



Architect Tells 1st Circ. Casino Bribe Case Lacked Proof

By [Brian Dowling](#) ·

Law360 (August 7, 2023, 8:48 PM EDT) -- A Rhode Island architect convicted of bribing a Massachusetts tribal official with a Craigslist-bought Bowflex machine and a weekend stay at a glitzy Boston hotel told the First Circuit on Monday that prosecutors' circumstantial case against him was too thin to prove a quid pro quo related to the tribe's casino development.

In an 86-page brief appealing his [conviction](#) on a single count of federal programs bribery, Robinson Green Beretta architect David DeQuattro said the trial evidence fell short of proving that the exercise machine and the hotel stay were given to protect his firm's contract with the Mashpee Wampanoag tribe for its \$1 billion First Light resort casino.

"There was no evidence that the contract was in need of any 'protection' whatsoever," DeQuattro said, noting the tribe had "complete satisfaction" with the firm's work.

The jury's mixed verdict in May 2022 found DeQuattro guilty of the single count and former Mashpee Wampanoag Chairman Cedric Cromwell guilty of extortion, bribery and extortion conspiracy.

Insisting that the items were gifts, not bribes, and were born of personal friendship with Cromwell and his desire for repeat future business, DeQuattro said U.S. District Judge Douglas P. Woodlock misapplied a First Circuit rule that says the tie goes to the runner, in effect, when competing evidence of

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innocence or guilt weighs equally, or nearly so.

The architect urged the First Circuit to reject a line of argument the government advanced in post-trial motions framing the Bowflex and hotel stay convictions as evidence of "increased toxicity" after DeQuattro had agreed to give Cromwell multiple \$10,000 checks to support his reelection. The jury rejected the government's claim that the payments amounted to bribes.

That evidence, rejected by the jury at trial, shouldn't have been a basis for the court to uphold the verdict for the separate gifts, DeQuattro said.

"Treating the evidence as showing 'a cumulative series of bribes,' as the government urged below, when the jury, through its acquittals, has plainly said that it was not, and upholding DeQuattro's conviction on that basis, is fundamentally inconsistent with the historical function of juries," the architect said.

The brief also claimed Judge Woodlock's decision to bar the jury from returning a verdict for a day and a half until he had delivered them updated written instructions was an abuse of discretion and a violation of court rules.

The move "diminished the impact of the parties' closing arguments, unduly interfered with the jury's prerogative to deliberate how it chose, undermined the importance and primacy of the oral instructions, and elevated the importance of the issues covered by the supplemental instructions (i.e., the offense definitions and elements) over other crucial matters such as proof beyond a reasonable doubt and the defendants' right not to testify," DeQuattro said.

The architect also said the government failed to prove the bribery involved a program that received federal funds because the [Mashpee Wampanoag Tribe](#), which received government money, is a distinct legal entity from the Mashpee Wampanoag Gaming Authority, whose work was implicated

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by the alleged bribery scheme.

Robinson Green Beretta's contract with the authority included a liability exclusion for the tribe, DeQuattro said, and all its invoices were paid by the authority, not the tribe. The authority carried the "exclusive power to do any and all things necessary or desirable with the development," according to the filing.

DeQuattro cited two Eleventh Circuit opinions that ordered reversals of federal programs bribery convictions for entities adjacent to federally funded groups. In those cases, the court declined to conflate the groups involved in alleged bribery with the affiliated entities that received federal funding.

"There is, therefore, no way to square these Eleventh Circuit precedents with the government's contention that the Gaming Authority's purported lack of independence negates the need to prove the statutory jurisdictional element with respect to that specific entity," the architect said.

DeQuattro attorney Martin G. Weinberg said the appeal "raises a myriad of issues that will help define the outer contours of programs bribery law," as well as bringing a "strong constitutional challenge" to the government's use of acquitted conduct to save its verdict.

A spokeswoman for the U.S. attorney's office declined to comment Monday.

The government is represented by Karen L. Eisenstadt of the [U.S. Attorney's Office for the District of Massachusetts](#).

DeQuattro is represented by Martin G. Weinberg of Martin G. Weinberg PC, Kimberly Homan, and Michael Pabian.

The case is U.S. v. DeQuattro et al., case numbers 23-1115 and 23-1139, in the [U.S. Court of Appeals for the First Circuit](#).

--Editing by Gemma Horowitz.