

FILED

SEP 15 2009


CLERK

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

VIJ MISIR and RAJMATEE KAPADIA,
a/k/a Rajmatee Misir,

Defendants.

CR 09-40106-01
-02

INDICTMENT

Conspiracy to Commit Mail Fraud

18 U.S.C. §§ 371, 1341, 1349

The Grand Jury Charges:

OVERVIEW OF THE SCHEME TO DEFRAUD

1. As of July 2001, Defendants Vij Misir and Rajmatee Kapadia, a/k/a Rajmatee Misir (hereinafter "Rajmatee Misir") were a married couple, living in Florida with their two children.

2. In October 2003, Vij Misir, Rajmatee Misir, and others known and unknown to the Grand Jury faked Vij Misir's death during a family trip to Malaysia. Rajmatee Misir then made claims on three separate life insurance policies.

3. In June 2004, when the insurers began to investigate the supposed death rather than quickly paying her, Rajmatee Misir sued them. *See Rajmatee Misir v. West Coast Life Insurance Company, et al.*, Case No. 04-60879. Her

lawsuit was resolved when the insurers paid Rajmatee Misir a settlement of \$2,000,000.

4. On or about December 11, 2008, Vij Misir walked into the United States Embassy in Jakarta, Indonesia. He was alive, well, and hoping to renew his United States passport.

COUNT 1.

(Conspiracy to Commit Mail Fraud)

5. Between on or around July 1, 2001, to the present, in the District of South Dakota and elsewhere, Defendants Vij Misir and Rajmatee Misir, along with others known and unknown to the Grand Jury, knowingly and willfully conspired and agreed together with each other and other persons known and unknown to the Grand Jury, to commit offenses against the United States of America as follows: mail fraud, in violation of 18 U.S.C. §§ 1341, 1349, and 371.

THE OBJECT OF THE CONSPIRACY

6. It was the object of the conspiracy to cause life insurance companies to deposit and cause to be deposited mail matter to be sent and delivered by the United States Postal Service and by private and commercial interstate carriers, through a scheme to defraud by false and fraudulent pretenses. Namely, Defendants conspired to cause the insurers to mail money to Rajmatee Misir by claiming Vij Misir had died when he had not.

MANNER AND MEANS OF THE CONSPIRACY

7. It was part of the plan and purpose of the conspiracy that between approximately July 2001 and August 2002, Vij Misir and Rajmatee Misir accumulated \$7,000,000 in insurance coverage on Vij Misir's life, with Rajmatee Misir as sole beneficiary.

8. It was further part of the conspiracy that Rajmatee Misir procured official documents verifying that Vij Misir died at 11:45 p.m. on October 28, 2003, in Ipoh, Malaysia.

9. It was further part of the conspiracy that Rajmatee Misir made claims on three insurance policies held by Vij Misir, listing her as sole beneficiary.

10. It was further part of the conspiracy that Vij Misir remained in hiding for just over five years.

11. It was further part of the conspiracy that Rajmatee Misir engaged in lengthy litigation against the insurance companies, during which she never wavered from her claims that Vij Misir had died and she witnessed his death, the preparation for his cremation, and his cremation.

OVERT ACTS

12. In furtherance of the conspiracy and to achieve its objects, Vij Misir, Rajmatee Misir, and their co-conspirators, known and unknown, committed and caused to be committed the following overt acts, among others, in the District of South Dakota and elsewhere:

a. On or around July 10, 2001, Vij Misir applied for a term life insurance policy with Midland National Life Insurance Company of Sioux Falls, South Dakota ("Midland"). Vij Misir applied for and received \$2,000,000 in coverage from Midland. His wife, Rajmatee Misir, was named sole beneficiary.

b. On or about October 4, 2001, Vij Misir applied for an additional life insurance policy with Midland. Vij Misir applied for and received another \$2,000,000 in coverage from Midland. Rajmatee Misir was again named sole beneficiary.

c. On or about August 3, 2002, Vij Misir applied for an additional life insurance policy with West Coast Life Insurance Company of San Francisco, California ("West Coast"). Vij Misir applied for and received another \$3,000,000 in coverage from West Coast. Rajmatee Misir was again named sole beneficiary.

