



Proceedings

A monthly newsletter from McGraw-Hill



February 2015 Volume 6, Issue 7

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Dear Professor,

Valentine's Day is near! Welcome to McGraw-Hill's February 2015 issue of Proceedings, a newsletter designed specifically with you, the Business Law educator, in mind. Volume 6, Issue 7 of Proceedings incorporates "hot topics" in business law, video suggestions, an ethical dilemma, teaching tips, and a "chapter key" cross-referencing the February 2015 newsletter topics with the various McGraw-Hill business law textbooks.

You will find a wide range of topics/issues in this publication, including:

1. A Ferguson grand juror who wishes to talk publicly about the case;
2. A defamation lawsuit against Bill Cosby;
3. A proposed Oklahoma law criminalizing the wearing of a "hoodie" in public.
4. Videos related to a) a spousal shooting by a Georgia police chief; and b) a new Illinois law prohibiting employers from asking about an employment applicant's criminal background;
5. An "ethical dilemma" related to the sentencing of ex-Virginia governor Bob McDonnell for corruption; and
6. "Teaching tips" related to Article 3 ("Wearing a Hoodie in Oklahoma Could Soon Cost You A \$500 Fine") and the Ethical Dilemma ("Ex-Virginia Governor Bob McDonnell Gets 2 Years for Corruption") of the newsletter.

Here's hoping you only receive the snow you wish for this winter!

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Of Special Interest

This section of the newsletter covers three (3) topics:

- 1) A Ferguson grand juror who wishes to talk publicly about the case;
- 2) A defamation lawsuit against Bill Cosby; and
- 3) A proposed Oklahoma law criminalizing the wearing of a "hoodie" in public.

Hot Topics in Business Law

Article 1: "Ferguson Grand Juror Sues to Be Allowed to Talk about Case"

<http://www.aol.com/article/2015/01/05/ferguson-grand-juror-sues-to-be-allowed-to-talk-about-case/21124990/>

Note: In addition to the article, please also refer to the video included at the above-referenced internet address.

According to the article, a member of the grand jury that declined to indict a Ferguson police officer in the shooting death of 18-year-old Michael Brown contends in a lawsuit filed recently that the prosecutor in the case has wrongly implied that all 12 jurors believed there was no evidence to support charges.

The American Civil Liberties Union filed the lawsuit on behalf of the unnamed juror, who wants to be allowed to talk publicly about the case but could face charges for doing so because of a lifetime gag order. The juror also says he or she came away with the impression that evidence was presented differently than in other cases, with the insinuation that Brown, not Officer Darren Wilson, was the wrongdoer. No grand jurors have spoken publicly about the case.

Brown, who was black, was unarmed when he was fatally shot after an August 9 confrontation with Wilson, who is white. The shooting in the St. Louis suburb led to widespread unrest, including some protests that resulted in local business being burned and looted. Protests again turned violent November 24, when St. Louis County prosecutor Bob McCulloch publicly announced that the grand jury investigating the case had decided there wasn't enough evidence to indict Wilson. Wilson has since resigned from the department.

"In Plaintiff's view, the current information available about the grand jurors' views is not entirely accurate - especially the implication that all grand jurors believed that there was no support for any charges," the lawsuit says.

The suit was filed against McCulloch, who oversaw the investigation, because his office would be responsible for bringing charges against the juror. McCulloch's spokesman, Ed Magee, said his office had not seen the lawsuit and declined immediate comment.



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"Right now there are only 12 people who can't talk about the evidence out there," ACLU attorney Tony Rothert said. "The people who know the most - those 12 people are sworn to secrecy. What (the grand juror) wants is to be able to be part of the conversation."

The suit also contends that legal standards in the case were discussed in a "muddled" and "untimely" manner. Jurors could have charged Wilson with murder or manslaughter, but nine of 12 would have needed to agree.

