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# East Village Doctor Convicted Of Performing Illegal Abortion

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An East Village doctor was convicted yesterday of performing an illegal third-trimester abortion in which he severed the arm of a fetus. The doctor was the first person convicted of conducting an illegal abortion in New York State in more than a decade.

After four and a half days of deliberation, a jury in State Supreme Court in Manhattan found Dr. Abu Hayat guilty of assault on Rosa Rodriguez and her baby, Ana Rosa. He was also convicted of two counts of assault on another patient.

Jury members, who refused to comment on their verdict, appeared to have difficulty deciding whether Dr. Hayat knew Ms. Rodriguez was beyond the legal 24-week limit for an abortion. They also repeatedly asked for explanations of a complex array of assault charges, each with a different basis in law. 'He's Just Shocked'

Dr. Hayat stood quietly, staring at the floor, as the verdicts were read, and then he was led away by bailiffs. Later, referring to the verdict, his lawyer, Ronald J. Veneziano, said, "I think he's just shocked by the whole thing. You don't really expect it to happen."

The prosecution had argued that Dr. Hayat had cared more about money than his patients. His defense lawyer, however, argued that the allegations against him were a result of honest mistakes, misunderstandings and lies.

Ms. Rodriguez, a 21-year-old Dominican immigrant, had no immediate comment on the verdict.

The case of Dr. Hayat drew widespread attention because of the gruesome nature of the charges and their rarity. Before him, no one had been convicted in New York State for performing an illegal abortion since 1981, according to the State Division of Criminal Justice Services.

Mr. Veneziano asked that Dr. Hayat be placed under a suicide watch in jail, and Acting Justice Jeffrey M. Atlas granted the request. When asked outside the courtroom to explain the request, he said his client was depressed, and he considered it "an appropriate precaution."

The 64-year-old doctor, who immigrated to the United States from his native India in 1969, faces a maximum sentence of 20 1/3 years to 61 years, the equivalent of a life sentence, said Barbara Thompson, a spokeswoman for the Manhattan District Attorney's office.

Justice Atlas dismissed one illegal abortion count and one assault count on which the jury deadlocked. Of the 11 charges he faced, Dr. Hayat was acquitted of just one, an additional count of assault on Rosa Rodriguez. The verdict indicates that jurors were unable to establish that on the first day of the two-day procedure, Dr. Hayat knew that Ms. Rodriguez was beyond the legal limit for an abortion.

After the verdict, the jurors were taken out a back door of the courthouse to a waiting van and were driven by a court officer to a taxi stand near Union Square. There, they refused to discuss their reasoning. Second Patient

Dr. Hayat was also convicted of two counts of assault against another patient, Marie Moise, a Haitian immigrant, on whom he performed an incomplete abortion. Mrs. Moise's husband, David Moise, testified during the trial that the doctor, who had said the price would be \$300, stopped midway through the procedure and demanded an additional \$500.

Mr. Moise testified that when he insisted he could not produce the money, the doctor forced him to leave the office with his bleeding, semiconscious wife. The next day, Mrs. Moise began a weeklong stay at St. Luke's Hospital for treatment of a severe infection that doctors said was caused by pieces of a dismembered fetus being left in her uterus.

The authorities have described Dr. Hayat's office at 9 Avenue A as an "abortion mill," one of several in New York City that provide substandard care at inflated prices to thousands of mostly poor immigrant women who are unaware that they have better options. In the weeks after his arrest, more than 30 women came forward to say that Dr. Hayat botched their abortions, and officials said that his error during one abortion killed a patient, a 17-year-old girl. No charges were brought in that case.

In her testimony, Ms. Rodriguez painted a disturbing picture of Dr. Hayat's offices, recalling a woman screaming in an adjoining room and the doctor's use of dirty instruments.

Mr. Veneziano pursued the unusual strategy of neither giving an opening statement nor calling any witnesses. Instead, he used his closing argument on Wednesday to rebut the prosecution's case. Mr. Veneziano said that the witnesses against Dr. Hayat had lied, that there had been misunderstandings between the doctor and his patients and that the doctor might have made mistakes, but they were honest ones. The defendant did not testify.

Ms. Rodriguez testified that she went to Dr. Hayat's office on Oct. 25 and Oct. 26, 1991, for an abortion, believing that she was three or four months' pregnant. Hours after the second visit, she was overcome by pain and went to Jamaica Hospital in Queens, where she gave birth to a girl, who survived despite the attempted abortion and the loss of her arm.

Tests conducted at the hospital determined that the mother had been 30 to 32 weeks, or 7 to 7 1/2 months pregnant, well beyond the legal limit of 24 weeks, or 5 1/2 months, for an abortion.

Mr. Veneziano argued that when Dr. Hayat examined Ms. Rodriguez, he honestly believed her to be no more than 16 weeks, or less than four months, pregnant. He noted that Ms. Rodriguez herself made the same estimate. The two illegal abortion counts corresponded to the two days of the procedure performed on Ms. Rodriguez.

The prosecutor, Margaret Finerty, an assistant district attorney, called on the jury not to let Dr. Hayat "hide behind the fact that Ms. Rodriguez didn't know how pregnant she was."

"Who's the doctor here?" she said.

Mr. Veneziano accused most of the prosecution witnesses, including Ms. Rodriguez and doctors from Jamaica Hospital, of lying and said that the baby's arm was actually severed at the hospital.

He told the jury that the dispute between Dr. Hayat and the Moises resulted from a failure to understand one another in English. He also said that Mr. Moise was partly to blame for his wife's illness, because he did not seek medical attention for a day and a half after leaving Dr. Hayat's office. **THE VERDICTS: Charges Against the Doctor**

Dr. Abu Hayat faces 11 counts involving two cases  
In The Case Of Rosa Rodriguez: **GUILTY**  
2d-degree abortion. \* (patients second visit) First degree assault against Ana Rosa Rodriguez. (the baby) First-degree assault on Rosa Rodriguez. Falsifying business records. Offering a false instrument for filing. **NOT GUILTY**: First-degree assault against Rosa Rodriguez. **JURY DEADLOCKED**: (Charges dismissed) Second-degree abortion. (patients first visit) Second-degree assault against Rosa Rodriguez  
In the incomplete abortion on Marie Moise: **GUILTY**  
First-degree assault on Mrs. Moise. Second-degree assault on Mrs. Moise. Falsifying business records. \* Abortions are not legal beyond 24 weeks of pregnancy.

Photo: Dr. Abu Hayat being led from State Supreme Court in Manhattan after he was convicted of performing an illegal third-trimester abortion in which he severed the arm of a fetus. He faces a maximum sentence of 20 1/3 years to 61 years in prison. (Pool Photo/David Rentas)