

Prison Term For Doctor Convicted In Abortions

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Calling the case one "that shocks us all," a judge yesterday sentenced the East Village doctor who severed the arm of a fetus in attempting an illegal abortion to 9 and two-thirds to 29 years in prison.

The lawyer for **Dr. Abu Hayat** called the penalty a "a death sentence" for the 63-year-old doctor. A lawyer for one of the victims, as well as an official of the District Attorney's Office, said they supported the sentence but were surprised by its severity.

In February, Dr. Hayat became the first person since 1981 to be convicted of violating a New York State law prohibiting abortion after the 24th week of pregnancy. A jury also found him guilty of assaulting the fetus and the mother, Rosa Rodriguez. After the second day of a two-day abortioon procedure, Miss Rodriguez began labor and gave birth to a 3-pound, 1-ounce girl, who was missing her right arm. The baby was named Ana Rosa.

Dr. Hayat was also convicted of assaulting another patient, Marie Moise, and of falsifying records to cover his actions.

"This case is extraordinary," said Acting Justice Jeffrey M. Atlas, said yesterday in State Supreme Court in Manhattan, adding that the loss of Ana Rosa Rodriguez's arm drew the case to the public's attention. "It is, I think, that injury that shocks us all," he said. No Parole Until 2002

Judge Atlas had great leeway in imposing sentences for the eight charges of which Dr. Hayat was convicted. The judge could have allowed Dr. Hayat, who had no criminal record, to go free on probation, or he could have sent him to prison for as long as 20 and one third to 61 years.

He decided that the sentences for the charges related to Ana Rosa Rodriguez and the false records would run concurrently, but that those sentences would run consecutively to those for the charges related to Miss Rodriguez and Mrs. Moise. In doing so, the judge ruled that Dr. Hayat would not be eligible for parole until 2002, when he has served the minimum nine and two-thirds years.

Dr. Hayat, who has grown a beard since his trial, sat with his head lowered and his eyes closed as the sentence was imposed. Speaking publicly for the first time since his arrest in late 1991, he told the judge in a faltering voice, "I know I am innocent."

Earlier, he had told the judge: "I am in a very difficult situation. I know I am not guilty. I know I am not one of the world's best abortionists in the world." But he added: "I compare myself the best of any of the witnesses. I could teach them."

Jeffrey A. Lichtman, Miss Rodriguez's lawyer, called the sentence "really fantastic." He said, "That means he'll never get out."

Margaret Finerty, the assistant district attorney who prosecuted Dr. Hayat, told the judge before sentencing that Dr. Hayat's actions were "especially outrageous and worthy of punishment." Afterward, she refused to comment on the sentence.

But an official who spoke on condition of anonymity said officials in the District Attorney's Office had expected a lighter sentence and were pleasantly surprised.

Dr. Hayat's lawyer, Ronald J. Veneziano, said he would appeal both the verdict and the sentence, but declined to discuss on what grounds. A long prison term would mean Dr. Hayat would die behind bars, Mr. Veneziano said, adding that Dr. Hayat, who has been jailed since his conviction, has heart problems and suffers from severe depression and other psychiatric problems. He said that his client had tried more than once to take his own life, but he declined to elaborate.

Shortly after Dr. Hayat was convicted, Mr. Veneziano said he would appeal the conviction for assaulting Ana Rosa Rodriguez on the ground that, since the law generally does not recognize a fetus as a person, it could not be the victim of a crime. An Honest Mistake?

Miss Rodriguez testified at the trial that when she went to Dr. Hayat's office at 9 Avenue A for an abortion on Oct. 25, 1991, she believed she was about 17 weeks pregnant. Ms. Finerty argued that Dr. Hayat knew that Miss Rodriguez was 30 to 32 weeks, or seven to seven and a half months, pregnant, well past the legal limit for abortions.

Mr. Veneziano has maintained that the doctor made an honest mistake and that Miss Rodriguez might have lied to the doctor. 'Depraved Indifference'

As gruesome as the injuries were to Miss Rodriguez and her baby, Judge Atlas said, "The assault on Marie Moise was the most serious because the defendant's behavior evinced a depraved indifference to her life." The judge imposed the longest sentence, 5 to 15 years, for that crime.

Mrs. Moise and her husband, David Moise, testified that Dr. Hayat told them that her abortion would cost \$300. But midway through the procedure, on March 17, 1991, he stopped and demanded another \$500, Mr. Moise said, and threw his patient, semiconscious and bleeding, out of his office. Mrs. Moise nearly died of an infection as a result.

After criminal charges were brought against Dr. Hayat, more than 30 women came forward to say that he had botched their abortions, and the state Health Department reported that a 17-year-old girl had died because he had perforated her uterus during an abortion.

Dr. Hayat has been sued by several former patients, some of whom have won judgments against him, but most have been unable to collect. Dr. Hayat did not have malpractice insurance, and he declared bankruptcy in 1991.

Miss Rodriguez, who Mr. Lichtman said was no longer talking to reporters, has not sued the doctor. "There really very little point," he said.

Photo: Dr. Abu Hayat, the East Village doctor who severed the arm of a fetus in attempting an illegal abortion, listening in Manhattan State Supreme Court as he was sentenced yesterday to 9 and two-thirds to 29 years in prison. (Pool photograph by Phil Davies)