The suit does not seek to allow grand jurors in all Missouri cases to be free to discuss proceedings. But it argues that the Ferguson case was unique, and that allowing the juror to speak would be valuable to the national debate about race and police tactics that followed the shooting.

"The rules of secrecy must yield because this is a highly unusual circumstance," Rothert said. "The First Amendment prevents the state from imposing a lifetime gag order in cases where the prosecuting attorney has purported to be transparent."

After the decision was announced, McCulloch took the unusual step of releasing thousands of pages of witness testimony provided in secret to the grand jury. Grand jurors usually hear a condensed version of evidence that might be presented at trial, but the Ferguson grand jury heard more extensive testimony.

The panel - which included nine white and three black members - met on 25 separate days over three months, hearing more than 70 hours of testimony from about 60 witnesses, some of whom provided inconsistent versions of events. McCulloch acknowledged in a radio interview last month that some of the witnesses obviously lied to the grand jury.

Rothert said the grand jury convened in May and heard hundreds of other cases before devoting its attention to the Wilson case in August. The suit contends that McCulloch's office handled the Wilson case far differently than the others, with "a stronger focus on the victim."

Jim Cohen, associate professor at Fordham University Law School and a grand jury expert, said the lawsuit will add to concerns about how the case was handled.

"Believe me, there's already more than a fair amount of skepticism about whether this process was fair, notwithstanding Mr. McCulloch's cynical attempt to pretend that it was fair," Cohen said.

Cohen believes the juror has a strong argument in the lawsuit.

"This matter has been discussed by virtually everybody in the universe with the exception of any person actually subjected to the presentation of evidence," he said.

Last month, state Rep. Karla May, a St. Louis Democrat, asked a joint House and Senate committee to investigate whether McCulloch "manipulated" the grand jury. It wasn't clear if the committee



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would take up that request. Messages were left Monday with May and state Sen. Kurt Schaefer, the committee's chairman.

Discussion Questions

1. What is a “gag order?”

A gag order is a court order restricting information or comment from being made public.

2. What are the advantages and disadvantages of a gag order being imposed on grand jury members?

The advantage of imposing a gag order on grand jury members is that the confidential nature of grand jury proceedings will be preserved. The disadvantage, of course, is that a gag order will likely keep the public from knowing why a grand jury made a particular decision regarding a case.

3. Should the unnamed juror be allowed to discuss the case in public? Why or why not?

This is an opinion question, so student responses will likely vary. As mentioned in response to Article 1, Discussion Question Number 2 above, a gag order preserves the secrecy of grand jury proceedings, with the idea being that a grand jury best operates in strict confidence (This line of thinking is, obviously, subject to debate!) If the unnamed juror is allowed to discuss the case in public, the public may or may not realize some sort of “closure” regarding a very controversial grand jury decision and case.

Article 2: "2 More Women Join Defamation Lawsuit against Bill Cosby"

<http://www.aol.com/article/2015/01/06/2-more-women-join-defamation-lawsuit-against-bill-cosby/21125338/>

According to the article, two women accusing Bill Cosby of sexual offenses decades ago have joined a defamation lawsuit, contending he publicly branded them as liars through statements by his representatives.

The amended complaint was filed recently in U.S. District Court in Springfield, in western Massachusetts, where Cosby has a home in Shelburne Falls.

Cosby is the only defendant in the lawsuit, originally filed last month by Tamara Green, who said he drugged and assaulted her in the 1970s. The two new plaintiffs are Therese Serignese, who said he drugged and raped her in 1976, and Linda Tritz, who alleges he tried to drug her and then sexually groped her in 1970.



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Attorney Joseph Cammarata, who represents the three women, said the civil action allows them to have their allegations heard since criminal statutes of limitation have expired.

"The lawsuit provides an opportunity for women who claim to have been harmed to have their day in court in a forum where the truth can be tried," he said.

Cosby's publicist David Brokaw and lawyer Martin Singer did not immediately respond to requests for comment Monday. Singer has said he expected to prevail in the original lawsuit.

