

New York Democrat Sheldon Silver's corruption conviction is overturned

By Philip Guelpa
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This past Thursday, the 2015 conviction of the former speaker of the New York State Assembly, Democrat Sheldon Silver, was overturned by a federal appeals court. Silver had been convicted of using his official position to obtain nearly \$4 million in illegal payments in return for a variety of favors that benefitted wealthy firms and individuals.

The appeals court decision was based on a ruling last year by the US Supreme Court in the case of Bob McDonnell, former Republican governor of Virginia, which reversed his earlier conviction for taking bribes. The Supreme Court's unanimous decision narrowed the definition of corruption by limiting what can be considered as "official actions." In effect, this openly acknowledged that bribery, influence peddling, and other such "quid pro quo" arrangements between politicians and wealthy constituents are simply "business as usual," provided that they are done with sufficient discretion.

Chief Justice John Roberts described McDonnell's actions in arranging meetings and otherwise promoting the owner of a diet supplement business, for which he and his wife received a variety of gifts, including "Ferraris, Rolexes, and ball gowns" totaling more than \$175,000, as "distasteful," but not illegal.

Silver's moneymaking operation, netting him more than \$4 million, was at least an order of magnitude greater, in terms of the amount of money changing hands, and more thoroughly constructed, than McDonnell's piddling emoluments for services rendered. Among other schemes, Silver arranged for constituents with tax issues to be steered to a particular law firm, from whom he then received kickbacks, camouflaged as "consulting fees." During his trial, Silver's defense was that his actions were merely business as usual.

The appeals court's overturn of Silver's conviction has been characterized as hinging on a legal technicality—that the original trial judge did not properly instruct the jury in accordance with the Supreme Court's ruling. According to the appeals court, the trial judge's instructions defined official actions too broadly. Echoing Chief Justice Roberts, the appeals court's ruling states, "We recognize that many would view the facts adduced at Silver's trial with distaste," but questions whether a "properly instructed" jury would have found him guilty. This is much more than a technicality. It speaks to the fundamental way in which capitalist politicians and their wealthiest constituents conduct business.

In addition to the McDonnell case, the appeals court also referred to the Supreme Court's ruling in the case of Jeffrey Skilling, former CEO of Enron, which found that to be illegal the recompense received must be an actual bribe or kickback. In other words, unless an envelope stuffed with money or the like actually changes hands, it's not illegal, even when it is clear to everyone that things or services of value are being exchanged for personal or corporate gain.

Thus, in a clear case of class justice, conduct including honest services fraud, extortion, and money laundering, which a jury of ordinary citizens judged as blatantly corrupt, and for which any working class defendant would be sent to prison without a second thought, could be defined away by the legal system representing the ruling class for whom this is normal behavior.

Silver's actions, far from being an isolated case, are merely one instance of the systemic corruption that permeates government. The state of New York is a prime example.

In addition to Silver, in recent years a number of

other New York politicians, including the former majority leader of the State Senate, Republican Dean Skelos, and his predecessor Joseph Bruno, have also been indicted, and some convicted, of similar corrupt behavior. Over the last decade and a half, over 30 New York legislators have left office due to ethical misconduct, a further indication that “corruption” is, indeed, business as usual.

Serious allegations of corruption have also been raised against close associates of the state’s current governor, Democrat Andrew Cuomo, though not as yet involving the governor himself. Cuomo, who made early noises about fighting corruption, has scuttled these efforts, which, in any case, had little support in the legislature.

Allegations of corrupt practices have also recently been made against New York City’s Democratic mayor, Bill de Blasio, but no charges have been brought.

Periodically, and especially in times of social tensions, when the corruption of capitalist politicians becomes so blatant as to threaten to discredit the myth of democracy in the eyes of the working class, reform and anti-corruption efforts are brought forth in an attempt to restore the illusion that the law is fair and applies equally to all. These moves are always short-lived and leave no lasting result. Such was the case in recent years when prosecutions by the US attorney’s office in New York, under the direction of Preet Bharara, led to the convictions of Silver and Skelos. Silver’s conviction has been overturned and that of Skelos may well be also. Bharara has been fired by President Trump after he refused to resign.

Various commentators have expressed the opinion that in the context of the two Supreme Court rulings and now the overturning of the Silver conviction, prosecutions of politicians for corruption will become increasingly rare.

Federal prosecutors have stated that they plan to retry the Silver case and have expressed confidence in a re-conviction. That seems unlikely.

Trump’s overt use of office to promote his personal business dealings and those of his family is simply the most egregious and unabashed expression of the reality that capitalist government is an enterprise of, by, and for the ruling class, including for the personal enrichment of its members. The occasional sacrifice of

one or two individuals, even when carried through, will do nothing to end this kleptocracy. Only the working class, enacting a socialist program, can put an end to the fundamental cause of corruption—the capitalist system.

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