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Recommended Citation

Center for the Advancement of Public Integrity, "The Corruption Case of Former New York State Assembly Speaker Sheldon Silver" (2017). *Center for the Advancement of Public Integrity (Inactive)*. 54.
https://scholarship.law.columbia.edu/public_integrity/54

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The Corruption Case of Former New York State Assembly Speaker Sheldon Silver

What Comes Next?

Who is Sheldon Silver?

Sheldon Silver is the former Democratic Speaker of the New York State Assembly, a post he held from 1994 until January 2015. He represented Manhattan's Lower East Side from 1976 until November 30, 2015, [when he was convicted](#) on four counts of honest-services fraud, two counts of extortion and one count of money laundering. On July 13, 2017, his convictions were [overturned](#) (see below).



Why is his case so important?

Until he stepped down as speaker following [news of his indictment](#), Silver was one of the three most influential politicians in New York. Referred to as the “[three men in a room](#),” the group of Silver, Governor Cuomo and then-State Senate Majority Leader Dean Skelos ([convicted of corruption offences on May 12, 2016](#)) dictated the state's policy agenda and held [outsized sway over budget negotiations](#).

What did Silver do?

The jury found that, over the last 15 years, Silver orchestrated [two fraudulent schemes](#) wherein he traded official acts for millions of dollars in private payouts. In one scheme, Silver directed \$500,000 from the State Health Department to Doctor Richard Taub at Columbia University's Mesothelioma Center who, in return, referred patients with potentially lucrative cases to the law firm Weitz & Luxenberg P.C.. This firm paid Silver more than \$5 million, most of which was in the form of referral fees because for patients Taub sent. In the second scheme, Silver used his influence in Albany to convince two major real estate developers, Glenwood Management and the Witkoff Group, to hire a former aide's law firm, Goldberg & Iryami, for which he was paid approximately \$700,000 in referral fees. In return, Silver lent his considerable political clout to rent legislation backed by Glenwood Management.

Additionally, Silver was convicted of money laundering for his investment in JoRon Management and Counsel Financial, which netted him over \$750,000. Silver's initial investment was found to have been made with illicit earnings from his fraudulent schemes. Moreover, the information leading to his investment was “[not available to the general public](#)”; the firm is [chaired by the partners in Weitz & Luxenberg](#).

What happened on appeal?

On July 13, 2017, the Second Circuit Court of Appeals overturned Silver's conviction, citing *McDonnell v. United States*, a unanimous Supreme Court ruling issued in June 2016, after the date of the *Silver* trial. The *McDonnell* decision, a landmark bribery case involving the former Governor of Virginia, narrowed the definition of “official act,” which is a required element in many of the federal bribery statutes, including those used to charge Silver. Because the *Silver* judge's legal instructions to the jury were erroneous, the Second Circuit was required on appeal to determine whether this error was “harmless.” Applying the relevant legal standard, the Circuit ruled that it could not conclude beyond a reasonable doubt that a properly instructed jury would have convicted Silver, although the court also ruled that the evidence adduced at trial was legally sufficient (under the lower standard used to determine legal sufficiency) to sustain the conviction. The court remanded for additional proceedings in the District Court.

What happens next?

Violations:

- Title 18, United States Code, §§ [1346](#), [1341](#), [1343](#) - Theft of Honest Services, charging a scheme to deprive another of the intangible right of honest services through the use of the mails and wires.
- Title 18, United States Code, § [1951](#) - Interference with commerce through extortion by obtaining property to which Silver was not entitled under color of official right.
- Title 18, United States Code, § [1957](#) - Engaging in monetary transactions in property derived from specified unlawful activity (money laundering).

Following his conviction, Silver automatically forfeited his seat in the State Assembly so he is no longer a sitting legislator.

The United States Attorney's Office has indicated that it plans to bring a second trial against Silver. Once the Government officially informs Judge Caproni, she will set a new trial date. At that trial, it is likely that much of the evidence will be the same as in the first trial, although the Government may choose to make some adjustments to streamline the proceedings, as it often does in retrials. And of course prosecutors will make sure that they steer clear of labeling as "official acts" conduct that *McDonnell* has since instructed does not fall within that definition. The legal instructions will also be changed to comport with the guidance set forth in *McDonnell*.