

Bond Case Briefs

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SECURITIES - NEW YORK

Butler v. U.S.

United States District Court, E.D. New York - January 17, 2014 - F.Supp.2d - 2014 WL 216476

Defendant was convicted of securities fraud and conspiracy to commit securities and wire fraud. Defendant moved to vacate his conviction and sentence.

The District Court held that:

- Defendant procedurally defaulted his claims regarding alleged Brady violations and extraterritorial application of securities- and wire-fraud statutes;
- Even if defendant had not defaulted claims, prosecution's alleged nondisclosures did not undermine confidence in outcome of defendant's trial, as required to establish Brady violation; and
- Defendant's securities-fraud scheme involved domestic securities transactions subject to § 10(b), although ARS were not listed on United States exchange.

Prosecution's nondisclosure that defendant interacted with clients who were interested in both government-guaranteed student-loan-backed ARS and non-student-loan-backed ARS did not undermine confidence in outcome of defendant's securities-fraud trial, as required to establish Brady violation on motion to vacate conviction and sentence. Prosecution never asserted that defendant defrauded all of his customers, but instead focused on six victims, each of whom were always clear about their desire to purchase only government-guaranteed student-loan-backed ARS.

Criminal defendant's securities-fraud scheme involved domestic securities transactions, although ARS at issue were not listed on United States exchange, and thus transactions were subject to § 10(b). Scheme involved purchase or sale of ARS in United States, although defendant's clients were abroad, because he maintained office in New York from which he pressed clients to invest, and ARS trading was conducted between defendant in New York and United States banks pursuant to clients' instructions to defendant, who thereby created irrevocable liability in United States as clients' American agent.