

Court Slaps Feds Again For Christie-Era NJ Prosecutions

By [Andrew Kreig](#) | Last updated Feb 24, 2011, 5:17 pm

In a major setback for the U.S. Justice Department, a federal appeals court last week dismissed federal bribery and conspiracy charges against two New Jersey Democrats targeted in a trap set by New Jersey Gov. Chris Christie.

More generally, the ongoing court battles over the prosecutions that Christie, below left, launched as his state's U.S. Attorney could hurt his image as a rising national political star within Republican ranks and as a cost-cutting corruption-fighter. Beyond that, the Justice Department's policies are national in scope and raise intriguing issues about how government can best fight corruption without wasting taxpayer money and violating civil rights.

On Feb. 17, the U.S. Third Circuit Court of Appeals ruled that Christie's successors wrongly applied federal bribery law when they convicted Jersey City mayoral candidate Louis Manzo, above right, and his campaign manager (and brother) Ronald. As New Jersey's U.S. Attorney, Christie set in motion a sting that implicated such local candidates before he resigned as the Bush administration expired in late 2008.

The three-judge appeals court [ruled](#) that prosecutors wrongly charged the Manzos under the 1946 Hobbs Act. Authorities have never previously used the law to win convictions against a candidate not elected to office, the judges wrote. Their ruling upheld a similar pre-trial ruling by José L. Linares, a Republican appointed by President Bush in 2002.

Republican Circuit Judge D. Michael Fisher authored the appellate ruling with concurrence from two Democrats. The decision delivered yet another courtroom loss to federal prosecutors trying to vindicate their methods. The case illustrates how prosecutors from both parties use their vast powers to win convictions in ways extremely difficult to defend, except for those fortunate enough to obtain the right lawyer and right judges.

Longtime Massachusetts litigator and Cato Institute fellow Harvey Silverglate, among others, describes this problem in his book, "*Three Felonies a Day: How the Feds Target the Innocent.*" The book title reflects the author's theme that almost any professional in the country unwittingly undertakes actions that can be categorized as felonious, thereby enabling prosecutors to select targets for political or other hidden motives.

Last week's decision also illustrates why the 46-defendant "Bid Rig III" case is one of the nation's most flawed official corruption prosecutions — even as Christie continues to win from political pundits a national image as a reformer and friend of taxpayers. That's how he is portrayed in a front-page Washington Post [story](#) Feb. 23. A few days earlier, Politico (a tabloid for political insiders) [reported](#) that a Christie advisor filed papers to create a political action fund to advance the governor's record nationally.

However, New Jersey's federal prosecutors have lost their last two jury trials in the case, a record of failure that is unprecedented in official corruption cases in New Jersey during the past decade, according to a widely published Associated Press [report](#).

Among the reasons for the losses: Defense attorneys use cross-examination to inform jurors that the chief prosecution witness for the feds, Solomon Dwek, committed a \$50 million bank fraud and ran a brothel before the government worked out a deal to supply him with vast sums of taxpayer money to try bribe local politicians and persuade rabbis to launder funds.

Moreover, Dwek, 38, has admitted on the witness stand that prosecutors stood by as he has lived on between \$10,000 and \$12,000 a month obtained from court-supervised assets of the victims of his frauds. With times hard in New Jersey as elsewhere, this largess to Dwek not only damages prosecutors trying to win the Bid Rig cases but undermines public confidence in the legal system.

The government has had to stop using Dwek because each remaining defendant digs deeper into his past. Those probing beyond the Dwek cases can find also Christie's track record of using his prosecution post to grant tens of millions of dollars in no-bid federal contracts to Republican former colleagues who have left the Justice Department. These include former Attorney Gen. John Ashcroft, as we (among others) have reported.

Ralph Marra, whom Christie appointed upon leaving office to be his successor as acting U.S. Attorney, supervised the Dwek sting for the first half of 2009 as the Obama administration organized itself, a process that moved especially slowly at the Justice Department.

Marra announced the indictments in July 2009 just as the Christie's gubernatorial campaign was moving into high gear with its themes of corruption-fighting. All but one of the political defendants was a Democrat. Some news reports claim the charges were timed by his former staff for maximum impact to improve the candidate's standing with voters and news reporters.

