

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
AVANISH KUMAR JHA, and  
RAJNISH KUMAR JHA,  
  
Defendants.

NO. CR22-049 RSM  
  
UNITED STATES'  
SENTENCING MEMORANDUM

The defendants in this case illicitly shipped medicines from their home in India to the United States and other destinations around the globe. Many of the medicines were counterfeit and lacked the active ingredients of the authentic drugs, meaning patients who used them would have unknowingly had no chance for relief. Other medicines sold by the defendants were misbranded or adulterated with fungal growths. For their serious crimes, the Court should sentence each defendant to a low-end Guidelines term of imprisonment—which is 30 months, if the Court adopts the parties' calculation—and impose a fine of \$100,000. The Court should also order restitution for Merck, which holds the copyright for the main counterfeit drug sold by the defendants during the investigation.

**BACKGROUND**

Because the defendants committed their offenses in concert and pleaded guilty on

1 identical terms, the government is filing this single sentencing memorandum addressing  
2 both defendants to avoid burdening the Court with duplicative submissions.

3 The investigation of the defendants' operations began in 2018.<sup>1</sup> At that stage, private  
4 investigators from the pharmaceutical industry noticed that the defendants were advertising  
5 on Facebook that they could export everything from cancer treatments to erectile  
6 dysfunction pills to steroids. The private investigators obtained at least four different types  
7 of prescription drugs from the defendants by posing as buyers from the United States. None  
8 of the drugs were approved for use in the United States by the FDA.

9 One of the drugs sold by the defendants was Keytruda. Keytruda is a blockbuster  
10 cancer drug made by Merck. It is, as a Barron's reporter [wrote](#) last year, the "world's  
11 biggest drug" and "one of the most important medicines ever discovered." It is both  
12 effective for a wide range of cancers and costly for patients to obtain—a combination of  
13 factors that means Keytruda, by itself, accounts for nearly half of all Merck's revenue. This  
14 makes Keytruda an irresistible target for scammers and counterfeiters.

15 When federal law enforcement began their own investigation of the defendants in  
16 2019 based on a report from the private investigators, Keytruda was a natural focus.  
17 Undercover agents started talking to the defendants by Facebook video chats, WhatsApp  
18 messaging, and other means, and before long, the agents were able to purchase numerous  
19 different prescription drugs, including Keytruda. For the defendants, this new business in  
20 America was part and parcel of a racket they had been carrying on for years. In one early  
21 conversation, Rajnish Jha told an undercover agent that he had been "regularly supplying"  
22 drugs to the United States for the "last four years."

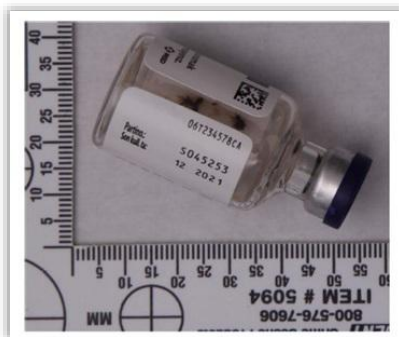
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23  
24 <sup>1</sup> The facts presented in this memorandum are taken from the parties' plea agreements and  
25 the discovery provided to the defense. Because the Court waived the preparation of a  
26 presentence report, the government has not given the discovery to the Probation Office as  
27 it normally would. Undersigned counsel expects that all the facts presented here are  
uncontested, but to the extent it is necessary or helpful, the government will submit to the  
Court the documents or other evidence that establishes these facts.

1 The first shipment of Keytruda purchased by an undercover agent arrived in  
2 Kirkland, Washington from India in August 2019. Laboratory testing showed that it was  
3 not Keytruda at all but rather over-the-counter heartburn medicine in a bottle labeled as  
4 Keytruda. Keytruda's active ingredient—the substance that could add months or even years  
5 to the lives of terminal cancer patients—was totally absent.

6 As time went on, undercover agents learned more about the defendants' business,  
7 including how they avoided detection by customs officials when shipping their products  
8 out of India. In one conversation, Rajnish Jha said that the drug purchases should always  
9 be described on customs forms as "gifts" of "edible health products." In a different  
10 conversation, Avanish Jha told an undercover agent that he was "paying close to 500,000  
11 rupees a month" to "manage" the "customs people" in India.

12 With the progression of the investigation, undercover agents asked to increase their  
13 purchases of Keytruda and other medications, and the defendants readily obliged. The  
14 defendants arranged to receive cash drops from the undercover agents as payment for  
15 particularly large orders. Those drops occurred in New York, New Jersey, and Washington,  
16 in amounts of \$32,400, \$50,000, and \$100,000, respectively. Testing on samples of the  
17 nearly three dozen vials of Keytruda delivered by the defendants showed that some of them  
18 again lacked the active ingredient. And two of the tested vials, while found to contain  
19 Keytruda's active ingredient, were packaged in counterfeit boxes and contaminated by  
20 fungal growths. One of the contaminated vials is pictured here with the black specks of  
21 fungus visible in the middle:



1 As the undercover agents built trust with the defendants, the defendants became  
 2 more candid about the true nature of their business. In a conversation in February 2021,  
 3 Avanish Jha remarked that “you cannot earn money if you are doing legal things.” Because  
 4 their drug exporting business was illegal, Avanish Jha acknowledged that it had “to be done  
 5 secretly.” He also alluded to having another business in which he resold imported Chinese  
 6 goods in India using a “front” and “a shell company.” Investigators never learned the  
 7 specifics of what that other business entailed.

