

Doctor Not Fit For Trial In Hepatitis Case

Ken Ritter, AP

The ailing former physician-owner of a southern Nevada endoscopy clinic at the center of a hepatitis outbreak isn't fit to stand trial on felony charges, despite findings by state medical personnel, his lawyer said Tuesday. Dipak Desai sat impassively in a Las Vegas courtroom while his lawyer, Richard Wright, told Clark County District Judge Kathleen Delaney that he intends to challenge findings a psychiatrist and psychologist reached while Desai was evaluated for nearly six months at the Lake's Crossing Center in Sparks.

Desai was sent to the state mental health center after two court-appointed medical experts in Las Vegas found him unfit for trial. "I believe he is not competent," Wright told the judge Tuesday. "He does not have the cognitive ability to factually understand the evidence and the proceedings."

Prosecutors argue that Desai — once a prominent gastroenterologist, Las Vegas-area endoscopy clinic owner and Nevada State Board of Medical Examiners member — is faking or exaggerating his ailments to avoid trial. If he is deemed incompetent with no chance of recovery, state charges against him would be dismissed according to state law. He faces charges that include racketeering, insurance fraud and neglect of patients that could put him in prison for the rest of his life. He's free on \$1 million bond.

Two former nurse anesthetists, Keith Mathahs and Ronald Lakeman, are accused with Desai of infecting seven people with incurable and potentially deadly hepatitis C by reusing endoscopy scopes and vials of the injected anesthetic propofol during outpatient procedures at Desai's clinics. All three men have pleaded not guilty. Delaney set a Nov. 15 date to review Wright's challenge, and trial is scheduled for March.

Federal fraud charges also are pending against Desai and his former chief business executive, Tonya Rushing, on allegations they inflated the length of medical procedures and overbilled health insurance companies for anesthesia. In another Las Vegas courtroom Tuesday, jury selection continued for a civil product liability trial spawned by the hepatitis C outbreak, which came to light in 2008.

Plaintiffs' lawyers allege the size of syringe vials of the powerful anesthetic propofol that the companies provided to Desai's clinics led to the their reuse during outpatient colonoscopies, putting successive patients at risk of blood-borne disease. State and federal investigations began in 2008, after health officials linked nine hepatitis C cases to the two Las Vegas clinics and said another 105 cases were possibly related.

The Southern Nevada Health District issued warnings to tens of thousands of clinic patients to be tested for hepatitis and other blood-borne diseases. Investigators

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traced infections to the reuse of needles and vials of medication on multiple patients. Desai later surrendered his license to practice medicine in Nevada. As many as 250 former clinic patients infected with hepatitis have filed medical malpractice lawsuits. Thousands more have sued over the stress of having to be tested for hepatitis C.

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