

# White Collar Defense and Investigations



July 3, 2024

If you have any questions regarding the matters discussed in this memorandum, please contact the attorneys listed on the last page or call your regular Skadden contact.

This memorandum is provided by Skadden, Arps, Slate, Meagher & Flom LLP and its affiliates for educational and informational purposes only and is not intended and should not be construed as legal advice. This memorandum is considered advertising under applicable state laws.

One Manhattan West  
New York, NY 10001  
212.735.3000

## US Supreme Court Holds That Federal Bribery Law Does Not Criminalize Gratuities

On June 26, 2024, the U.S. Supreme Court found that the main federal anti-corruption statute proscribing bribes to state and local officials does not criminalize gratuities, which the Court described as “payments made to an official after an official act as a token of appreciation.”

The case, *Snyder v. United States*, 603 U.S. \_\_\_\_ (2024), is the most recent in a line of Supreme Court decisions, going back to at least 2010, that have gradually narrowed the scope of various anti-corruption laws and theories, such as by limiting the reach of honest services wire fraud in the case of private citizens (*Skilling v. United States*) and tightening the scope of “official acts” in federal bribery cases (*McDonnell v. United States*).

The Court has repeatedly indicated a desire to narrowly construe corruption statutes and curb prosecutorial overreach. Simultaneously, federal prosecutions for corruption charges have been declining.

In this latest 6-3 ruling, the Court reversed the bribery conviction of a former Indiana mayor, James Snyder, under 18 U.S.C. § 666 (Section 666). Section 666, in relevant part, prohibits “corruptly” soliciting or accepting anything of value with the intention of being “influenced or rewarded.”

### Background

In 2013, while Snyder was mayor of Portage, Indiana, the city awarded two contracts worth over \$1.1 million to purchase trash trucks from a local trucking company. The following year, 2014, Snyder received a check for \$13,000 from the company.

Snyder said that he had provided consulting services to the company, but no evidence corroborating this claim was produced during the federal investigation, and employees at the trucking company testified to the contrary.

After trial, a federal jury found Snyder guilty of violating Section 666 in relation to this payment, after being instructed by the court that the government had to prove that Snyder “acted corruptly, with the intent to be influenced or rewarded.” Snyder was sentenced to 21 months in prison.

On appeal, Snyder argued that Section 666 criminalizes only bribes, not gratuities. The U.S. Court of Appeals for the Seventh Circuit disagreed with Snyder and affirmed the conviction.

# US Supreme Court Holds That Federal Bribery Law Does Not Criminalize Gratuities

---

## The Supreme Court's Ruling

In light of a split among the courts of appeals on this issue, the Supreme Court granted *certiorari*. The Court held that Section 666 narrowly criminalizes bribes made or agreed upon **before an official act**, but not rewards or gratuities given **after the fact**.

Justice Brett Kavanaugh, writing for the majority, noted that criminalizing the acceptance of gratuities would raise federalism concerns since state and local governments “have the prerogative” to regulate their officials’ acceptance of gratuities. Disrupting those state and local governments’ “carefully calibrated policy decisions,” he wrote, would “significantly infringe on bedrock federalism principles.”

Justice Kavanaugh also expressed concerns that the government’s proposed interpretation of Section 666 would criminalize, or at least raise doubts about, innocuous gifts (such as a steak dinner for a college professor) and “would radically upend gratuities rules and turn [Section] 666 into a vague and unfair trap for 19 million state and local officials.”

## Implications

Prosecutors frequently employ Section 666 against a wide range of alleged public corruption, so this ruling is likely to result in fewer federal prosecutions of state and local officials.

It remains to be seen what impact, if any, the *Snyder* decision may have on other statutes dealing with bribes and payments to government officials, such as the Foreign Corrupt Practices Act (FCPA). However, *Snyder* will likely cause prosecutors to focus more on developing evidence of an improper agreement **existing before an official act** in any future federal corruption prosecutions. The FCPA, in particular, prohibits payments to foreign officials intended to corruptly influence or induce such officials.

The *Snyder* ruling may bolster the argument that the FCPA, which textually proscribes influencing but not rewarding, does not extend to gratuities without evidence of a *quid pro quo*.

---

## Contacts

### Andrew M. Good

Partner / London  
44.20.7519.7247  
andrew.good@skadden.com

### David Meister

Partner / New York  
212.735.2100  
david.meister@skadden.com

### Devaanjana Goel

Associate / London  
44.20.7519.7239  
devaanjana.goel@skadden.com

### Ryan D. Junck

Partner / London  
44.20.7519.7006  
ryan.junck@skadden.com

### Matthew E. Sloan

Partner / Los Angeles  
213.687.5276  
matthew.sloan@skadden.com