lefever, let's turn to Government
18 Exhibit 1004.

19 A. 1000 what?

20 Q. Four.

21 A. Four.

22 Q. Looking on the bottom email --

23 MS. ROTHMAN: That's fine. Thank you. We can zoom
24 in.

25 A. Yes.

J5d1dun3

Kalkanis - Direct

1 their particular runner.

2 Q. On certain occasions would a runner not be there?

3 A. Yes, indeed.

4 Q. What, if anything, were patients told to bring to the
5 intake meeting?

6 A. They had to bring the emergency room papers of the
7 hospital, the attending, after the accident; they had to bring
8 their IDs, so I could identify them and put it on file; if they
9 themselves had photos of the accident site, they would bring
10 them; they would also bring an insurance card if they did
11 indeed have insurance.

12 Q. What, if anything, did you use the patient's insurance
13 information for?

14 A. Every once in a while a patient required surgery that would
15 be at a hospital setting and not a surgical setting -- in other
16 words, a surgical building -- it would go to an actual
17 hospital, and the hospital would use their insurance for things
18 like anesthesia and -- and for the nursing staff, etc.

19 Q. But typically, you didn't use insurance for the patients --

20 A. No, no.

21 MS. AL-SHABAZZ: Objection.

22 THE COURT: I'll allow it.

23 Q. Did you fill out any forms during the intake meeting?

24 A. We did. We had an intake sheet for each individual
25 patient --

1 MS. AL-SHABAZZ: Objection to "we."

2 A. -- and interview.

3 THE COURT: When you say "we," who do you mean?

4 THE WITNESS: I would.

5 Q. What information did you include on the intake sheet?

6 A. I would put the runner's name on the actual sheet.

7 Q. What other information?

8 A. I would put the demographics of the patient, a short

9 narrative as to what happened to the patient, where he fell and

10 why he fell, the injury sites that he suffered, and Social

11 Security number and that sort of thing.

12 Q. Why did you include the runner's name on the intake sheet?

13 A. It was our -- my way of knowing who would be owed money for

14 this particular case.

15 Q. What types of injuries were patients directed to claim they

16 had?

17 A. They were directed --

18 THE COURT: Were patients directed to claim a certain

19 type of injury?

20 MS. AL-SHABAZZ: Thank you, your Honor.

21 THE WITNESS: Yes.

22 Q. What types of injuries were patients directed to claim?

23 A. It was always a back injury, and then the second injury

24 would always be either a shoulder or a knee.

25 Q. Why were those the body parts that were selected?

J5d1dun3 Kalkanis - Direct

1 A. They were valuable for the case.

2 THE COURT: What case?

3 THE WITNESS: The particular case that was -- that was
4 going to be established with the attorney, your Honor.

5 Q. Now, Mr. Kalkanis, I want to talk about the patients for a
6 moment.

7 You met with them?

8 A. Yes.

9 Q. Based upon your participation in the intake meetings, where
10 were the patients coming from?

11 A. Well, a variety of places. There were sheltered patients
12 coming from sheltered homes; there were people that basically
13 live in the vicinity of the runners; there were family members
14 of the runners, and people that they knew; and there was also
15 numerous people that worked under the -- under the control of
16 the runners who would actually send patients of their own to
17 the runners.

18 Q. Okay. So when you said that patients were from sheltered
19 homes, what do you mean by that?

20 A. Well, they were living in -- in homes, sheltered homes,
21 government homes.

22 Q. Homeless shelters.

23 A. Yes, ma'am.

24 Q. Thank you, Mr. Kalkanis.

25 How did the patients appear to you when you met them?

J5didun3

Kalkanis - Direct

1 A. Well, they appeared very disheveled.

2 Q. Go on.

3 A. They appeared poor. Everyone would always ask to eat,
4 depending on the time that they came to the lawyer's office,
5 and we would provide food for them, and somebody -- some of
6 them were dressed shabbily, others during the wintertime were
7 not wearing enough clothing to keep them warm, if you will, bad
8 shoes. This was no -- it wasn't always the case, but it was a
9 majority of the cases.

10 Q. What, if anything, would patients ask you for?

11 A. Well, they would ask for money so they could eat, or for
12 some of their daily expenses.

13 Q. When you asked the patients to describe -- withdrawn.

14 What questions did you ask the patients during the
15 interview?

16 A. Well, I would ask them a variety of questions. One of
17 those questions would be, what happened? They were supposed to
18 provide a story for me.

19 Q. How would they do when asked to give their story?

20 A. Most of them didn't have it together. They would eyeball
21 their driver for answers, seemed nervous at times. Others were
22 prepared, but most of them weren't.

23 Q. What would happen when a patient eyeballed the driver
24 during the interview?

25 A. Well, the driver would maybe answer the question that

J5h1dun2 Kalkanis - Cross

1 Q. Tell me if you recognize this person, Defense A8.

2 A. I'm sorry, counselor. I can't --

3 Q. That's okay.

4 A. I don't recognize him.

5 Q. Thank you.

6 Tell me if you recognize Defense A9.

7 A. Yes.

8 Q. Who do you recognize that to be?

9 A. This is -- this is Dr. Andrew Dowd, orthopedic surgeon.

10 MS. AL-SHABAZZ: Your Honor, I offer into evidence

11 Defense A9.

12 MS. ROTHMAN: No objection.

13 THE COURT: Admitted.

14 (Defendant's Exhibit A9 received in evidence)

15 Q. Tell me if you recognize what's already in evidence as

16 Defense A10.

17 A. I'm sorry. I don't.

18 Q. That's okay. It's already in evidence.

19 I'd like to just take these back.

20 A. Sure.

21 Q. Thank you.

22 A. Thank you.

23 Q. Okay. Now we talked about the lawyers. Let's talk about
24 the different doctors that you were using during the course of
25 this scheme.

Case 1:18-cr-00289-SHS Document 161 Filed 06/05/19 Page 49 of 253 1237
J5hldun2 Kalkanis - Cross

1 You mentioned Dr. Sady Ribeiro?

2 A. Yes, ma'am.

3 Q. Dr. Andrew Dowd?

4 A. Yes.

5 Q. Dr. Peter Martin?

6 A. Yes.

7 Q. Dr. Charles Nguyen?

8 A. Yes.

9 Q. Dr. Kaisman?

10 A. I'm sorry?

11 Q. Dr. Kaisman?

12 A. Yes, Dr. Kaisman, yes.

13 Q. How about Dr. Stephanides?

14 A. Stephanides, yes.

15 Q. Stephanides? How about Dr. Cosmatos?

16 A. Dr. Cosmatos? I -- I know him personally. He's an

17 internist. I don't recall ever sending anybody to him, unless

18 it was to clear them for surgery.

19 Q. Okay. So you may have sent patients to Dr. Cosmatos to

20 clear them for surgery, correct?

21 A. It had to be one, possibly, because I don't recall any more

22 than that.

23 Q. Okay. How about Dr. Osipov?

24 A. Say again?

25 Q. Dr. Osipov?