

LE Magazine June 1997

REPORT

**Burzynski Acquitted Of Fraud
Judge Declares Mistrial on Other Charges**

While the famed cancer researcher has emerged unscathed from this most-recent government harrassment, there is still no consensus on how to handle the man or his treatments.



On March 3, a U.S. District Court judge in Houston acquitted famed cancer researcher Dr. Stanislaw Burzynski on all 34 fraud charges brought against him by the U.S. Food and Drug Administration for lack of evidence. Then Judge Sim Lake declared a mistrial on the remaining 41 charges because the jury was deadlocked after six days of deliberation, with six jurors favoring acquittal on all counts, five favoring conviction on all counts, and one undecided.

Afterwards, the government said it would retry the doctor on the other counts, but patients and supporters of Burzynski vowed to fight that decision. At press time, prosecutors had not announced any new attempt to try Burzynski.

"The government has been harassing Dr. Burzynski and his patients for more than 15 years," said Steve Siegel, head of the Burzynski Patient Group. "They put forth their best case and their best lawyers and still could not win because they had no evidence. I hope they will realize it's time to leave Dr. Burzynski alone and fight cancer, not cancer patients."

Burzynski has been under investigation by the U.S. Attorney's office in Houston and the FDA for more than 15 years. Authorities have alleged that he illegally dispenses a class of experimental cancer drugs, called antineoplastons, that he develops and manufactures, and distributes at his clinic in Houston. Antineoplastons are synthesized versions of peptides found in human blood and urine. In the current case, Burzynski was on trial for violations of interstate commerce by treating non-Texans in Texas, selling drugs unapproved by the FDA, and filing fraudulent insurance claims via the U.S. mail.

The trial involved 20 days of testimony from more than 50 government witnesses. After the insurance fraud charges were thrown out and the jurors deadlocked on the remaining issues, Burzynski emerged unscathed from all charges.

"This is quite a reaffirmation for us that we never did anything wrong," said Dean Mouscher, clinical trials director at the Burzynski Research Institute, in Stafford, TX. "The issue for the FDA was one of control." Burzynski's antineoplaston therapy is a nontoxic alternative to chemotherapy, which-ironically, given the fact that Burzynski was on trial for violations surrounding its use is now approved by the FDA for 71 Phase 2 clinical trials. Antineoplastons have been recognized by the National Cancer Institute and the FDA as safe and potentially effective against various types of cancer.

Rita Star of the Burzynski Patient Association reported that the three prosecutors attempted to paint Burzynski as a greedy man, who put very little money into research, and who violated the rules of science by "not being a team player."

Chief prosecutor Mike Clark said repeatedly that Burzynski "just didn't follow the rules" by defiantly introducing an unapproved cancer drug into interstate commerce. Prosecutor George Tallichet said that Burzynski had not conformed to the standards of the Food, Drug and Cosmetic Act, and urged jurors to enforce the law. He tried to depict Burzynski as a con man who preys on, profits from, and hides behind his patients.

The prosecution called as witnesses 19 relatives of Burzynski patients who have died, but none of them had anything bad to say about him. Instead, they insisted that the defendant had given them complete and honest information, and that he operates a high-quality, health care facility. Some of Burzynski's patients and their relatives have launched a crusade to raise money for his defense and to push the FDA and Congress into changing the law. Many of them rallied at the courthouse in his support.

A LACK OF VICTIMS

If the government does decide to retry this landmark case, Dr. Burzynski could still get life imprisonment on the interstate shipment charges. The mail fraud charges Lake threw out cannot be appealed.

Jury foreman John Coan, one of the six jurors who voted for acquittal from the start of the deliberations, said, "I think this was a government witch hunt. I couldn't find any victims."

Burzynski's patients collected 150,000 signatures on petitions protesting the trial. Four Congressional hearings have been held about FDA misconduct in the Burzynski case.



Despite years of unrelenting attack by the FDA, the efficacy of Burzynski's therapy has yet to be determined. The FDA has repeatedly raided Burzynski's clinic, seizing documents that are never returned and preventing any type of scientific evaluation of efficacy. In fact, while the FDA enforcement division has worked to stop Burzynski, the FDA drug evaluation division has expanded his authority to conduct clinical trials on terminally ill cancer patients.

CONTROVERSY BRINGS FAME

If the FDA enforcement division's objective is to stop cancer patients from going to Burzynski, their actions have had the opposite effect. The many FDA attacks against Burzynski have made him a national celebrity. His once obscure clinic is constantly receiving calls from prospective patients, and he has appeared on numerous TV shows, including "CBS Evening News," "CBS Morning News," "48 Hours," "20/20" and on CNN. "Hard Copy" and other tabloid shows have covered the trial, and there has been intense coverage in The New York Times.

The news reports have resulted in increasing numbers of cancer patients traveling to Houston to see him. The FDA does not dispute the National Cancer Institute Review showing cures of several brain tumor patients.

Even taxpayers who favor FDA regulation are now questioning why the government would spend millions of dollars trying to stop a cancer therapy from being sold and, in the process, create a public relations campaign that's turned it into a multimillion-dollar enterprise.

The ability of companies to benefit from being attacked by the FDA is not new. The Life Extension Foundation is ten times larger than it was when the FDA first attacked it in 1987, which is largely the result largely of free publicity generated as a result of the FDA's continuous attacks.

FUTURE FDA ACTIVITIES: A MODEST PROPOSAL

Based upon the three grand juries that were impaneled in the ongoing prosecution of Dr. Stanislaw Burzynski, plus the use of the FBI, the Attorney General's office, the U.S. Attorneys Office, the National Cancer Institute and the FDA over the past 15 years, it can be estimated that at least \$8 million have been spent in the attempt to destroy Burzynski.

The government could pay for the costs of 50 astrocytoma (grade 4) patients who volunteer to use Burzynski's experimental antineoplaston treatment in lieu of conventional therapy. These patients will ordinarily not live more than 12 months, and conventional therapy has been proven useless in treating this form of brain cancer. Burzynski has reported particularly good success with this type of cancer.

The government could pay for the treatment as long as these 50 test subjects lived. If most of the patients were alive after a year, a breakthrough cancer treatment could be announced. If most of the patients are dead within 12 months, then this report would appear in Life Extension magazine and every other reputable alternative medicine publication.

What we have now is a media circus. Patients who were successfully treated by Burzynski are appearing on TV, and convincing other cancer patients to stampede to Houston. The FDA demands that Burzynski take patients for clinical trials who have already failed conventional therapies, and Burzynski insists that his therapy will not work on these types of patients. So after 15 years and about \$8 million in tax dollars, we still don't have definitive evidence on the value of Burzynski's antineoplaston therapy. For terminally ill cancer patients and their families, the Burzynski fiasco could be considered a government-induced disaster.

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