Green first spoke publicly about her allegations in 2005. She said in the lawsuit that after she did media interviews Brokaw and Cosby's lawyer Walter M. Phillips Jr. made statements intended to expose her to public contempt and ridicule. Phillips said last month he represented Cosby in 2005 but no longer does, and he declined to comment further. Brokaw did not return messages then seeking comment on Green's allegations.

Serignese and Tritz, who are from Florida, allege in the amended complaint that when they came forward separately last November, Singer issued responses for Cosby that said they and other accusers were lying.

Since November, at least 15 women have come forward with claims Cosby sexually assaulted them decades ago. Most of the women say he drugged them before he assaulted them.

Cosby, who starred as Dr. Cliff Huxtable on "The Cosby Show" from 1984 to 1992, has never been charged in connection with any of the allegations, and through his representatives he has denied them. A 2005 lawsuit by a Pennsylvania woman was settled before it went to trial.

Cosby's career unraveled after his accusers came forward, with a TV project halted and nearly a dozen standup comedy tour performances canceled or indefinitely postponed. He's scheduled to appear Wednesday in Canada, at a Kitchener, Ontario, theater, his first concert since a Nov. 21 show in Melbourne, Florida.

Discussion Questions

1. Define defamation.

Defamation is a false statement made about an individual that has the effect of damaging that person's reputation in the community.

2. What are the defenses to defamation liability?

There are two (2) defenses to defamation liability:

a. *The truth; and*



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- b. *A good faith opinion.*
3. In your reasoned opinion, will Tamara Green and Therese Serignese prevail in their defamation lawsuit against Bill Cosby? Why or why not?

This is a classic "he said, she said," so it will likely be difficult for Tamara Green and Therese Serignese to prove defamation. They will have to prove that the statement(s) Cosby made through his representatives were false. Remember that the plaintiff has the burden of proof. The alleged sexual assaults Cosby committed occurred decades ago, and the passage of time will make it all the more difficult to determine what Cosby did or did not do or say to these women. The fact that he used spokespersons, however, will not likely shield Cosby from liability. Cosby's spokespersons are his agents, and as such, they have either the actual or apparent authority to speak on his behalf. The ultimate question in the subject lawsuit will be whether Cosby's branding of Tamara Green and Therese Serignese as liars was false. If what Cosby's representatives said were false, then Cosby is likely responsible for defamation.

Article 3: "Wearing a Hoodie in Oklahoma Could Soon Cost You a \$500 Fine"

http://www.huffingtonpost.com/2015/01/03/hoodie-oklahoma-bill_n_6410746.html

Note: In addition to the video, please see the following article (also included at the above-referenced internet address):

"Wearing a Hoodie in Oklahoma Could Soon Cost You A \$500 Fine"

According to the article, Oklahoma residents are concerned that a proposed bill would make it a crime to wear a hooded sweatshirt, or hoodie, in public on many occasions.

The wearing of hoods or similar head coverings during the commission of a crime has been against state law since the 1920s, with the original intent of curbing violence perpetrated by the Ku Klux Klan. But the new proposal would also ban an individual from intentionally concealing "his or her identity in a public place by means of a robe, mask, or other disguise" even if he or she were not involved in a crime. Violation of the proposed law would constitute a misdemeanor, punishable by a fine up to \$500.

The bill's language includes exemptions for religious garments, weather protection, safety or medical purposes, parades, Halloween celebrations, masquerade parties, "minstrel troupes," circuses, sporting groups, mascots or "other amusements or dramatic shows." But several residents who spoke to KFOR expressed concern that the language was still overly broad and could be easily misconstrued to ban hooded sweatshirts on any occasion.



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“I think this is a violation of an individual’s right to choose what they want to wear as long as it doesn’t violate the realm of public decency and moral values, and I think this could be very problematic,” Oklahoma City attorney James Siderias said.

