

Bond Case Briefs

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CRIMINAL - FLORIDA

State v. Flansbaum-Talabisco

District Court of Appeal of Florida, Fourth District - July 24, 2013 - So.3d - 2013 WL 3811759

Defendant, a city mayor who had been charged with unlawful compensation, bribery, official misconduct, and conspiracy to commit unlawful compensation, filed motion to dismiss the charges against her. The Circuit Court granted motion. State appealed.

The District Court of Appeal held that:

- Allegations in information were sufficient to establish, if proved, the element of the receipt of a benefit for each of the charged offenses, and
- An explicit quid pro quo is necessary for a conviction under corruption-related statutes when a government representative accepts a campaign contribution.

Defendant has the initial burden to demonstrate in her motion to dismiss that the undisputed facts do not establish a prima facie case of guilt, after which the burden then shifts to the state to demonstrate either that material facts are actually in dispute or that the undisputed facts amount to a prima facie case of guilt.

Information alleged that mayor committed the offenses by corruptly requesting, soliciting, accepting, or agreeing to accept money from real estate developers who sought approval of their controversial development project to pay for a poll and an electioneering communications organization in exchange for the mayor voting favorably for their development project, and statutory definition of the term "benefit" as a "gain" or "advantage" was broad enough to encompass mayor's alleged receipt of assistance in her election effort.

It did not follow from fact that election campaign contributions were authorized by law that financial campaign assistance could not constitute crimes of bribery or unlawful compensation, and, thus, it was for factfinder to determine whether mayor's receipt of financial assistance in her election campaign from real estate developers, allegedly in exchange for her favorable vote to approve a highly controversial development project after the election, constituted crimes of bribery or unlawful compensation.