

GIBSON DUNN



Appellate & Constitutional Law Update

June 26, 2024

## Supreme Court Holds That Federal Bribery Law Applies Only To Quid Pro Quo Exchanges And Does Not Extend To After-the-Fact “Gratuities”

*Snyder v. United States*, No. 23-108 – Decided June 26, 2024

Today, the Supreme Court held 6-3 that a federal bribery statute, 18 U.S.C. § 666(a)(1)(B), does not criminalize after-the-fact “gratuities” paid to state or local government officials in recognition for official acts, where there was no quid pro quo agreement to take those acts.

*“The question in this case is whether [federal law] also makes it a crime for state and local officials to accept gratuities—for example, gift cards, lunches, plaques, books, framed photos, or the like—that may be given as a token of appreciation after the official act. The answer is no.”*

JUSTICE KAVANAUGH, WRITING FOR THE COURT

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[Background:](#)

Petitioner James Snyder is the former mayor of Portage, Indiana. While Snyder was mayor, Portage contracted with a local truck company to buy garbage trucks worth \$1.125 million. Several months later, Snyder solicited and accepted \$13,000 from the truck company's owners, which Snyder contended he received for providing the company with consulting services. It is undisputed that Snyder did not engage in this solicitation until after the city awarded the garbage truck contracts.

Snyder was later indicted for violating 18 U.S.C. § 666, which prohibits state and local officials from "corruptly solicit[ing,] demand[ing,] . . . or accept[ing]" anything of value offered with the intent to "influence[] or reward[]" in connection with certain government business. Snyder moved to dismiss and, after the jury returned a guilty verdict, filed a post-trial motion for acquittal, arguing that Section 666 applies only to acts of quid pro quo bribery and does not criminalize "gratuities" paid in recognition of actions already taken. The district court denied both motions, and the Seventh Circuit affirmed.

#### Issue:

Does 18 U.S.C. § 666(a)(1)(B) criminalize gratuities, i.e., payments in recognition of actions a state or local official has already taken or committed to take, without any quid pro quo agreement to take those actions?

#### Court's Holding:

No. Section 666 applies only to quid pro quo acts of bribery. State and local officials may not be found guilty under this statute unless the prosecution proves that they solicited, demanded, or accepted something of value in exchange for taking an official act.

#### What It Means:

- This decision is the latest in a series of cases in which the Court has rejected novel and expansive readings of federal fraud statutes in state and local public corruption cases. *E.g.*, *Ciminelli v. United States*, 143 S.Ct. 1121 (2023); *Kelly v. United States*, 140 S. Ct. 1565 (2020).
- Today's holding clarifies that providing state and local officials with tokens of appreciation—for example, gift cards, meals, events, or as in this case, a \$13,000 payment—does not subject those officials to *federal* prosecution. At the same time, the Court reiterated that today's decision does not affect the ability of state and local governments to regulate gratuities: "state and local governments may and often do regulate gratuities to state and local officials." So before providing state and local officials with gifts or other benefits that might be considered gratuities, you should consult applicable state and local law.
- The Court's holding also should lend confidence to those subject to other federal public corruption statutes that they will not face prosecution for payments that might be seen as after-the-fact "gratuities." This is especially true for statutes like the Foreign Corrupt Practices Act (FCPA), which prohibits the offer, promise, or payment of anything of value to improperly influence foreign officials. The Court's ruling today further solidifies the

conclusion that the FCPA, which proscribes influencing but not rewarding, does not extend to gratuities.

- Justice Gorsuch wrote separately to emphasize that today’s decision is driven by the rule of lenity, which requires construing ambiguous criminal statutes in favor of defendants. Justice Jackson, joined by Justices Sotomayor and Kagan, dissented, contending that the Court’s opinion “elevates nonexistent federalism concerns over the plain text of the statute.”

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### Gibson Dunn Appellate Honors



The Court’s opinion is available [here](#).

Gibson Dunn’s lawyers are available to assist in addressing any questions you may have regarding developments at the U.S. Supreme Court. Please feel free to contact the following practice group leaders:

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