“They might have personal issues for keeping them on; they might have a bad hair day or maybe they have cancer or they’re losing their hair. You just don’t know why,” Tracy Wehagen said.

The bill's author, state Senator Don Barrington (R), said that the goal is simply to help deter crime.

“The intent of Senate Bill 13 is to make businesses and public places safer by ensuring that people cannot conceal their identities for the purpose of crime or harassment. ... Similar language has been in Oklahoma statutes for decades and numerous other states have similar laws in place,” he said. “Oklahoma businesses want state leaders to be responsive to their safety concerns, and this is one way we can provide protection.”

The fatal shooting of unarmed black teenager Trayvon Martin in Florida set off protests around the country in 2012, and protesters, including the NBA's LeBron James and even members of Congress, donned hoodies in reference to the clothing Martin was wearing at the time of his death. A hoodie also graced the cover of Time magazine.

Discussion Questions

1. Discuss proposed Oklahoma Senate Bill 13 in the context of an individual’s right to privacy.

Proposed Oklahoma Senate Bill 13 would make it a crime to wear a hooded sweatshirt, or “hoodie,” in public. A hoodie does give its wearer some degree of secrecy and therefore privacy, but the ultimate question is whether the professed purpose of the bill, making it more difficult for a prospective criminal to hide his identity, outweighs a) the privacy interest promoted by wearing such clothing and b) the freedom associated with wearing clothing of choice.

2. In your reasoned opinion, is proposed Oklahoma Senate Bill 13 racist? Explain your response.

This is a controversial question! If the proposed law is directed at a certain category of individuals, such as African-Americans, it is racist; however, the proponent of the bill, and anyone in support of it, would never admit (even if it were true) that targeting a certain segment of the population is the purpose of the bill. Obviously, a diverse group of individuals in the United States wear hooded sweatshirts—that fact alone would support the argument that the bill is not racist.

3. In your reasoned opinion, is proposed Oklahoma Senate Bill 13 good law? Is the political effort to enact it a productive and effective use of state taxpayer resources? Explain your responses.



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This is an opinion question, so student responses will likely vary. In your author's opinion, state taxpayer resources, including hours expended by legislators creating, debating and enacting law, is precious. Surely there are more pressing matters to which the Oklahoma legislature can attend!



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Video Suggestions

Video 1: “We Were Sleeping When I Shot My Wife, Georgia Police Chief Says on 911 Tape”

<http://www.cnn.com/2015/01/02/justice/georgia-police-chief-wife/index.html>

Note: In addition to the video, please see the accompanying article (also included at the above-referenced internet address):

“We Were Sleeping When I Shot My Wife, Georgia Police Chief Says on 911 Tape”

<http://www.cnn.com/2015/01/02/justice/georgia-police-chief-wife/index.html>

According to the article, the police chief in an upscale community outside Atlanta said he was sleeping when he moved a gun in the bed and accidentally shot his wife in the back, according to a 911 tape released recently.

"Who shot her?" the 911 operator asked William McCollom, the police chief in Peachtree City, Georgia.

"Me," McCollom replied.

"How did you shoot her?"

"The gun was in the bed, I went to move it, put it to the side, and it went off," McCollom said.

"Is she awake?"

"No, everybody was sleeping," McCollom said.

"No, is she awake now?"

"Yes," he said.



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Later in the call, the operator asked McCollom, "Were you asleep also when this happened?"

"Yes," he said.

Margaret McCollom, 58, was listed in critical condition at Atlanta Medical Center, according to the hospital.

William McCollom, 57, has not been charged with a crime, but he has been put on administrative leave while the shooting is investigated by the Georgia Bureau of Investigation.

McCollom started out the 911 call by describing the problem: "Gunshot wound, accidental, need medical ASAP."

He made the call to 911 about 4 a.m. He didn't mention he was the top law enforcement officer in the town of 35,000 people until the 1:50 mark in the six-minute recording.

