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Feds Coined 'Catchphrase' To Convict LA Pol, 9th Circ. Told

By **Craig Clough**

Law360 (November 21, 2024, 9:40 PM EST) -- Mark Ridley-Thomas' attorney on Thursday urged the Ninth Circuit to overturn the former California politician's bribery conviction for scheming to indirectly donate \$100,000 to his son's nonprofit and secure him a university position, saying prosecutors coined the "catchphrase" "funneling" to obfuscate that no bribe actually occurred.

Ridley-Thomas was **sentenced** in August 2023 to 3½ years in prison following his conviction for conspiracy, bribery concerning programs receiving federal funds, honest services wire fraud and honest services mail fraud, but he remains free pending his appeal.

During a hearing in Pasadena, California, that was also livestreamed, his attorney Alyssa D. Bell of Cohen Williams LLP said the government presented a convoluted theory to hide the fact that no one was bribed and everything that occurred was legal.

The honest services counts and part of the bribery count Ridley-Thomas was convicted of were based on him donating \$100,000 to the University of Southern California, so a USC official would turn the money around and direct a \$100,000 donation from the university to a nonprofit operated by Ridley-Thomas' son.

Bell said this is not bribery or honest services fraud because her client needed to receive a "thing of value," and avoiding the appearance of nepotism by indirectly donating to his son's charity does not rise to that level.

"The money was Ridley-Thomas' own money, and the reason the government termed it 'funneling' is because otherwise they would have been placed in the unfortunate position that Ridley-Thomas bribed himself with his own money," Bell said. "In order to avoid that, they had to coin a term to describe this transaction."

Bell also said jurors asked the court if the "thing of value" had to be tangible, and that prosecutors agreed with the court's answer that it did not. This contradicts their arguments on appeal, which is that the bribe in question is the tangible \$100,000 payment to his son's nonprofit, she said.

"If their theory is what they've tried to make it out to be on appeal, which is, this is a cash bribe, then [the judge's] response and their agreement to that response is nonsensical," Bell said. "So is the use of the term 'funneling.' If proceeding on a cash bribe theory, the government did not need a catchphrase to describe it. Instead, they had a scenario where there was no cash bribe. Ridley-Thomas did not take cash from USC."

Assistant U.S. Attorney Lindsey Greer Dotson told the panel Bell was misconstruing the government's theory of the case. Avoiding the appearance of nepotism was not the thing of value Ridley-Thomas received, she said. That was his motivation for committing the crime, but the thing of value was the \$100,000 donation to the charity, she said.

"There are two things when we talk about funneling," Dotson said. "Yes, there is the service, the help, but it's ultimately to secure the \$100,000 payment."

Prior to his conviction, Ridley-Thomas was a prominent Los Angeles politician who for decades had served the South Los Angeles region in a number of elected roles. The actions that led to his

conviction occurred while he was on the Los Angeles Board of Supervisors, but by the time he was **indicted** in 2021, he was an elected member of the Los Angeles City Council.

The indictment accused Ridley-Thomas and Marilyn Flynn, the former dean of USC's School of Social Work, of orchestrating a bribery arrangement to provide the politician's son with a cushy landing spot at the university, in exchange for voting in favor of lucrative county social services contracts with the School of Social Work.

The jury acquitted Ridley-Thomas of 11 counts of honest services wire fraud and a single count of honest services mail fraud.


Flynn pled guilty to a felony count of bribery concerning federally funded programs and was **sentenced** to home confinement and probation last year.

Prosecutors said Ridley-Thomas and Flynn began their criminal conspiracy and corrupt arrangement in May 2017 when they teamed up to secure the USC positions for Ridley-Thomas' son Sebastian Ridley-Thomas, who had to find a way to justify his sudden resignation from the California Assembly.

That plan became more urgent after Sebastian Ridley-Thomas was notified via letter on Nov. 28, 2017, by the state Assembly that he was under investigation for alleged sexual harassment, prosecutors said, threatening a #MeToo scandal.

The point of the funneling of \$100,000 was to avoid the political optics surrounding Mark Ridley-Thomas' donation to a nonprofit that would benefit his son, prosecutors said.

At trial, Ridley-Thomas' team argued that everything their client did was legal. Flynn's funneling of the donation may have breached some USC accounting rules, but that had nothing to do with Ridley-Thomas, the defense argued.

On Thursday, much of the oral arguments focused on if Ridley-Thomas received a "thing of value," and a published 2014 Ninth Circuit opinion in *U.S. v. Renzi* , that **upheld** the extortion conviction of former U.S. Rep. Rick Renzi, R-Ariz. The ruling included that a "thing of value" is "defined broadly to include 'the value which the defendant subjectively attaches to the items received.'"

Early into her oral argument, U.S. Circuit Judge Morgan Christen asked Bell about the Renzi case, and Bell said the ruling did not define a "thing of value."

"I thought it talked about what the defendant considers to be valuable, what's valuable to the defendant," Judge Christen said. "The subjective look."

"Yes, Renzi considers the subjective value of the item received," Bell said. "But Renzi was a cash bribe case. Renzi did not deal with the avoidance of nepotism."

As they continued a back-and-forth, Bell said "personal enrichment" is at the heart of honest services fraud, and the evidence in the case didn't prove her client was enriched. But the judge didn't appear convinced and commented, "I'm not sure you're getting around Renzi."

When pushed later on the Renzi case, Bell said, "Our contention is the 'funneling' is not a thing of value, and that that would apply across the board."

Near the beginning of Dotson's argument, she said Renzi controls the case, but Judge Christen commented, "It's complicated, this case. It's not that he picked up the phone or is alleged to have picked up the phone and said, 'I want you to spend \$100,000 of university money.' So is opposing counsel correct that the government characterized this as 'funneling?'"

Dotson agreed the characterization is correct, but added that is a reference to securing the \$100,000 check. She also argued that avoiding "optics" and the appearance of nepotism is not the thing of value in the case that is just "why he engaged in what he did."

"Well, I think there's soundbites in the record that make that a little bit muddy," Judge Christen said. "Please tell me, what's the thing of value?"

"The thing of value is the \$100,000 payment, as instructed in the jury instructions," Dotson said. "The government, when it referenced 'funneling' in its arguments, inherently is referencing that attempt to get USC to issue a check, and the reason that was important to the defendant, and it had value, was because the defendant could not get his money to benefit his son otherwise."

Circuit Judges Morgan Christen, Johnnie B. Rawlinson and Anthony Johnstone sat on the panel for the Ninth Circuit.

The government is represented by Lindsey Greer Dotson of the U.S. Attorney's Office for the Central District of California.

Ridley-Thomas is represented by Alyssa D. Bell of Cohen Williams LLP.

The case is U.S. v. Mark Ridley-Thomas et al., case number 23-2200, in the U.S. Court of Appeals for the Ninth Circuit.

--Additional reporting by Gina Kim. Editing by Kristen Becker.

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