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Court overturns doctor's conviction for fondling patients

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NEW HAVEN, Conn. (AP) -- The state Appellate Court overturned the conviction of a doctor accused of fondling and kissing patients' breasts, ruling Wednesday that evidence was excluded and that the cases should have been tried separately.

The appeals court ordered two separate trials for Dr. Sushil Gupta, a pulmonary physician who was convicted of fourth-degree sexual assault. He was acquitted of charges he sexually assaulted a third woman.

"I am delighted for Dr. Gupta," said attorney Hugh Keefe, who handled the case with attorney Tara Knight. "I didn't think he got a fair trial the first time."

Michele Lukban, senior assistant state's attorney, said she would ask the state Supreme Court to review the case. She declined further comment.

One victim who worked as a medical assistant in Gupta's office told authorities he touched her breasts, kissed them and commented that they were "soft and beautiful," during an examination.

Gupta also was convicted of assaulting a Wallingford woman who said he massaged her breasts when she sought treatment for a sinus infection, allergies and asthma.

The appeals court said the lower court abused its discretion when it excluded evidence of instructional videotapes and medical treatises.

"The treatise excerpts and videotapes were critical to the main issue in the case, namely whether the examinations performed by the defendant were medically proper," Judge Thomas West wrote for the court. "The treatise excerpts and the videotapes may have had a tendency to cast doubt on the state's claim that the examinations performed by the defendant were medically improper."

The appeals court said combining the cases was unfair because the jury could use evidence from one case to convict Gupta in another case even though that evidence would have been inadmissible in a separate trial.

"For instance, there were several charges made against the defendant and this litany of

charges may have convinced the jury that he had to have committed at least one of the crimes with which he was charged," the court wrote.

In a concurring opinion, Judge Douglas Lavine agreed a new trial should be ordered because of the excluded evidence, but said he was not persuaded it was improper for the court to consolidate the cases.

The Connecticut Medical Examining Board revoked Gupta's medical license. Keefe said he would reapply.

Gupta was sentenced to six months in prison, but was free on bail during his appeal.

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