d. In or around September 2003, Vij Misir, Rajmatee Misir, and others known to the Grand Jury, embarked on a lengthy trip that took them to Thailand, Singapore, and Malaysia.

e. On or about October 23, 2003, Vij Misir and Rajmatee Misir traveled to Ipoh, Malaysia.

f. During the afternoon and evening of October 28, 2003, Vij Misir visited two clinics, accompanied by Rajmatee Misir. Vij Misir complained of symptoms of food poisoning. Each time, he was treated and released.

g. In the early morning hours of October 29, 2003, Rajmatee Misir summoned local police in Ipoh to a funeral home, and reported that Vj Misir died at approximately 11:45 p.m. on October 28, 2003, while riding in the rear of a taxi cab, seated next to her.

h. Between October 29, 2003, and on or around November 12, 2003, Rajmatee Misir telephoned the Misirs' insurance agent back in Florida to inquire about making claims on the life insurance policies. The agent then telephoned the Midland claims department on November 12, 2003, and reported the death to the insurer.

i. On or about November 12, 2003, Rajmatee Misir called the United States Embassy in Kuala Lumpur, Malaysia, and reported her husband had died.

j. On or about November 19, 2003, Rajmatee Misir sent the United States Embassy in Kuala Lumpur, Malaysia, a variety of documents she had procured to verify the alleged death of her husband.

k. On or about December 3, 2003, Rajmatee Misir completed and signed a Proof of Death Claimant's Statement form with Midland. In it, she again stated that Vj Misir died in Malaysia on October 28, 2003.

l. On or about December 3, 2003, Rajmatee Misir wrote and signed a letter that she included with the claim documentation on the Midland policies. In it, she stated that her husband died in Malaysia on the way to a

hospital where they were headed because of a stomach illness he contracted a few hours after lunch.

m. On or about December 3, 2003, Rajmatee Misir completed and signed a Foreign Claim Questionnaire form that Midland required for claims involving losses outside the United States. In it, she stated that she had many supporting documents available, including a burial permit, police reports, and paid receipts for burial/funeral expenses. She again stated that Vij Misir died from food poisoning on October 28, 2003, at 11:45 p.m. in Malaysia.

n. On or about February 10, 2005, Rajmatee Misir, through her attorneys, responded with answers to a variety of interrogatories posed by counsel for West Coast. In one response, Rajmatee Misir gave a lengthy “overview of the events of the day my husband died[.]” In it, she stated that she had observed her husband’s cremation.

o. On or about April 7, 2005, and again on May 25, 2005, Rajmatee Misir testified under oath about the alleged death of her husband during a deposition that was ordered as part of her lawsuit against the insurance companies. During her deposition, Rajmatee Misir testified that she was present at the funeral home and personally involved in preparing Vij Misir for cremation, which entailed bathing and dressing the body and saying prayers over the body.

p. In addition, during her deposition, Rajmatee Misir testified that she was present when her husband was cremated. She testified that he was taken out of a coffin and burned on an outdoor funeral pyre.

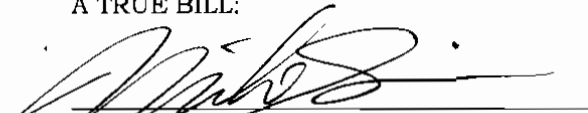
q. Between on or about September 23, 2005, and on or about December 10, 2005, Rajmatee Misir executed settlement and release agreements with the insurance companies in exchange for payments totaling \$2,000,000.

r. Vij Misir remained in hiding from October 28, 2003, until on or about December 11, 2008, when he presented himself at the United States Embassy in Jakarta, Indonesia, attempting to renew his passport.

s. On or about April 15, 2009, Vij Misir signed a sworn statement to the United States Department of State in which he stated that no one in his family, including Rajmatee Misir, assisted him or had knowledge of his faked death.

All in violation of 18 U.S.C. §§ 371, 1341, and 1349.

A TRUE BILL:


Foreperson

DENNIS R. HOLMES
ACTING UNITED STATES ATTORNEY

By: 