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Architect Says Gov't Can't Back Up Casino Bribery Conviction

By **Andrew Westney**

Law360 (June 24, 2022, 9:02 PM EDT) -- An architect convicted of giving bribes to the leader of the Mashpee Wampanoag Tribe has pressed a Massachusetts federal court to overturn his conviction, saying the federal government wants the court to back a jury's guilty verdict "almost solely on the basis of acquitted conduct."

The federal government on June 17 asked the court to reject Robinson Green Beretta architect David DeQuattro's bid for a post-trial acquittal and a new trial, saying the government "presented sufficient evidence to prove beyond a reasonable doubt" that DeQuattro gave then-Mashpee Wampanoag Tribal Chairman Cedric Cromwell a Bowflex exercise bike and a luxury Boston hotel stay as bribes to protect the architecture firm's design contract with the tribe.

DeQuattro countered in a **filing** Thursday that the government "point[ed] almost exclusively to circumstantial evidence offered and rejected by the jury" to support its claims that there was a corrupt quid pro quo exchange involved, when the Bowflex machines and hotel reservation "were gifts or, at most, gratuities, rather than bribes."

DeQuattro said they were given to "encourage Mr. Cromwell to support or participate in future projects together," and "this inference was, at the very least, equally strong (and the defense contends far stronger) as compared to the government's proffered inference that the gifts were corruptly intended by both parties to be in exchange for protection of the ... contract."

The jury's **mixed verdict in May** acquitted DeQuattro of bribing Cromwell with a \$10,000 political donation to his reelection campaign, and rejected a related conspiracy charge.

Cromwell, who served as chair of the Mashpee Wampanoag Gaming Authority, was found guilty of soliciting the same \$10,000 donation as a bribe, plus the exercise bike and hotel stay. The jury also convicted the former tribal chairman on extortion and extortion conspiracy counts.

Prosecutors claimed DeQuattro paid the bribes to Cromwell in order to protect his firm's contract with the Mashpee Wampanoag Gaming Authority as the "owner's representative" on the proposed First Light Casino the tribe was pursuing in Taunton, Massachusetts.

During closing arguments, the government conceded there was no direct evidence of a quid pro quo between the men but clarified that the jury could find that one was implied through the evidence.

DeQuattro **filed his post-trial motion** for acquittal in early June, saying the evidence was too thin to sustain the jury's guilty verdict for him.

The architect said the government's failure to connect the dots between the gifts and the tribe's action on the contract amounted to a "gaping absence of evidence."

DeQuattro's attorney Martin G. Weinberg of Martin G. Weinberg Law PC said in a statement Friday that "the post-verdict litigation raises an important and unique legal challenge to whether the government can rely on evidence solely relevant to the charges for which Mr. DeQuattro was

acquitted — conspiracy and the making of political donations, which the jury concluded were not bribes — to support findings that two gifts were bribes that we contend were not sufficiently proven with or without consideration of the acquitted conduct."

Weinberg said that with a study showing that only a small percentage of federal defendants go to trial, "relying as heavily as the government does on acquitted conduct to satisfy their burden of proof on a Rule 29 challenge to the remaining charges diminishes the values that are at the heart of the right to trial by jury."

Representatives for the federal government were not immediately available to comment Friday.

The federal government is represented by Jared C. Dolan and Christine J. Wichers of the U.S. Attorney's Office for the District of Massachusetts.

Cromwell is represented by Timothy R. Flaherty.

DeQuattro is represented by Martin G. Weinberg, Michael Pabian and Maksim Nemtsev.

The case is U.S. v. Cromwell et al., case number 1:20-cr-10271, in the U.S. District Court for the District of Massachusetts.

--Additional reporting by Brian Dowling. Editing by Daniel King.