The 911 operator asked where the gun was located. At first McCollom said he didn't know, then said, "I'm the chief of police. The gun is on the dresser."

"You're the chief of police in Peachtree City?" the operator asked.

"Yeah, unfortunately, yes," McCollom said.

In a statement, the GBI said: "Chief McCollom has been cooperating with GBI agents working the investigation. Ms. McCollom will be interviewed when her medical condition improves. When the GBI completes the investigation, it will be turned over to Fayette County District Attorney Scott Ballard."

At one point in the recording, the operator asked, "Is that her crying?" A woman's moans can be heard in the background.

"Yes, she's having trouble breathing," McCollom said. At another point, McCollom addresses his wife, "Are you having trouble breathing, dear?"

"Come on, guys, get here," he says while waiting for the police and ambulance. "Oh my god, how did this happen?"

When the police arrive, McCollom can be heard telling them the gun is on the dresser. The 911 operator ended the call.

Authorities aren't revealing many details, but said in a recent press conference that McCollom shot his wife with his service Glock 9mm.



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McCollom told the 911 operator he had shot his wife twice, but the GBI said investigators determined she'd only been shot once.

McCollom was named the police chief in October after being interim chief for three months, reported CNN affiliate WSB.

Peachtree City posted this statement on the city website:

"City Manager Jim Pennington said, 'This morning, I met with every department manager, and the city of Peachtree City, including the Peachtree City Police Department, is continuing with normal operations.'

Peachtree City Mayor Vanessa Fleisch said, 'Our thoughts and prayers are with Maggie and the McCollom family right now, as we wait for the state investigation to proceed.' "

Magazines and websites regularly rank Peachtree City as one of the best places to live and raise a family. The community's trademark: Residents putter around in golf carts on the community's 90-plus miles of paved pathways.

Discussion Questions

1. Comment on whether the facts described in this case demonstrate William McCollom's attempted murder of his wife Margaret McCollom.

Reasonable minds might differ in terms of whether the facts described in this case, particularly the 911 transcript and the statements included therein, conclusively demonstrate attempted murder. In your author's opinion, if criminal charges are initiated against William McCollom, the prosecution will have to gather additional evidence beyond the facts demonstrated in this article to prove its case beyond reasonable doubt.

2. Assuming the facts do demonstrate William McCollom's attempted murder of his wife Margaret McCollom, what if his wife should eventually die from the gunshot wound? Could Mr. McCollom be prosecuted for murder?

Judicial precedent does establish that even if a victim does not die on the scene or shortly thereafter, if the victim eventually dies, the defendant can be prosecuted for murder.

3. If the case goes to trial, is the 911 recording admissible evidence? Why or why not?

The 911 recording is potentially admissible, but its actual admissibility would be for a trial court judge to decide. The presiding trial court judge determines the admissibility of evidence. A primary factor regarding the admissibility of evidence is the probative value of the evidence.



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On a side note, the 911 tape could “cut both ways” in terms of benefitting both the prosecution and the defense. For the prosecution, the recording captures William McCollom’s admission that he shot his wife. For the defense, the recording reveals Mr. McCollom’s contention that the shooting was accidental.

Video 2: “New Illinois Law Prohibits Employers from Asking about Criminal Background”

<http://www.cbsnews.com/videos/new-illinois-law-prohibits-employers-from-asking-about-criminal-background/>

Discussion Questions

1. What is the proposed justification for the subject Illinois law?

Each year in the United States, thousands of employment applicants are turned away based on application revelations that the candidate has a prior criminal record. In a “buyer’s market” for labor, employers have the luxury of eliminating those with prior criminal convictions from employment consideration. For those turned away, their ability to be rehabilitated (one of the purposes of criminal justice) is severely impacted, perhaps increasing the likelihood that they will commit crime again in the future.

2. Why is it important for a prospective employer to know that nature and extent of a prospective employee’s criminal background?

