

No. 20-

IN THE
Supreme Court of the United States

ROLLINSNELSON LTC CORP., VICKI ROLLINS,
AND WILLIAM NELSON,

Petitioners,

v.

UNITED STATES OF AMERICA
EX REL. JANE WINTER, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

This case turns on whether a Medicare reimbursement claim for inpatient hospital care can be alleged “false” under the False Claims Act (“FCA”) based solely on a *post hoc* review of medical records that disagrees with the admitting physician’s medical opinion. At issue here are the clinical judgments of several physicians, each expressing the view that inpatient hospital care was reasonable and necessary for a particular Medicare beneficiary. Medicare’s regulations directed those physicians to apply indeterminate and purposefully vague standards governing whether care was reimbursable. Indeterminate standards give providers the flexibility they need to supply covered healthcare to beneficiaries who present with an infinite array of ailments. By their nature, though, indeterminate standards are also subject to differing opinions and medical judgments, which are impossible in most circumstances to prove *objectively* false.

Unfortunately, the lower courts have become irreconcilably split as to whether the FCA’s falsity element requires an objective falsehood, and therefore whether a difference of opinion over medical judgments is actionable. The decision below wrongly rejected the objective falsehood requirement, deepening and worsening the split. Healthcare professionals and Medicare providers deserve a unified national standard for falsity under the FCA.

Thus, the question presented is: Whether the False Claims Act requires pleading and proof of an objectively false statement.

PARTIES TO THE PROCEEDING

The following list identifies all parties appearing here and in the United States Court of Appeals for the Ninth Circuit. *See* Supreme Court Rule 14.1(b). The petitioners here, and appellees below, are defendants RollinsNelson LTC Corp., Vicki Rollins, and William Nelson. The respondent here, and appellant below, is the United States of America *ex rel.* Jane Winter, a *qui tam* relator. The government has declined to intervene in this False Claims Act case under 31 U.S.C. § 3730(b)(2).

The additional defendants named in the district court, but who are not party to this petition, are Gardens Regional Hospital and Medical Center, Inc., S&W Health Management Services, Inc., Beryl Weiner, Prode Pascual, Rafaelito Victoria, Arnold Ling, Cynthia Miller-Dobalian, Edgardo Binoya, Namiko Nerio, and Manuel Sacapano.

CORPORATE DISCLOSURE STATEMENT

Petitioner RollinsNelson LTC Corp. states under Supreme Court Rule 29.6 that it has no corporate parent and that no publicly held company owns ten percent or more of its stock.

RELATED PROCEEDINGS

- *United States ex rel. Winter v. Gardens Reg'l Hosp. & Med. Ctr., Inc.*, No. CV 14-08850-JFW, U.S. District Court for the Central District of California. Judgement date Dec. 29, 2017.
- *Winter v. Gardens Reg'l Hosp. & Med. Ctr.*, No. 18-55020, U.S. Court of Appeals for the Ninth Circuit. Judgment entered Mar. 23, 2020.

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