Porzio Client James Barclay's Charges Fully Dismissed in Opioid Case in Ohio

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By: William Hughes, Jr.

Congratulations to William J. Hughes, Jr., for the successful representation of James Barclay, a retired employee of Miami-Luken, a pharmaceutical distributor in Southern Ohio. After a three-year fight, on Friday, August 27, 2022, a U.S. District Court in Cincinnati dismissed all charges against our client, Mr. Barclay. In 2019, the U.S. Department of Justice and the Drug Enforcement Agency charged him with a drug dealing conspiracy, alleging that Barclay and others were responsible for a substantial part of the opioid epidemic in West Virginia and Southern Ohio. Their evidence? Barclay was a compliance manager for a small pharmaceutical distributor that sold opioids (legally and authorized) to pharmacies in West Virginia and Ohio. The DOJ and DEA alleged that Barclay never stopped any order or reported anyone and that he profited from Miami-Luken's sales. As one DEA supervisor stated publicly, Barclay was a “drug dealer with a degree,” despite the fact that the DEA knew that James Barclay was a 74-year-old, high school educated, Vietnam war-era-veteran who never made more than $60,000. There were a few problems with the DOJ's case. First, the written documents and the witnesses proved he did not have the authority or responsibility to report anyone or stop any order. His job was to respond to the DEA's requests and assist the CEO in his compliance function. Second, the DOJ and DEA allowed each of the sales by Miami-Luken, as they had real-time information on every opioid order requested and shipped – yet they did nothing and said nothing for the entire time of this “conspiracy.” In fact, Porzio's lawyers discovered a confidential DEA policy manual – not for public dissemination – that instructed investigators not to advise pharmaceutical distributors on suspicious orders and to tell distributors whether to ship any order is “a business decision.” And finally, the law did not support the DOJ's novel theory, and the DOJ and the DEA attempted to create a new criminal standard when no law existed. Undeterred, the DOJ and DEA pressed forward until newly appointed U.S. Attorney Kenneth L. Parker re-examined the case and ordered his prosecutors to dismiss the case.

James Barclay was represented by William J. Hughes, Jr., Esq. of Porzio Bromberg and Newman, P.C. and Mark R. Chilson, Esq. of Dayton, Ohio. In response to the dismissal, Hughes stated, “We thank U.S. Attorney Kenneth L. Parker for rightfully dismissing a case that should never have been brought in the first place. All along, the DEA and the DOJ had the evidence proving that James Barclay did not, and could not, have committed any crime. Yet, some in these organizations felt the need to shift the blame for the opioid epidemic and to make a name for themselves at James Barclay's expense. Mark Chilson and I are proud to represent James Barclay and ensure our justice system works. Today, it did.”