

Atty Convicted Of Pot Bribe Wins Bail At 1st Circ.

By **Julie Manganis**

Law360 (June 21, 2024, 4:16 PM EDT) -- A suspended Massachusetts attorney convicted last fall of attempting to bribe a police chief to help his client secure a cannabis license will remain free pending his appeal, the First Circuit ruled Friday, reversing a district judge's decision.

Sean O'Donovan, a real estate attorney who previously served on the city of Somerville's governing body, is appealing his October conviction of honest services wire fraud and federal programs bribery, for which he was **sentenced** in February to two years in prison. He claims he was **wrongly barred** from presenting an entrapment defense and that U.S. District Judge William G. Young made other errors.

Judge Young denied O'Donovan's request to remain free pending his appeal, later issuing a more detailed explanation at the request of the First Circuit, in which he said, "While no trial is perfect — nor am I — here the defendant had a fair trial and received a jury verdict amply justified by the evidence."

However, The First Circuit, in its brief order Friday, said that after reviewing Judge Young's report, the submissions by O'Donovan and the government, and relevant portions of the record, "we conclude that O'Donovan has satisfied the requirements for bail pending appeal."

The appellate court said O'Donovan would be subject to the same terms of release he was required to follow before his trial.

O'Donovan had argued it would be unfair to serve his sentence while his appeal is pending given the length of time — on average, about 17 months — it takes for appeals to process and the potential that his convictions could be vacated after he had spent a significant amount of time in custody.

O'Donovan was convicted of offering \$25,000 to Michael Buckley, the brother of Medford Police Chief Jack Buckley, a childhood friend who was closely involved in granting permissions for cannabis retail licenses in that city.

O'Donovan, whose law license was suspended because of the conviction, represented a company called Theory Wellness, which sought to open a dispensary in Medford, the city next to Somerville. Both cities are just outside Boston.

After learning O'Donovan had approached his brother about the application, Jack Buckley went to the FBI, and Michael Buckley agreed to wear a wire for several additional meetings with O'Donovan.

O'Donovan says it was the FBI that first proposed the idea of paying cash, and that all he had hoped for when he first met with the chief's brother was "a fair shake" in the license approval process. He was barred from offering an entrapment defense, which is a focus of his appeal.

Another issue O'Donovan is expected to raise in his appeal is whether the federal program's bribery statute requires that the recipient of a bribe take action based on it.

O'Donovan's counsel, Martin G. Weinberg of Martin G. Weinberg PC, told Law360 on Friday that the "appeal raises several important legal issues that will help define the scope of both the wire fraud and programs bribery federal statutes, two of the principal federal criminal statutes used in public corruption cases involving local or state officials."

The U.S. Attorney's Office for the District of Massachusetts declined to comment.

U.S. Circuit Judges William J. Kayatta Jr., Gustavo A. Gelpi and Julie Rikelman sat on the panel for the First Circuit.

O'Donovan is represented by Martin G. Weinberg of Martin G. Weinberg PC, Michael Pabian of Michael Pabian Law Office LLP and Timothy R. Flaherty.

The government is represented by Kristina Barclay of the U.S. Attorney's Office for the District of Massachusetts and Jonathan E. Jacobson of the U.S. Department of Justice's Criminal Division.

The cases are U.S. v. Sean O'Donovan, case number 1:22-cr-10141, in the U.S. District Court for the District of Massachusetts, and U.S. v. O'Donovan, case number 24-1200, in the U.S. Court of Appeals for the First Circuit.

--Additional reporting by Brian Dowling. Editing by Drashti Mehta.