

# Court Case...from Page 1A

practice.”

As for Gowder, McKinnon said “he filled these prescriptions in three different pharmacies in three states,” pointing out that filling prescriptions with no medical purpose was also a crime.

The prosecutor went on to say that Heaton had a financial relationship that benefited from his association with Gowder as hospital CEO, seemingly attempting to show a relationship between the prescription writing and potential compensation.

In her opening comments, Kristen Novay, one of Heaton’s attorneys, argued that Heaton had been a local doctor for 26 years, and that the hospital was simply compensating him for his work.

“Like most doctors in the area, he had several jobs at the hospital,” she said, listing the sleep clinic the hospital purchased from Heaton in 2014.

She acknowledged that he was paid by the hospital to manage the sleep clinic and nursing home, but she attempted to rebut the kickback allegations by noting that Heaton’s replacement at the hospital received the same pay after Heaton and Gowder parted ways with Union General.

Referring to testimony that would be delivered after press time in the second week of trial, the prosecution said jurors would soon be hearing from Dr. Gary Kaufman, an expert witness who examined medical records from Dr. Heaton’s office.

“(Kaufman’s) conclusion is that Dr. Heaton’s prescriptions were outside the usual course of professional practice and without a legitimate medical reason,” McKinnon said, affirming that doctors have a legal duty to prescribe drugs “in a way that doesn’t make their patients addicted.”

Novay said that some of Heaton’s patients “were dependent on pain medication,” but that dependency was different from addiction.

She contended that fewer than 7% of Heaton’s patients were ever prescribed pain medication, adding that, of his almost 2,000 patient files, the government had “hand-picked” files to be examined by Kaufman.

In his opening remarks, Mike Gowder’s attorney Steve Sadow accused the government of seeing his client and Heaton’s past relationship “through glasses of suspicion.”

According to Sadow, Gowder underwent back surgery in 2006, though the pain never went away. He was referred for more surgery in 2011 and 2012, but he’d become CEO of the hospital, and it just wasn’t the right time to take off six months to recover from surgery, Sadow said.

“You’ll see the first prescription for hydrocodone was in January 2012,” Sadow said. “He used hydrocodone for five months, then changed to oxycodone.”

As for the government’s claim that his client filled illegal prescriptions elsewhere seemingly to hide his actions, Sadow said that Gowder’s family was well-known in Blairsville, which is why he chose to fill his prescriptions outside of the community to prevent small-town gossip.

Gowder was often in Nashville, Tennessee, because his daughter lived there and his son moved there, Sadow said, so he filled some prescriptions in Nashville.

Furthermore, Sadow said the idea that Gowder was not taking all the pain pills himself – many thousands of pills over the course of three-and-a-half years – was “absurd.”

“When you have taken a lot of medication, you build up a tolerance,” Sadow said. “Most of the time, defendants don’t testify on their behalf. Mike Gowder will testify.”

Following opening statements Wednesday, the jury heard from pharmacists in Murphy, North Carolina, and Hiwassee, each of whom had refused to fill oxycodone prescriptions for Gowder because they saw too many “red flags.”

One of the pharmacists testified that she discovered Gowder was filling the prescriptions in another state, prompting her to call Dr. Heaton. She described his response as “aggressive and confrontational,” and she reported the incident to the Georgia Composite Medical Board.

Jason Allen, a federal diversion investigator with the Drug Enforcement Administration, testified that he had been called in on the case by the Union County Sheriff’s Office in July 2015, after David Gowder was arrested in April 2015 for filling a fraudulent

prescription in Fannin County.

David Gowder is Mike’s brother, and he was the emergency room director for Union General Hospital at the time of his 2015 arrest.

Allen said he started seeing prescriptions for Mike Gowder after he began collecting records of prescriptions related to David Gowder, at which time he “initiated a parallel investigation.”

Every prescription for Mike was written by Heaton, so Allen expanded the investigation to Heaton, he said. The prosecution introduced a spreadsheet compiled by Allen showing prescriptions written to and filled by Mike Gowder from January 2012 to June 2015.

Prosecutor Boatright asked Allen how many pills Gowder had obtained in the three-and-a-half-year period covered by the spreadsheet.

“Just over 15,000 (pills),” Allen said.

She asked how many of those prescriptions were accounted for in Heaton’s file on Mike Gowder.

“Five prescriptions,” he said.

During cross examination, Heaton’s other attorney, Don Samuel, attempted to explain the lack of files by pointing out that Mike Gowder often came to Heaton’s office after hours when he got off work at the hospital.

Samuel also tried to distance Gowder from the actions of his brother, David, who had filled prescriptions under a fake name, according to Allen.

“There’s no relation to Mike Gowder to what his brother did, right?” Samuel said, and Allen agreed.

David Gowder is a former co-defendant in the federal prescription drug case. In March 2019, he pleaded guilty to one count of prescribing oxycodone without a legitimate medical purpose before being removed as a co-defendant.