Louis Manzo told us this weekend, "I thank a just God for answering a lot of people's prayers by granting this victory and the wisdom of the Appellate Court for pronouncing it." Manzo, 56, who lost his mayoral bid in 2009, describes himself as having his life ruined and becoming virtually unemployable because of the indictment. He describes Dwek's offers as campaign contributions. Authorities characterize them as \$27,000 in bribes or promises in order to advance real estate developments.

Rebekah Carmichael, spokeswoman for the Obama-nominated U.S. Attorney Paul Fishman, left, who now runs the office, commented to us only, "We are reviewing the Court's decision to determine our next steps." Michael Drewniak, Christie's spokesman who followed him from the U.S. attorney's office to the governor's mansion, did not respond to our request for comment.

Since last spring our Justice Integrity Project [website](#) has illustrated why the Bid Rig III case is one of the nation's most notorious political prosecutions.

In my opinion, the case is a direct consequence of the unprecedented 2006 political purge of the nation's powerful regional prosecutors to create a culture of what DOJ's then-chief of staff, Kyle Sampson, described in a confidential email to Karl Rove as a need for "loyal Bushies" to decide whom to target and when.

Other emails showed that Christie was originally on the list of prosecutors slated to be purged in 2006, much like New Mexico U.S. Attorney David Iglesias, below at right with Silverglate. The 2009 Iglesias autobiography *In Justice* describes his shock at learning that the department he idealized was firing him for failure to prosecute Democrats on dubious charges to help win seats in the 2006 elections. Christie, by contrast, is reported to have caught wind of his vulnerability and was able able to save his job in part because of his good relationship with Rove.

The problem has become a bipartisan scandal under the Obama administration, as we [described](#) last September in, "Politicians, Press Cheat Taxpayers by Whitewashing DOJ's Wasteful Election-Season Witch-Hunt."

Marra supervised the Manzo sting and Bid Rig III indictments under the Obama administration, and then resigned to take a plum post in the Christie administration helping supervise legalized gambling. This was part of an exodus of at least a dozen staffers from the U.S. attorney's office to the Christie administration.

The Christie-conferred jobs fostered an appearance that an ostensibly neutral federal justice system was a stepping stone for jobs and no-bid consulting contracts for well-placed former prosecutors. These included a top executive in the office to whom Christie gave an unreported \$46,000 loan while she was helping supervise the Dwek sting and indictments.

A Justice Department internal investigation by the Office of Public Responsibility reportedly absolved Marra last summer from complaints about his comments made about defendants after their arrest and for complaining about FOIA requests from Christie's gubernatorial opponent. But the department has not responded to our request to release its report. Further, no public indication can be found on whether the probe explored any conflict of Marra's obtaining a job with the Christie administration after supervising Bid Rig III.

Meanwhile, Christie's successors at the Justice Department have some tough decisions to make about whether they will cut their losses — or continue as they've been doing to polish the Christie-Marra legacy, apparently as part of the "look forward, not backward" view of Bush-era federal abuses that President-elect Obama articulated as he was taking office..

- First, will the Obama DOJ appeal the Manzo ruling? To do so it might need to find activist judges willing to overturn what the appellate court described as “centuries” of Anglo-American common law restricting relevant legal language on bribery to officials holding office.
- Second, how will authorities handle five defendants who previously pleaded guilty to Hobbs Act violations even though they were not elected officials? Those defendants are largely small-time local candidates with scant funds, but who will probably seek to void their guilty pleas based on the appeals court ruling. How much more money does the Obama administration want to spend to protect the reputations of Christie, Marra and its own appointee, Fishman to use these defendants as guinea pigs in an effort to expand the law’s coverage without benefit of congressional action?

Manzo, who faces several lesser charges even if the bribery counts are dismissed, vows never to give up by joining the 95 percent of accused federal targets who end up pleading guilty, either because they are or because they lack the will and resources to fight any longer.

“I am grateful for John Lynch’s logical and brilliant argument before the Appellate Court,” Manzo said of his attorney. “We strongly contest the government’s statement of facts for the case. It is Fantasyland! We look forward in continuing to follow the truth in this case — while the government continues to run from it.”