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## **Judge reprimands Miami prosecutors over secret tapes in drug case**

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Accusing federal prosecutors of knowingly and repeatedly violating ethical guidelines in a high-profile narcotics trial, a Miami federal judge Thursday reprimanded multiple assistant U.S. attorneys who took part in the case -- and fined the federal government more than \$600,000.

U.S. District Judge Alan Gold's harshly critical 50-page order takes the federal government to task for acting deceptively and "in bad faith" in the case of Miami Beach doctor Ali Shaygan, who was acquitted last month of 141 counts of illegally prescribing painkillers.

The \$601,795 fine will be paid to Shaygan as reimbursement for much of his legal fees and costs. Gold formally reprimanded prosecutors Sean Cronin, Karen Gilbert and Andrea Hoffman and said he would send a copy of the order to the Florida Bar for its review.

While prosecuting Shaygan, the U.S. attorney's office began a secret, undisclosed side investigation of Shaygan's legal team, citing a suspicion of witness tampering on the part of the defense.

No evidence surfaced that the defense team was manipulating witnesses. On the contrary, defense attorneys rejected bribery invitations floated on tape from government informants.

"I'm doing real, real, real bad with money, you know what I'm saying?" witness Carlos Vento says on one tape, according to court documents.

Later, defense attorney David O. Markus is quoted as telling witness Trinity Clendening, who according to court documents had also taped conversations for prosecutors: "I am not paying any money for anything."

Prosecutors later called the same informants to the stand as key witnesses in their case against Shaygan, while saying nothing of the recordings. The government falsely introduced those informants -- former patients of the doctor -- as impartial, neutral witnesses.

Jurors, and the judge presiding over the case, found out about the tape recordings by accident, when one of the informants blurted out their existence while testifying.

The U.S. attorney's office, Gold wrote, 'exhibited a pattern of `win-at-all-cost' behavior in the conduct of this investigation that was contrary to their ethical obligations as prosecutors and a breach of their 'heavy obligation to the accused.' "

Miami U.S. Attorney R. Alexander Acosta, an appointee of former President George W. Bush, issued a statement through a spokeswoman that acknowledged "mistakes" were made.

"Our Office policy, which requires the prior approval of senior management before this type of witness tampering investigation is commenced, exists to prevent precisely this type of situation," spokeswoman Alicia Valle wrote. ``We regret that the policy was not followed, have already apologized to counsel, and have taken steps to ensure that this will not happen again."

Gold's severe scolding of the U.S. attorney's office comes in the same week a federal judge in Washington threw out the corruption conviction of former Sen. Ted Stevens, R-Alaska, because of prosecutor misconduct.

Gold noted in his order that the Shaygan trial had already prompted a shakeup at the Miami U.S. attorney's office: Gilbert, chief of the office's narcotics section, has voluntarily resigned; and Cronin, the lead prosecutor on the case, has requested a transfer out of the criminal division.

Markus, Shaygan's attorney, said in a statement: ``We regret that any of this ever happened in the first place, but we are grateful that Judge Gold took it seriously and did the right thing."

Shaygan's defense team, once aware of the tapes, seized on the information as a way to raise doubts about the government's case. After deliberating for half a day, jurors acquitted Shaygan of all charges.

Shaygan had faced 20 years in prison if convicted because one patient died of a drug overdose.

The 141 criminal counts against Shaygan, Gold wrote, was itself a manifestation of prosecutors' vengeful approach to the case. As prosecutors bitterly sparred with Shaygan's defense team, prosecutor Cronin warned that a "seismic shift" would take place. All of a sudden the list of criminal counts against Shaygan grew from 26 to 141.

"The adding of 115 more counts resulted in the defense having to request additional continuances, which kept Dr. Shaygan under strict conditions of house arrest," Gold wrote. 'It also added to the `weight' of the indictment and the seriousness of the offenses as presented to the jury."