Allen’s testimony crossed over into Thursday, when Sadow questioned the investigator.

Sadow started off by entering into evidence 10 of Mike Gowder’s medical records from various other health providers in Atlanta and Nashville, then asking Allen whether he’d sought or obtained the records in question.

“I wouldn’t know about them unless they were in Dr. Heaton’s records,” Allen said. “I was focused on Dr. Heaton. You could have pain, but that doesn’t mean that what you’re getting is for a legitimate medical purpose in the normal course of practice.”

Among the other witnesses to testify last week was a female patient who said she’d gone to Heaton for high blood pressure and other issues.

He prescribed Xanax, she said, and then she began to buy stronger doses “off the street.” She testified that she and Heaton began a sexual relationship that lasted for six months.

Another female patient testified that she went to Heaton because she was having abdominal pain. She said he did an exam and gave her a prescription for hydrocodone, and that she, too, began buying it off the street.

After admitting this to him, she said he told her that would have to stop because he couldn’t regulate her medication. The witness testified he made her sign a contract that she would only get pills from him or she would be terminated as a patient.

He then referred her for a colonoscopy that led to her being diagnosed with Crohn’s Disease, and she testified that when Heaton’s clinic closed, she had to go to an addiction treatment center.

“I couldn’t find a physician who would take me,” she said from the stand.

A former employee of Heaton’s family practice led off testimony for Friday, Oct. 18, saying that Mike Gowder would “randomly” come by to discuss business with Heaton in his office, usually about 5 p.m. The employee said they did not collect a co-pay from Gowder because he wasn’t a patient.

“He typically came by to pick up a prescription,” the employee said.

Further, the employee testified that Gowder brought checks from the hospital about once a month that went to Dr. Heaton and were not part of the office deposits.

The prosecution also called on the testimony of Curtis Mason, a Union County man who is currently serving a 10-year sentence at Coastal State Prison in Savannah for a previous drug conviction.

His testimony centered on allegations that he used to buy pills from Mike’s son Brad, and that he sold them to Brad if Brad was out.



Mike Gowder and his wife Gail leaving the federal courthouse in Hall County on Friday, Oct. 18. Photo by Linda Erbele

Mason was questioned about a specific incident in which he was allegedly outside the Gowder home with Brad in 2015. According to Mason, at the time, Brad said he didn’t have any “roxys,” but when Mike arrived home, Brad went in to talk with him and came out with pills.

“He told me he got them from his dad,” Mason said in court.

On cross examination, Sadow suggested that Mason’s reason for testifying was that the prosecution had offered to write a letter to the parole board about his cooperation, to which Mason replied that prosecutors said they really couldn’t help but that they’d write the letter.

The final witness Friday was a woman who, at the request of the prosecution, showed the jury scars left from her heroin addiction.

She testified that she became a patient of Heaton’s because of back pain from a car wreck, and that she’d followed the usual course of paperwork and diagnosis prior to treatment.

After she became his patient, however, she said the two entered into a sexual relationship, and she would ask him for pain medication refills and sometimes go over to his house at night to pick up prescriptions.

“When I didn’t have money, he didn’t charge me,” she said, adding that she usually left a sexual encounter with a prescription, but that he never forced her to have sex.

The witness said Heaton was aware that she was a former heroin addict and that he gave her methadone when she was pregnant.

She further testified that, after serving time in jail for several months in 2015, she’d texted him hoping for an

## Career Coach to visit Hiwassee

The Career Coach will visit the Towns County Library in Hiwassee on Tuesday, October 29th, 2019 from 10 AM – 2 PM. The library is located at 67 Lakeview Circle, Hiwassee.

We will help local residents search and apply for jobs, write resumes and cover letters, discern their career interests, and learn about WIOA funded training opportunities. This is a public event, and there is no charge for our services! T(Oct23,F)SH

## Democrats to hold Blue Fest

Towns and Union Counties’ Democrats are sponsoring a joint Blue Festival on Saturday, October 26, from 1 - 4 PM at Meeks Park, 490 Meeks Park Rd, Blairsville. Just follow the signs to the newest pavilion. There will be music, food and featured speakers including candidates running for Senate and Congress. Donations will be accepted. T(Oct23,F)SH

## Bagpipe instruction

The Appalachian Saint Andrew’s Pipes and Drums Bagpipe Band is offering free instruction to all who want to learn how to play the Great Highland Bagpipe or to learn Regimental Drumming.

The band meets each Saturday from 9:30 a.m. until 12 noon in the Parish Hall of St. Clare’s Episcopal Church for instruction and practice.

For further information, call 770-833-5411 or 1-828-557-3812. NT(Oct23,Z)CA



Attorney Steve Sadow, left, speaking with Dr. James Heaton outside the U.S. Courthouse in Gainesville on Wednesday, Oct. 16. Photo by Linda Erbele