

United States Court of Appeals
For the Eighth Circuit

No. 18-1263

United States of America

Plaintiff - Appellee

v.

United Pain Care, LTD., doing business as United Pharmacy

Defendant - Appellant

Mahmood Ahmad, M.D.

Defendant

Appeal from United States District Court
for the Eastern District of Arkansas - Little Rock

Submitted: December 5, 2018

Filed: January 9, 2019

[Unpublished]

Before COLLOTON, GRUENDER, and SHEPHERD, Circuit Judges.

PER CURIAM.

In this civil action brought by the United States under the Controlled Substances Act (CSA), 21 U.S.C. § 801 et seq., against Mahmood Ahmad,¹ and United Pain Care, Ltd. (UPC), for failure to maintain accurate records, UPC appeals the district court's² (1) adverse grant of summary judgment; (2) judgment entered upon a jury's verdict finding that UPC violated the CSA; and (3) calculation of civil penalties.

Upon *de novo* review, *see Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986) (explaining the standard of review for grants of summary judgment), we conclude that the district court correctly determined that UPC could be liable for civil penalties for negligent record-keeping, *see* 21 U.S.C. § 842(a)(5) (making it unlawful for any person to refuse or negligently fail to adhere to CSA's record-keeping requirements); 21 C.F.R. § 1300.01(b) (defining "person"). We further conclude that the trial evidence was sufficient to support the jury's finding of negligent record-keeping under the CSA, *see LeSueur Creamer, Inc. v. Haskon, Inc.*, 660 F.2d 342, 347 (8th Cir. 1981) (holding that a jury's finding of negligence will be overturned for insufficient evidence only where the verdict is clearly contrary to the evidence), and that the district court did not abuse its discretion in calculating the civil monetary penalties, *see McDowell v. Price*, 731 F.3d 775, 783 (8th Cir. 2013) (reviewing a district court's decision to impose penalties for an abuse of discretion); *Advance Pharm., Inc. v. United States*, 391 F.3d 377, 399-400 (2d Cir. 2004) (listing various factors that a court could consider when assessing civil penalties). The judgment is affirmed. *See* 8th Cir. R. 47B.

¹Dr. Ahmad is not a party to this appeal.

²The Honorable James M. Moody, Jr., United States District Judge for the Eastern District of Arkansas.