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Phila. Jury Hits Doc With \$2.2M Verdict Over Excessive Opioid Prescriptions

The lawsuit raised medical malpractice claims against Dr. Jeffrey Bado, who was convicted on numerous counts in 2016, including drug distribution resulting in death and maintaining a drug-involved premises.

By Max Mitchell | May 06, 2019

A Philadelphia jury has awarded more than \$2 million to a woman who claimed that her former pain management doctor needlessly prescribed her addictive opioid medications, which led to both mental and physical injuries.

The jury in *Rivera v. Roxborough Memorial Hospital* returned its verdict May 3, after nearly three weeks of trial and three hours of deliberation. The verdict included \$22,000 for past medical expenses, \$700,000 in pain and suffering and \$1.544 million in future medical and related expenses.



Photo: Shutterstock

The lawsuit raised medical malpractice claims against Dr. Jeffrey Bado (<https://www.justice.gov/usao-edpa/pr/doctor-found-guilty-drug-distribution-and-causing-death-patient>), who was convicted on numerous counts in 2016, including drug distribution resulting in death and maintaining a drug-involved premises.

According to Zajac & Arias attorney Eric Zajac, who, along with Evan Padilla, tried the case on behalf of plaintiff Yvonne Rivera, Bado was essentially “doubling down” on opioid prescriptions at a time when the public was just beginning to recognize what has become the national opioid crisis.

“Today, a lot of the focus is on the pharmaceutical companies themselves and their responsibility, but it certainly is fair to discuss what role pain management physicians have played in the development of today’s epidemic,” he said.

Zajac said a key witness in the case was a former employee of Bado’s, who, Zajac said, testified that the practice was seeing an average of 70 patients a day and that prescriptions were often times pre-filled.

Bado’s attorney, Richard Maurer of Flamm Walton Heimbach, however, said it was a very challenging case to defend because Bado was not able to attend any of the proceedings because he was incarcerated. Maurer further noted that he had to tell jurors that Bado had been incarcerated for health care fraud and making false statements to federal agents.

“It was an uphill battle,” Maurer said.

According to the plaintiff’s pretrial memo, Rivera began treating with Bado in 2010 in connection with recurring foot pain. During some of the treatments, she became nauseous and vomited, but he continued treating her with “excessively high” doses of opioids, and eventually started giving her the medication through an intravenous infusion port, the memo said.

The memo said the first infusion port broke and had to be removed and replaced, at which point she developed septicemia. A third port was installed, but again, Rivera developed septicemia. The fourth and final infusion port was installed in January 2013, the memo said, noting that the ports were installed each time at the Roxborough Memorial Hospital.

Rivera's memo said Bado attributed Rivera's nausea and vomiting to metastatic endometriosis, but the memo said there was no evidence she suffered from that condition, Bado did no diagnostic testing and Bado was not an oncologist, who could make that diagnosis. However, the memo said, Bado continued increasing Rivera's dosage of the powerful painkiller Fentanyl.

The memo also said Bado's records were largely unreadable, and that prescribing intravenous drugs for a woman who was younger than 40 was against the standard of care.

In terms of damages, the memo said Rivera suffered unnecessary surgeries and addiction, which caused psychiatric and emotional injuries, including memory loss, nightmares, anxiety, depression, flashbacks and post-traumatic stress disorder.

Bado's pretrial memo, however, contended Rivera was exaggerating her injuries, that Rivera showed no signs of addiction during her treatment, that Bado did not install any of the intravenous ports, and that the surgeon who installed those ports obtained informed consent.

The memo also noted that Rivera's medical files were not part of Bado's federal indictment, arguing this showed she had not been over-prescribed. The defendant further contended that Rivera's case was an attempt to leverage Bado's conviction and the opioid crisis.

"Ms. Rivera's last contact with Dr. Bado occurred during an office visit on Dec. 19, 2012, and yet Ms. Rivera attributes nightmares, post-traumatic stress disorder and even a split personality syndrome to medical treatment by Dr. Bado that came to an end

almost six years ago," Bado said in the memo. "Ms. Rivera attempts to build a case on circumstances—a criminal conviction and the 'opioid crisis'—that do not apply to her treatment by Dr. Bado,"

The claims against Roxborough Memorial resolved prior to trial, and the verdict against Bado was subject to a confidential high-low agreement, according to Maurer.

Philadelphia Judge Linda Carpenter presided over the case.

Litchfield Cavo Andrew Kessler, who represented the hospital, declined to comment for the story.

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