

Steven M. Wells  
Steven M. Wells, P.C.  
431 W. 7<sup>th</sup> Ave.  
Ste. 107  
Anchorage, AK 99501  
(907)279-3557  
(907)279-3558 fax  
steve@alaskalegaldefense.com

Attorney for Defendant

United States District Court  
District of Alaska

United States of America,

Plaintiff,

v.

Jessica Spayd,

Defendant.

Case No. 3:19-cr-0111-RRB-MMS

Objection to Motion for  
Alternate Victim Notification

Jessica Spayd, by and through her undersigned counsel of record, hereby files her objection to the government's motion for alternative victim notice, filed at Docket 41.

The government's main argument is that their duty to find victims is burdensome because of the potential number of victims. This argument admittedly has an initial appeal but reviewing the government's motion reveals why the argument should fail: the government seeks to find people who were "victims" of Ms. Spayd from "well before 2014 –

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the last year for which the government has patient data.”<sup>1</sup> The indictment, docket 10, charges Ms. Spayd with several counts of distribution of a controlled substance and was returned on October 17, 2019. The statute of limitations for these actions is five (5) years.<sup>2</sup> Any person who was the victim of a crime by Ms. Spayd committed before October 17, 2014, is irrelevant to any determination of guilt because such a crime would be committed prior to the statute of limitations.

Further, the government admits it has Ms. Spayd’s records back to 2014. Thus, the government should be able to determine which of Ms. Spayd’s clients it deems a “victim” and no alternative methods are necessary.

A terroristic bombing would be different. In such a case, trying to ascertain the identity of victims can be very difficult because some victims may be missing or there may be limited physical remains available for identification or family members may have been unaware that their loved one was at the scene and do not associate their loved one’s absence with the bombing. The government’s proposed way of providing notice makes perfect sense in a bombing.

Here, though, the government has already seized records of Ms. Spayd’s clinic. Those records go back to before the relevant time for statute of limitations purposes. Further, Alaska maintains a database of prescriptions of opioids so the government can always cross-check Ms. Spayd’s records with those of Alaska’s database to ensure that nobody is overlooked. The government’s requested procedure is simply not necessary for guilt phase in this case.

Utilizing the government’s proposal prior to trial substantially increases any prejudice to potential jurors. Plastering on the Department of Justice website “Are you a client of Jessica Spayd? You may be a crime victim!” broadcasts that Ms. Spayd is guilty well before any court has decided that issue and certainly taints the proceedings well before Ms. Spayd proceeds to trial.

Finally, the government’s proposal creates a great risk of wasting everyone’s time. It invites persons who were patients of Ms. Spayd years ago to inundate this court with requests to be heard and tie up these proceedings with testimony and notices when any such conduct occurred long enough ago that there is now no potential legal culpability. It is far easier to focus upon the conduct at issue in the time frame alleged in the indictment.

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<sup>1</sup> Docket 41, p. 3.

<sup>2</sup> 18 U.S.C. §3282(a).

The government's proposal, though, makes sense should this matter proceed to sentencing. In such a case, a jury would have determined that Ms. Spayd is indeed guilty of violating the law and notice about a verdict would not have the potential prejudice since jurors would have already been convened and rendered a verdict. Even if a person was a patient of Ms. Spayd years before October 18, 2014, their testimony could be relevant for purposes of sentencing.

Thus, Ms. Spayd would object to the government's proposal prior to trial but does not object should Ms. Spayd be convicted at trial when the government's proposal could help identify potential victims for sentencing.

DATED this 23<sup>rd</sup> day of December, 2019, at Anchorage, Alaska.

Steven M. Wells, PC  
Attorneys for Defendant

By: /s/ Steven M. Wells  
Steven M. Wells  
ABA #0010066

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served **electronically** this 23<sup>rd</sup> day of December, 2019, on:

All Parties of Record

/s/ Steven M. Wells  
Steven M. Wells, PC