

Supreme Court overturns bribery conviction for former Virginia governor

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The US Supreme Court last week issued a unanimous decision vacating the conviction of former Virginia Governor Robert McDonnell for 11 counts of bribery-related charges, on the basis of which he was sentenced to two years in prison. The decision, authored by Chief Justice John G. Roberts, returns McDonnell's case to lower courts, where McDonnell may face a second trial.

McDonnell, a Republican, was governor of Virginia from 2010 to 2014, attorney general of the state from 2006 to 2009, and a member of the Virginia House of Delegates from 1992 to 2006. In 2014, McDonnell and his wife were indicted on federal corruption charges in connection with their acceptance of \$175,000 in loans, gifts, and other benefits from Virginia businessman Jonnie Williams, while McDonnell was governor.

Williams was the CEO of Star Scientific, a company manufacturing a nutritional supplement called Anatabloc, manufactured from a tobacco-based compound called anatabine. Williams sought to secure McDonnell's assistance in obtaining research studies on anatabine from Virginia's public universities. Dr. William Hazel, Virginia's Secretary of Health and Human Resources, testified that he was skeptical of the science behind Anatabloc.

In return for the bribes, Governor McDonnell (who campaigned on the slogan "Bob's for Jobs") arranged meetings for Williams to discuss Star Scientific's product with other state officials, hosted events for Star Scientific in the governor's mansion, and contacted other government officials concerning the desired anatabine studies.

The sordid details provide a glimpse of the corrupt day-to-day mechanism of the American political system. At one point, McDonnell's wife told Williams, "Governor says it's okay for me to help you and—but I need you to help me. I need you to help me with this financial situation." As recounted by the Supreme Court, "Mrs.

McDonnell then asked Williams for a \$50,000 loan, in addition to a \$15,000 gift to help pay for her daughter's wedding, and Williams agreed."

"At a subsequent meeting at the Governor's Mansion, Mrs. McDonnell admired Williams's Rolex and mentioned that she wanted to get one for Governor McDonnell. Williams asked if Mrs. McDonnell wanted him to purchase a Rolex for the Governor, and Mrs. McDonnell responded, 'Yes, that would be nice.'"

In March 2012, "Governor McDonnell was taking Anatabloc several times a day." He took a pill during a meeting with the Virginia Secretary of Administration and the Director of the Virginia Department of Human Resource Management, which was called for the purpose of discussing Virginia's health plan for state employees. During the meeting, McDonnell said that the pills "were working well for him" and "would be good for" state employees.

In May of that year, "Governor McDonnell requested an additional \$20,000 loan, which Williams provided. Throughout this period, Williams also paid for several rounds of golf for Governor McDonnell and his children, took the McDonnells on a weekend trip, and gave \$10,000 as a wedding gift to one of the McDonnells' daughters. In total, Williams gave the McDonnells over \$175,000 in gifts and loans."

McDonnell's defense on appeal to the Supreme Court was that he had not actually made an "official act" in return for the bribes, as required for a conviction under the federal corruption statute, and that the phrase "official act" was defined too broadly at his trial. For example, he contended that merely "setting up a meeting" for the Virginia businessman was not an "official act" because he did not "direct a particular resolution of a specific governmental decision."

McDonnell's legal position rested in part on the Supreme Court's 2010 decision in the infamous *Citizens*

United case, which opened the floodgates on corporate bribery of public officials. In that case, the Supreme Court found that big-business political spending in elections was protected by the constitutional right to free speech. (See: “Supreme Court abolishes restrictions on big business political spending”) McDonnell’s theory was that the bribes he received were actually “common political pleasantries” and an example of America’s “representative government” in action.

Without citing the *Citizens United* case directly, the Supreme Court agreed with McDonnell, writing that “conscientious public officials arrange meetings for constituents, contact other officials on their behalf, and include them in events all the time. The basic compact underlying representative government assumes that public officials will hear from their constituents and act appropriately on their concerns—whether it is the union official worried about a plant closing or the homeowners who wonder why it took five days to restore power to their neighborhood after a storm.”

The Court continued: “The [prosecution’s] position could cast a pall of potential prosecution over these relationships if the union had given a campaign contribution in the past or the homeowners invited the official to join them on their annual outing to the ballgame. Officials might wonder whether they could respond to even the most commonplace requests for assistance, and citizens with legitimate concerns might shrink from participating in democratic discourse.”

One senses, behind these absurd attempts to dress up McDonnell’s corruption as a reflection of the “basic compact underlying representative government,” a concern that McDonnell’s conviction would set a precedent that could expose broad layers of the political establishment at the state and federal level to prosecution.

One is struck by the amount of money involved in the McDonnell case—\$175,000. While more than three times the annual income of the average American worker, the total sum of the McDonnell bribes is less than Hillary Clinton collects in one Wall Street “speaking fee.” Clinton’s “minimum” per Wall Street speech is \$225,000, and she received a total of \$675,000 alone for three speaking engagements at Goldman Sachs. In all, Bill and Hillary Clinton have collected more than \$100 million in speaking fees. Only the extremely naive can believe for a moment that all this money was paid simply for the pleasure of hearing them speak.

This is why the Supreme Court uses words like “commonplace” and “legitimate,” together with phrases

like “basic compact” and “representative government,” to describe McDonnell’s behavior. Roberts went out of his way to criticize the prosecution’s “boundless interpretation of the federal bribery statute.” In other words, McDonnell’s corruption represented the “commonplace” and “legitimate” sale of political favors in return for bribes, which reflects the “basic compact” between the corporate and financial elite and the politicians that represent them.

In the unanimous *McDonnell* decision, together with the *Citizens United* case, the Supreme Court has placed its stamp of approval the direct domination of the corporate and financial aristocracy over the American political system. It is a green light for the open buying and selling of politicians for cash, with the casting of votes on election day reduced to an increasingly meaningless farce.

In addition, the unanimous decision in the McDonnell case reflects the Supreme Court’s special efforts to shield corrupt politicians and corporate executives from accountability. In 2010, the Supreme Court issued a favorable decision in the case of former Enron president and convicted felon Jeffrey Skilling, together with two of his associates, which limited the reach of the same federal anti-corruption statutes that were implicated in the McDonnell case. (See: “US Supreme Court ruling favors convicted corporate swindlers”)

McDonnell’s appeal was supported by briefs submitted by several former White House counsels and other high-ranking figures in the political establishment, including many who served under Barack Obama, George W. Bush, Bill Clinton, and George H.W. Bush. Other signatories included, according to one count by ABC News, “83 former state attorneys general, the Republican Governors Association Policy Committee representing 33 current governors, 88 current and former Virginia legislators from both political parties, 233 business/policy leaders, three former governors, and several members of Congress.” One such brief stated that if McDonnell’s conviction is upheld, “it will cripple the ability of elected officials to fulfill their role in our representative democracy.”



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