

Lawyers: Conviction vs. O'Brien unlikely

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Federal prosecutors next up at bat in pursuit of former Probation Chief John "Jack" O'Brien are likely to strike out in trying to get a jury to criminally convict him, experts said.

"The government in these cases needs to have proof that there was an exchange of money for official acts. And that wasn't charged," said Boston defense attorney Martin Weinberg. "I think even charging O'Brien with these classical political favors is taking federal corruption cases to a new frontier."

O'Brien, 56, of Quincy, faces 17 new bribery charges in a 56-page indictment accusing him and two former top deputies, Elizabeth V. Tavares and William H. Burke III, of throwing jobs to candidates sponsored by influential legislators, including Senate President Therese Murray and now House Speaker Robert A. DeLeo, who were in a position to keep state monies rolling into the department.

"It is clear that I am not a party to the indictment, but I want to state emphatically: I only recommended job applicants who were qualified. I never gave or received any benefits from those recommendations, and I never traded jobs for votes," said DeLeo in a statement. Murray's office also denied she had any involvement in the case.

O'Brien was acquitted April 16 on state charges of throwing former Treasurer Tim Cahill an \$11,000 fundraiser in 2005 in exchange for a job for O'Brien's wife at the Lottery.

"The real problem the government had in state court is that people understand this is politics as usual in Massachusetts," said defense attorney Max Stern. "And the question is: Why is this criminal? The jury had a problem with that in the state case and I think they'll have a problem with it in the federal case."

Tavares' attorney, Brad Bailey, said she is innocent, telling the Herald, "These are repeated instances of the government trying to make a case out of facts that don't fit, but also which, in our opinion, cannot be proven beyond a reasonable doubt."

O'Brien's attorney, Stylianus, Sinnis said his client "didn't take one penny for his personal use."

"The government is trying to criminalize politics," he said. "This is what politicians do. If you're head of a state agency, I assume you're trying to get funds for your department to do a good job. If that now is illegal, then all of politics are under scrutiny."

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