
LEGAL UPDATE

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UNITED STATES SUPREME COURT DECISION — FEDERAL GRATUITIES LAW

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Snyder v. United States

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Factual and Procedural Background. Portage, Indiana, limited the gratuities that city officials could accept from those doing business with the city. Great Lakes Peterbilt (Peterbilt), a local truck company, sold five trash trucks to the city in 2013. In 2014, the mayor, James Snyder, received a \$13,000 check from Peterbilt, which Snyder claimed was in payment for information technology and health insurance consulting services he had provided. No written contract or work product was discovered relating to the consulting services.

The federal government charged Snyder with accepting an illegal gratuity under 18 U.S.C. §666. This statute was created to avoid the misuse of federal funds that are given to state and local governments and applies to entities receiving more than \$10,000 from the federal government. 18 U.S.C. §666 establishes criminal penalties for an individual who “corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of \$5,000 or more.” 18 U.S.C. §666(a)(1)(B). The statute also penalizes an individual who “corruptly gives, offers, or agrees to give” payments “with intent to influence or reward” these officials. 18 U.S.C. §666(a)(2).

Snyder was convicted and sentenced to one year and nine months in prison. He appealed, arguing that 18 U.S.C. §666 criminalizes only bribes and does not regulate gratuities. The sentence was affirmed by the Seventh Circuit Court of Appeals, and Snyder appealed to the Supreme Court. Because the circuit courts are divided on whether 18 U.S.C. §666 applies to gratuities, the Court granted certiorari.

Issue. Does 18 U.S.C. §666 criminalize the acceptance of gratuities by state and local officials?

Holding. The Court, in a 6-3 decision, reversed the Seventh Circuit and held that 18 U.S.C. §666(a)(1)(B) does not subject state and local officials to criminal penalties for the acceptance of gratuities.

Analysis. The Court described bribes as payments agreed to or given to a public official for the purpose of influencing an official act prior to its occurrence, in contrast to gratuities which are made to an official as a token of appreciation after the official action is done. Bribes are “inherently corrupt” and uniformly forbidden, while some gratuities are seen as harmless. States and cities differ widely in their laws regulating gratuities.

Portage, Indiana, allows some gifts but limits gratuities from those doing business with the city. The Court determined 18 U.S.C. §666 does not create a federal penalty for illegal gratuities due to the statute's text, history, structure, and penalties, as well as due to principles of federalism and fair notice.

The text of 18 U.S.C. §666 was modeled on the text of 18 U.S.C. §201(b), a bribery law. Both statutes forbid officials from "corruptly accepting a payment 'in return for' 'being influenced' in an official act." In contrast, the federal gratuity statute, 18 U.S.C. §201(c), does not address the individual's mental state, or mens rea. Due to this, the majority determined that an illegal gratuity does not require the corrupt state of mind that a bribe does. Because 18 U.S.C. §666 parallels the language of 18 U.S.C. §201(b) and incorporates a mens rea, the Court found that 18 U.S.C. §666 only regulates bribery. While the statute's use of the term "rewarded" is similar to some gratuities laws, bribery can also encompass rewards given after an act is performed pursuant to an earlier agreement.

While statutory history suggests that 18 U.S.C. §666 was initially intended to apply to gratuities, Congress' intent later changed. When it was first enacted, 18 U.S.C. §666 used language like that of the law regulating federal officials' acceptance of gratuities. When it was amended in 1986, however, that language was removed, causing the law to resemble the bribery laws governing federal officials and suggesting that it should be interpreted as a bribery statute.

The Court interpreted the penalty for violating 18 U.S.C. §666 as offering further evidence that the statute criminalizes bribes, not gratuities, as bribes usually have a harsher penalty than illegal gratuities do. Federal officials who accept a bribe may be punished by up to 15 years in prison, while those who accept an illegal gratuity may only be punished with up to two years. 18 U.S.C. §201(b), §201(c). To read 18 U.S.C. §666 as a gratuity law would create an illogical situation in which gratuities are punished as harshly as bribes, and state and local officials may receive a significantly higher sentence than federal officials for the same offense.

The principles of federalism dictate that states have the "prerogative to regulate the permissible scope of interactions between state officials and their constituents." *McDonnell v. United States*, 579 U.S. 550, 576 (2016). A broad reading of 18 U.S.C. §666 would override all state and local laws and regulations addressing gratuities and subject 19 million state and local officials to federal authority. Because "Congress does not lightly override state and local governments on such core matters of state and local governance," the majority held that it is better to give the statute a narrow reading than a broad one.

Fair notice also demands that the statute be interpreted narrowly. The government argued that the statute does not ban all gifts, only "wrongful" ones, with no guidance on what a wrongful gratuity is. More specificity is necessary, though, for criminal penalties to be imposed. To avoid ambiguity that would cause unsuspecting individuals to incur criminal sanctions, the Court interpreted 18 U.S.C. §666 to apply exclusively to bribery.

Concurrence. In Justice Gorsuch's concurring opinion, he argued that the prevailing reason the statute should be interpreted to apply exclusively to bribery is the rule of lenity. The rule of lenity requires criminal statutes to be construed in a defendant's favor if the statute's language is ambiguous. Because the six factors relied on by the majority create reasonable doubt as to whether gratuities are included in 18 U.S.C. §666 prohibitions, the rule of lenity requires that the statute be construed to apply only to bribery.

Dissent. Justice Jackson, joined by Justice Sotomayor and Justice Kagan, dissented from the majority's opinion and interpreted 18 U.S.C. §666 to forbid both bribery and illegal gratuities, based on a textual analysis of the statute.

Rather than differentiating bribery and illegal gratuities by a mens rea, Justice Jackson characterized bribery as involving a quid pro quo and described a gratuity as a reward for specific behavior that will be committed or has already been committed, without any quid pro quo agreement between the parties. *United States v. Sun-Diamond Growers of Cal.*, 526 U.S. 398, 404-405 (1999). While the majority cited several federal laws that use the term "reward" to refer to bribery, other federal laws use the term in reference to gratuities, so the word is not indicative of Congress' intent to address bribery. In order to give meaning to each word of the statute the dissent argued that 18 U.S.C. §666 must be interpreted to apply to gratuities.

Justice Jackson supported this textual analysis with legislative history that shows 18 U.S.C. §666 was originally understood to cover both bribes and gratuities. When Congress amended the law in 1986, it described the changes as "technical and minor." H.R. Rep. No. 99-797, p.16 (1986). The changes included adding a mens rea requirement and the phrase "intending to be influenced or rewarded." The House Report stated that 18 U.S.C. §666 is meant to parallel 18 U.S.C. §215, a law that also has been described as prohibiting gratuities. See H.R. Rep. No. 99-797, p.30, n.9 (1986); H.R. Rep. No. 99-335, p.6, n.25 (1985).

While Justice Jackson interpreted the law to forbid gratuities, she did not interpret it as a boundless prohibition. According to Justice Jackson's analysis, 18 U.S.C. §666 applies only when gifts are given or accepted "corruptly": either wrongfully or with a "consciousness of wrongdoing." This mens rea requirement would protect officials who are not intending to accept illegal gratuities and would ensure 18 U.S.C. §666 continues to be applied as it has been historically.

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