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Sen. Whitehouse Urges SCOTUS to Preserve Juries' Role as 'Referees of Corruption' in Bridgegate Appeal

U.S. Sen. Sheldon Whitehouse urged the court to "not further hobble the public's capacity in regulating political misdeeds" in light of the court's narrowing of the definition of corruption.

By Charles Toutant | November 27, 2019



William Baroni Jr./photo by Carmen Natale/ALM

A U.S. senator making a stand against political corruption urged the U.S. Supreme Court to leave in place a jury's conviction of two Gov. Chris Christie aides who helped orchestrate the Bridgegate scheme as political retribution to a local mayor.

In a filing made public Wednesday, Sen. Sheldon Whitehouse took note of the court's dramatic narrowing of the definition of political corruption in recent rulings, which he said have prevented the public from holding elected officials accountable. He said the court "should act with modesty and humility when it addresses the rules of political engagement," and urged the justices to preserve the role of jurors as "referees of corruption, consistent with the founders' vision."

"I write this brief not to address the factual underpinnings of this case," Whitehouse wrote. "I write this brief to emphasize that corruption and abuse of power can taint the whole spectrum of issues that are refereed by government. Corruption is the evil that spawns other evils. History often shows powerful interests pursuing the greater evil of corruption precisely because it allows them to accomplish their own other, lesser evils. Resisting pressure from corrupting forces is essential to the preservation of our democracy, and robust juries are watchmen essential to that resistance."

Whitehouse's amicus curiae brief is in the case involving Bridget Kelly and William Baroni Jr., who have asked the Supreme Court to throw out their 2016 criminal conviction over a scheme to reallocate lanes on the George Washington Bridge as political payback to a mayor who did not endorse Christie's reelection campaign.

Whitehouse said the justices should tread lightly when addressing the rules of politics because of their lack of experience in that area. He also said their recent campaign-finance jurisprudence has limited accountability through the ballot box.

"*Citizens United* and its progeny opened the floodgates for pernicious dark-money spending, submerged the voices of individual people under much louder anonymized corporate and influencer voices, and derailed the constitutionally necessary 'chain of communication' between the people and their representatives," he wrote. "This caused democratic safeguards to rot from within, and it left the people with less voice, less power, and more cynical than ever. The Court should not compound this problem by further narrowing the definition of corruption and thereby reducing the jury's role as a watchman against corruption."

Kelly's attorney, Yaakov Roth of Jones Day, said in his brief that allowing the convictions to stand would open the door to the prosecution of nearly any public official in the nation. Roth added it would "effectively unwind 30 years of this court's jurisprudence reining in the far-flung honest-services fraud theories that prosecutors have invoked to enforce their preferred visions of good government."

Counsel of record on Whitehouse's brief was Michael Meuti of Benesch, Friedlander, Coplan & Aronoff in Cleveland.

The court will hold argument in the case on Jan. 14.

Read the brief:

No. 18-1059

IN THE
Supreme Court of the United States

BRIDGET ANNE KELLY,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Writ of Certiorari to the United States
Court of Appeals for the Third Circuit

**BRIEF FOR AMICUS CURIAE SENATOR
SHELDON WHITEHOUSE IN SUPPORT OF
RESPONDENT, UNITED STATES OF AMERICA**

Page 1 / 40

James J. Walsh, Jr.

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