Employers have an obligation to check employment candidates’ criminal backgrounds. This is important both in terms of promoting the safety of anyone who comes within the “orbit” of the company (employees, customers, etc.) and reducing the likelihood that the employer could be sued in the future for negligent hiring.

3. In your reasoned opinion, is the subject Illinois law good law? Why or why not?

This is an opinion question, so student responses will likely vary. In your author’s opinion, the Illinois law balances the interests of both employer and candidate. By allowing the employer to ask questions regarding prior criminal record in the interview, the employer can determine whether the candidate is an “acceptable risk” for employment. By allowing the candidate to “make it to the interview room” on his or her individual merit (work skills, educational background, personal traits, etc.), the candidate is at least afforded the opportunity to explain the record, demonstrate that there is no risk associated with hire, and establish that a hire decision will add value to the company’s “bottom line.”



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Of Special Interest

This section of the newsletter addresses the sentencing of ex-Virginia Governor Bob McDonnell for corruption.

Ethical Dilemma

“Ex-Virginia Governor Bob McDonnell Gets 2 Years for Corruption”

<http://news.yahoo.com/ex-virginia-gov-bob-mcdonnell-makes-bid-avoid-092748870.html; vlt=A0LEViM5cMZUvxxwA37AnnIQ; vlu=X3oDMTBva3R2ZmV1BHNIYwNzcgRwb3MDNARjb2xvA2JmMQR2dGlkAw-->

Note: In addition to the article, please see the video included at the above-referenced internet address.

According to the article, family members and friends wept softly as former Virginia Governor Bob McDonnell told the judge at his sentencing hearing that he couldn't "fathom any deeper humiliation" for taking bribes from a wealthy businessman to promote a dietary supplement.

Then, the tears mostly stopped. Some even turned to smiles when the judge sentenced McDonnell to two years in prison — far below the 10 years prosecutors originally wanted for the Republican, who was once on the short list to be Mitt Romney's vice presidential running mate.

McDonnell, who held his head in his hands and sobbed when he was convicted in September on 11 counts of corruption, was stoic as U.S. District Judge James Spencer delivered the sentence in a courtroom packed with the former governor's supporters.

McDonnell had asked for no jail time, only community service. In a strong but somber voice, McDonnell told the judge he was "a heartbroken and humbled man" and that he holds himself accountable.

"I allowed my life to get way out of balance," he said. "I cannot fathom any deeper humiliation for me or my family."

The judge noted the outpouring of support for McDonnell — more than 400 people wrote letters — and concluded that "he is a good and decent man who has done a lot of good in the public area."

"It breaks my heart, but I have a duty I can't avoid," the judge said.

A jury in September found McDonnell and his wife, Maureen, guilty of public corruption. The couple accepted gifts including a \$6,500 engraved



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Rolex watch, \$20,000 in designer clothing and accessories, and free family vacations in exchange for promoting a purported miracle cure made by Star Scientific Inc.

Maureen McDonnell, who attended the hearing, will be sentenced February 20 on eight counts. The company's former CEO, Jonnie Williams, testified under immunity as the prosecution's star witness in a case that exposed the details of the McDonnells' shaky finances and troubled marriage.

Outside the courthouse, McDonnell thanked the judge for mercy and vowed to fight his convictions on appeal.

"I've hurt myself, my family and my beloved people of Virginia and for that I am deeply, deeply sorry. But I will also say to the great people of Virginia that I have never, ever betrayed my sacred oath of office in any way while I served as the governor of this great commonwealth," McDonnell told reporters.

Law enforcement officials said that the prison sentence delivered a message.

"No elected official, irrespective of their popularity or the power they wield, is above the law," FBI agent Adam S. Lee said.

Before sentencing, defense lawyers called a parade of character witnesses to enumerate McDonnell's good qualities — his integrity and compassion for the less fortunate in particular — and good deeds in both public and private life.

