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LADB Staff

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U.S. Prosecutors Drop Charges Against Pharmacist Zhenli Ye Gon, Paving Way For Extradition To Mexico

by LADB Staff

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US prosecutors, unable to make drug-trafficking charges stick against Mexican pharmacist Zhenli Ye Gon, have dropped the case and are preparing to extradite him to Mexico. The US Department of Justice (DOJ) had to give up its case against Ye Gon because of lack of evidence after one of its witnesses recanted and another refused to testify. Attorneys for Ye Gon said they would do everything in their power to prevent extradition to Mexico, where he would face similar charges as those levied in the US.

Ye Gon, a Chinese national who became naturalized as a Mexican citizen in 2003, is accused of using his pharmaceutical company Unimed to import massive amounts of chemicals used in the manufacture of methamphetamine in Mexico. Most of those drugs were allegedly smuggled into the US. In early 2007, Mexican authorities conducted a high-profile raid of Ye Gon's home in Mexico City, where they seized US\$207 million in alleged drug profits. At the time of the raid, Ye Gon was absent from Mexico.

In mid-2007, US authorities detained the pharmacist in a suburb of Washington, DC. Rather than send him to Mexico, the DOJ decided to bring its own drug-trafficking charges against Ye Gon, setting off a minor custody battle with the Mexican government (SourceMex, July 25, 2007). Rather than press for extradition, President Felipe Calderon's administration decided to allow the legal process in the US to run its course.

In June 2009, US prosecutors announced they were dropping their case against Ye Gon for lack of evidence. Two key witnesses who had earlier agreed to testify against the pharmacist later changed their minds. One of the witnesses recanted, while the other decided not to testify. With its case weakened, US prosecutors decided to punt, sending the case back to Mexico. "The government believes the interests of justice and the United States' ongoing collaborative efforts with the government of Mexico to combat international drug trafficking are best served by giving precedence to the Mexican prosecution," DOJ attorney Paul Laymon wrote in his motion to dismiss.

Other DOJ officials believe that sending Ye Gon to Mexico is the best course of action because the Mexican government has a stronger case. Mexican authorities have already brought legal action against some of Ye Gon's family members and associates. "The US government's motion noted evidentiary concerns in the US case, whereas Mexico's extradition request reflects the compelling nature of the evidence in that case," said DOJ spokeswoman Laura Sweeney. But Ye Gon's legal team in Mexico believes the motion to dismiss in the US could help his case in Mexico. "It "strengthens the defense position that there is no proof of the accusations against him," said attorney Rogelio de la Garza.

The US prosecution is not entirely off the hook. The DOJ apparently had known for some time that the witnesses were not going to cooperate but decided to sit on the case. This brought a sharp rebuke from US District Court Judge Emmet Sullivan, who ordered the prosecuting team to present documents explaining why they took so long to reveal problems with the evidence against Ye Gon. "This is very serious," said Sullivan. "Someone in the Department of Justice better have a good answer." Zhenli Ye Gon demands return of his money, property Ye Gon has demanded that the money and property confiscated by Mexican and US authorities be returned, now that the US has withdrawn its charges of drug trafficking.

Attorneys for the pharmacist contend that the properties and the money were seized based on evidence that the US Drug Enforcement Administration (DEA) had provided to the Mexican government. In addition to the US\$207 million that the Mexican government seized in 2007, US authorities froze about US\$1.5 million that Ye Gon held in a bank account in California. Ye Gon's attorneys also demanded the return of documents that DEA agents operating in Mexico took from Unimed headquarters and from one of the company's plants in the city of Toluca. Mexican Attorney General Eduardo Medina Mora said Ye Gon is not likely to receive any of the money confiscated in 2007 because, under Mexican law, the money was forfeited to the government.

The Mexican government has used some of the funds seized from Ye Gon to establish 176 centers around Mexico to treat and prevent drug addiction. Most of these centers are located in Guerrero, Chiapas, Mexico state, and the Federal District. "The bottom line is that the government wants to keep the money [so it can continue to operate these centers]," de la Garza said. Mexico City daily newspaper El Universal reported that some of these centers have had trouble with their operations, partly because members of the Zetas, who are the enforcement arm of the Gulf cartel, have threatened staff and patients.

Timing of extradition uncertain

Even with the US decision to drop its case, it is uncertain how quickly Ye Gon will be extradited to Mexico. Mexico, which filed a formal extradition request in June 2008, is awaiting a ruling from US District Court Judge John Facciola. Facciola has scheduled a hearing for late August. In the meantime, Ye Gon is being held in a US federal penitentiary in Virginia. If extradited to Mexico, Ye Gon is expected to press the case that the funds seized from his home in Mexico City were part of a stash of illegal campaign funds he was holding on behalf of the governing Partido Accion Nacional (PAN). He claims that PAN officials brought him the money in duffel bags and threatened to kill him if he refused to stash it for them. PAN officials have denied Ye Gon's allegations.

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