8 In April 2023, the defendants were arrested in Singapore. Undercover agents had  
 9 suggested meeting the defendants there to discuss additional large purchases in person. The  
 10 government asked Singapore to extradite the defendants to the United States to face the  
 11 charges in this case. The defendants fought extradition for nearly two years, but in January  
 12 2025, a Singaporean judge granted extradition on roughly half the counts in the 56-count  
 13 indictment, and they arrived in this district the following month.

14 Each defendant reached an agreement to plead guilty. Dkts. 35, 39. Each pleaded  
 15 guilty to one felony count of smuggling under 18 U.S.C. § 545, as charged in Count 39.  
 16 They now appear before the Court for sentencing. As part of its agreement with the  
 17 defendants, the United States moves to dismiss all counts of the indictment except for  
 18 Count 39.

## 19 **SENTENCING RECOMMENDATION**

### 20 ***A. Sentencing Guidelines***

21 The parties agree that the total offense level, after accounting for the reduction for  
 22 acceptance of responsibility, is 19. The government is not aware of any prior convictions  
 23 for either defendant, and if the Court accepts that as accurate, then the defendants are in  
 24 criminal history category I and the advisory range is 30 to 37 months of imprisonment.  
 25 USSG § 5A. The Guidelines also provide that the Court “shall impose a fine in all cases,  
 26 except where the defendant establishes that he is unable to pay is not likely to become able  
 27

1 to pay any fine.” USSG § 5E1.2(a). The advisory range for a fine is \$10,000 to \$100,000.  
2 USSG § 5E1.2(c)(3).

3 ***B. Imprisonment***

4 The Court should sentence each defendant to a low-end term of imprisonment. If  
5 the Court accepts the parties’ Guidelines calculation and finds that the defendants are in  
6 criminal history category I, then the sentence should be 30 months. Such a sentence is  
7 sufficient but not greater than necessary to satisfy the purposes of 18 U.S.C. § 3553(a).

8 The defendants committed a serious offense that merits a sentence at the low end of  
9 the Guidelines range. Exporting counterfeit medicines is a cruel business that robs ill  
10 people of any hope for relief. Cancer patients unknowingly using fake Keytruda would  
11 have no chance of improvement with their terminal disease. The defendants profited by  
12 peddling counterfeit Keytruda and many other drugs, all in contravention of numerous U.S.  
13 laws and regulations that are meant to keep people safe.

14 Regrettably, schemes like this one are not unique. Many people line their pockets  
15 by flouting the Food, Drug, and Cosmetic Act and other important U.S. laws. By imposing  
16 a 30-months sentence, the Court can send a strong message that the United States does not  
17 tolerate this conduct. General deterrence has special importance in a case where patient  
18 safety is at stake.

19 It must be acknowledged that, despite vigorously contesting extradition, the  
20 defendants quickly pleaded guilty after reaching the United States. They deserve every bit  
21 of the three-level reduction of the offense level for their prompt acceptance of  
22 responsibility. But a departure below the low end of the Guidelines range is not justified.  
23 The Court should impose 30 months.

24 ***C. Fine***

25 The available information indicates that the defendants did well for themselves  
26 financially by running at least one and perhaps multiple businesses in India. With no facts  
27 before the Court that would allow it to find that the defendants are unable to pay a fine, the

1 Court should impose a fine of \$100,000 on each defendant. That amount, which when put  
 2 together is roughly equivalent to the amount the defendants made in the sales to undercover  
 3 agents, is amply justified on this record. The defendants should not profit from their illegal  
 4 and dangerous conduct.

5 ***D. Supervised Release***

6 The Guidelines advise that supervised release is ordinarily not appropriate for  
 7 defendants who will be deported after imprisonment. *See* USSG § 5D1.1(c). This case  
 8 presents analogous circumstances because the defendants will presumably return to India  
 9 immediately upon their release from custody. The government therefore does not  
 10 recommend supervised release.

11 ***E. Restitution***

12 Merck supported the government's investigation throughout, as described in a  
 13 victim impact statement that will be submitted to the Court. Merck's assistance consisted  
 14 of, among other things, laboratory testing on the Keytruda sold by the defendants. The  
 15 Court should order restitution of \$81,596.67 to compensate Merck for its costs.

16 **CONCLUSION**

17 The Court should sentence each defendant to 30 months in prison and a \$100,000  
 18 fine, and impose joint and several restitution for Merck in the amount of \$81,596.67.

19 DATED: July 3, 2025

20 Respectfully submitted,

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