Several witnesses said a lenient sentence was warranted because McDonnell had already suffered significantly from the fallout of a highly public and embarrassing investigation and trial. Former Democratic Virginia Governor L. Douglas Wilder said that if not for McDonnell's legal troubles, he would be remembered as one of Virginia's finest governors and would be a strong candidate for president.

"He's been punished, been punished indelibly," said Wilder.

Wilder received a loud round of applause after sparring with prosecutor Michael Dry and pointing out that Williams "walked away clean."

Dry said Williams was in a different category.

"The Mr. Williamses of the world are a dime a dozen. Corrupt governors are not," Dry said. At trial, McDonnell acknowledged he accepted Williams' largesse but said he did nothing for him in return other than extend routine political courtesies.

McDonnell is the first Virginia governor, and the 12th nationally, convicted of corruption, federal officials said. Others include Rod Blagojevich of Illinois, who is serving 14 years for a scheme to



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sell President Barack Obama's former U.S. Senate seat; Edwin Edwards of Louisiana, who was sentenced to 10 years for extorting money from casino license applicants; and Arch Moore of West Virginia, who got nearly six years for extorting money from a coal operator and other offenses. Some have escaped jail time altogether.

The public corruption case in Virginia prompted the General Assembly to tighten the state's murky ethics laws, and some Virginia elected officials have voluntarily limited the value of gifts they will accept.

McDonnell, 60, delivered the 2010 Republican response to the State of the Union Address and became chairman of the Republican Governors Association in 2011. He was indicted 10 days after leaving the office.

At trial, the McDonnells' defense strategy depended in large part on convincing the jury that their marriage was so strained that they could not have conspired to squeeze bribes out of Williams. They arrived at and left the courthouse separately every day and rarely even glanced at each other as they sat separated by lawyers at the defense table.

Discussion Questions

1. As the article indicates, the judge sentenced former Virginia Governor Bob McDonnell to two years in prison, far below the ten years prosecutors originally wanted for him. What would account for such a wide disparity between the punishment the prosecution sought for the defendant and the sentence he actually received?

The disparity is likely the result of judicial flexibility in sentencing. Judges have a great deal of flexibility in imposing a sentence, and this is met with considerable controversy in the public. Stricter sentencing guidelines imposed by the legislative branch of government would limit this flexibility, but judges generally prefer the authority to craft a sentence to "fit" the unique facts and circumstances associated with the case at hand. For Mr. McDonnell, judicial flexibility in sentencing made a difference of eight fewer years of incarceration for government corruption.

2. As the article indicates, the defendant McDonnell asked for community service only as his punishment. In your reasoned opinion, would such a punishment have been appropriate in this case? Why or why not?

This is an opinion question, so student responses will perhaps vary. In your author's opinion, it is difficult to imagine how only community service would be an appropriate punishment for government corruption, which involves a substantial violation of public trust.

3. In your reasoned opinion, was justice served in this case? Why or why not?



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This is an opinion question, so student opinions may vary. In terms of what the prosecution wanted for Bob McDonnell (ten years imprisonment) and the punishment the defendant actually received (two years imprisonment), it appears that the defendant “won” the punishment phase of the trial. “Chalk this up” as a victory for the prosecution in the “guilt versus innocence” phase of the criminal trial, and a victory for the defense in the “punishment” phase.



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Of Special Interest

This section of the newsletter will assist you in addressing Article 3 ("Wearing a Hoodie in Oklahoma Could Soon Cost You a \$500 Fine") and the Ethical Dilemma ("Ex-Virginia Governor Bob McDonnell Gets 2 Years for Corruption") of the newsletter.

