

THE JEFFERSON JOURNAL

...a commentary from

THE THOMAS JEFFERSON INSTITUTE FOR PUBLIC POLICY

Reflections on the McDonnell Saga

By Michael Thompson

7/12/2016 – Justice Department lawyers and lower federal courts have been unanimously over-ruled by the U.S. Supreme Court in the corruption case brought against former Governor Bob McDonnell.

The Supreme Court's ruling is a breath of fresh air.

Johnny Williams, a person McDonnell thought was a friend, offered and the former Governor and his family members accepted, \$175,000 in various gifts. A Governor, any Governor, simply should not accept such gifts, because there is no way it can ever look “good.”

So what did Williams get in return from the Governor? Nothing. Williams' dietary supplement did not impress the Health Secretary ... the Secretary of Commerce did not want the state to get involved with this product... Williams didn't even receive an appointment to one of several hundred positions on commissions and other government bodies that a Governor has available to offer. All Governor McDonnell did, as previous governors have done, was ask a couple of Cabinet officers to meet with Williams to see if there was anything worthwhile with his diet product. Those Cabinet officers, after meeting with Williams, did not want to deal with the product and the Governor never urged otherwise.

And what did the Justice Department do? Its attorneys approached Jonnie Williams, whose company was facing serious legal problems itself with the federal government and whose product had not received state support, and told him if he would turn on Governor McDonnell and offer damning evidence against this popular Governor who was prominently mentioned as a future vice presidential candidate, they would cancel the federal investigation into his company. And guess what? Williams turned on McDonnell. The Justice Department went after McDonnell using an expansive interpretation of the federal law, and convicted him and his wife of trading government favors for personal gain.

And what was the government favor? McDonnell did what elected officials and private citizens do many times for someone who has an idea or a product that might be interesting and worth pursuing: he had experts review the product – in this case two of his appointed Cabinet

Officers. And when those experts said, “Thanks but no thanks” to Williams, the Governor accepted those conclusions and did not ask for reconsideration. And the Governor also invited some health experts over to his official home to hear the story of this local company’s dietary supplement. Again, nothing nefarious.

The U.S. Supreme Court ruled, with every Justice appointed by a Republican or Democrat president voting in unison, that the Justice Department was wrong to rely on such an overly expansive definition of the federal corruption law. It said, as did over 40 state attorneys general, a majority of them Democrats, that no Governor or elected official could be “safe” if setting up meetings for constituents became the reason to prosecute for corruption.

Bob McDonnell accepted gifts that should have been turned down, not because they were illegal under state law, but such gifts simply “look bad.” However, no government quid-pro-quo occurred in exchange for these gifts. McDonnell did not provide Williams with anything from the government. He did not “sell government favors.” Bad judgement is not criminal behavior. There is a huge difference as the Supreme Court unanimously ruled.

Bob McDonnell was pursued by an overly aggressive Justice Department offering immunity from a federal prosecution to Jonnie Williams in exchange for testimony against the former Governor. As it turned out, not only was the Justice Department and lower federal courts slapped down by the Supreme Court’s unanimous decision, but Williams is now free from that federal prosecution that was hanging over his head at the time. The federal government’s Justice Department blew it across the board.

This Supreme Court ruling shows the genius of our Founding Fathers in setting up our three independent branches of government. In this case reason prevailed. The system worked.

During a radio appearance on WTOP's "Ask the Governor" program, Governor McAuliffe was asked if he agrees with those who think McDonnell shouldn't face a second trial. The Supreme Court "pretty much said that," McAuliffe replied. "It is time to move on," McAuliffe said. "This man has paid the price."

Governor McAuliffe is absolutely correct.

-30-

Michael Thompson is President of the Thomas Jefferson Institute for Public Policy. He can be reached at info@thomasjeffersoninst.org.