

Supreme Court ruling raises bar for corruption, fraud prosecutions

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Sunday, July 18, 2010; A05

A Supreme Court ruling last month that gutted an anti-corruption tool favored by federal prosecutors is jeopardizing high-profile investigations into politicians and business executives, including several related to convicted ex-[lobbyist](#) Jack Abramoff, according to legal experts and new court filings.

Since the June 24 decision, U.S. District Judge Ellen Huvelle in Washington has delayed sentencing for one close Abramoff associate, Michael Scanlon, and ordered the government to explain why the court should not dismiss several charges against another, Kevin Ring.

Legal experts predict a flood of similar litigation by defense lawyers based on the Supreme Court ruling. The court ruled unanimously that a 1988 federal [statute](#) that makes it a crime to "deprive another of the intangible right of honest services" is unconstitutionally vague. The justices limited the law's application to bribes and kickbacks, which several former prosecutors say will make corruption convictions against members of Congress more difficult.

"I am worried about whether there is sufficient evidence to sustain an indictment with the new definition of bribery/materiality," Huvelle told lawyers at a July 6 hearing in advance of Ring's trial, scheduled for next month. She asked both sides to file briefs assessing the recent decision.

In their June decision, the justices directed lower courts to reconsider the honest-services fraud convictions of former Enron executive Jeffrey K. Skilling, another business leader and a former state lawmaker.

Elsewhere, attorneys for former Illinois governor [Rod Blagojevich](#) (D) moved unsuccessfully to delay his trial in Chicago, where he faces charges of honest-services fraud, racketeering, attempted extortion, bribery and conspiracy. Attorneys for former U.S. representative William J. Jefferson (D-La.) may raise the matter in the appeal of his 2009 conviction and 13-year prison sentence for crimes including soliciting bribes, money laundering and racketeering.

"We don't know how many cases may be affected, but this is one of the most-used tools in public corruption investigations," said Melanie Sloan, executive director of Citizens for Responsibility and Ethics in Washington.

Public interest groups say Congress should tighten federal corruption laws, citing court decisions since 2007 that narrowed the types of "official actions" that public servants are barred from performing for people who give them money or gifts. Those rulings also require that prosecutors show more specifically that illegal actions were done in return for money.

"All these things are combining to really give members of Congress . . . much less to fear from watchdogs than 10 years ago," Sloan said.

Legal experts say the effect of the Skilling decision will vary case by case. Prosecutors increasingly turned to honest-services fraud charges in recent years to target patterns of self-dealing and conflicts of interest by government and corporate officials, even without a direct quid pro quo.

Critics said that the law was so vague that it could apply to a government employee skipping work to see a ballgame and that it gave prosecutors too much discretion over whom to charge.

Jefferson and Blagojevich may find it hard to benefit from the situation, because their cases include allegations of bribery, and in Blagojevich's case, prosecutors obtained a new indictment with other charges, anticipating the Supreme Court's decision.

Abramoff-related cases present some examples of how the high court's decision might be applied. Abramoff is in a halfway house finishing a four-year term after he pleaded guilty to running a wide-ranging fraud and public corruption scheme. The former powerhouse Washington lobbyist admitted dishing out campaign donations, tickets to sporting events, lavish trips and expensive meals to public officials who helped his clients with federal funds, inside information and legislative favors.

At least 19 lawmakers, Capitol Hill aides and government officials have been convicted. Still under scrutiny is former House [majority leader Tom DeLay](#) (R-Tex.).

Scanlon, a former DeLay aide and public relations executive, is seeking to renegotiate the terms of his 2005 plea deal with prosecutors. Scanlon pleaded guilty to a single count of conspiracy, and he admitted kicking back to Abramoff half of the exorbitant fees he charged Native American tribes after Abramoff recommended Scanlon's firm to them.

Scanlon's attorneys say his agreement to serve up to five years and repay the tribes as much as \$20 million was driven by the honest-services law. The government did not oppose delaying his sentencing 60 days, until Oct. 4.

But federal prosecutors have said that the high court decision should have no effect on the case against Ring because bribery is a central component. The former lobbyist and congressional aide allegedly helped Abramoff arrange campaign contributions to then-Rep. John T. Doolittle, lied about his knowledge of a lucrative job arranged by lobbyists for Doolittle's wife, Julie, and treated Doolittle's staff to rock concerts, football games and fancy meals.

Attorneys for Ring, who have said he is not guilty, argue that the case was grounded in the honest-services law, and they have asked Huvelle to dismiss several counts from his first trial, which ended in a hung jury.

The Doolittles say that they are innocent of wrongdoing and that authorities have told them the investigation of them is over.

Justice Department spokeswoman Laura Sweeney declined to estimate how many cases are affected by the court's ruling.

Staff researcher Alice Crites contributed to this report.

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