Teaching Tips

Teaching Tip 1 (Related to Article 3--"Wearing a Hoodie in Oklahoma Could Soon Cost You a \$500 Fine")

For the exact language of the "anti-hoodie" bill (Oklahoma Senate Bill 13), please see the following internet address:

http://webserver1.lsb.state.ok.us/cf_pdf/2015-16%20INT/SB/SB13%20INT.PDF

Teaching Tip 2 (Related to Ethical Dilemma--"Ex-Virginia Governor Bob McDonnell Gets 2 Years for Corruption")

For background information regarding the Governor Bob McDonnell case, including the guilty verdict phase of the criminal trial, please see the following article and the related video, both included at the below-referenced internet address:

"Ex-Va. Governor Robert McDonnell Guilty of 11 Counts of Corruption"

http://www.washingtonpost.com/local/virginia-politics/mcdonnell-jury-in-third-day-of-deliberations/2014/09/04/0e01ff88-3435-11e4-9e92-0899b306bbea_story.html

According to the article, a federal jury found former Virginia governor Robert F. McDonnell and his wife, Maureen, guilty of public corruption — sending an emphatic message that they believed the couple sold the office once occupied by Patrick Henry and Thomas Jefferson to a free-spending Richmond businessman for golf outings, lavish vacations and \$120,000 in sweetheart loans.

After three days of deliberations, the seven men and five women who heard weeks of gripping testimony about the McDonnells' alleged misdeeds unanimously found that the couple conspired to lend the prestige of the governor's office to Jonnie R. Williams Sr. in a nefarious exchange for his largesse.

The verdict means that Robert McDonnell, the first governor in Virginia history to be charged with a crime, now holds an even more unwanted distinction — the first to be convicted of one.



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He and his wife face decades in federal prison, although their actual sentences are likely to fall well short of that. U.S. District Judge James R. Spencer set a sentencing hearing for January 6.

The former governor, a onetime Republican rising star considered for the 2012 vice-presidential nomination, was convicted of all 11 corruption-related counts brought against him. In a small victory, he was acquitted of lying on loan documents.

The former first lady was convicted of eight corruption-related charges and an additional count of obstruction of justice. She, too, was acquitted of falsifying a bank record.

The verdict was read aloud in front of a courtroom packed with reporters and supporters of the former first couple. When the clerk announced that the ex-governor had been found guilty of the first of 14 counts the couple faced, Robert McDonnell, 60, closed his eyes tightly, shaking in his seat as he began to weep.

Maureen McDonnell, 60, also started to cry. At the eighth guilty count, her husband buried his face in his hands. By the end, he was slumped in his chair, still crying. Two of the couple's daughters, seated behind them, sobbed — the cries from one punctuating each guilty verdict as it was read aloud.

It was a stunning outcome for the couple, all the more so because in December, McDonnell declined to accept a plea agreement in which he would have been found guilty of just one felony count of lying on a loan document, according to people familiar with the case. Maureen McDonnell would have faced no charges.

The jury's verdict brings to a close a trial that seemed to grip the nation since it began in July with defense attorneys' shocking revelation that the McDonnells' marriage was shattered, and that would be a core element of their attempt to beat the charges.

The proceedings over the next five weeks resembled a soap opera at times, as the McDonnells endured a humiliating dissection of their relationship amid unflattering allegations about the lavish lifestyle supplied by Williams.

As the former first couple emerged from the courthouse, reporters swarmed, shouting questions. Robert McDonnell thanked the crush of media on the sidewalk for "the way you've handled this."

"All I can say is my trust remains in the Lord," he said.

Defense attorney Henry "Hank" Asbill, saying he "didn't expect" this outcome, assured reporters that the former governor would appeal. "I'm obviously very disappointed," he said.

William Burck, an attorney for Maureen McDonnell, said the former first lady, too, would appeal.



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The McDonnells, who have been living apart since the trial began, left in separate cars. A few women could be heard shouting “We still love you!” at the former governor.

Shortly before that, top law enforcement officials declared that justice had been done. “This was just a difficult and disappointing day for the commonwealth and its citizens,” said U.S. Attorney Dana J. Boente, speaking outside the courthouse. “Public service frequently requires sacrifice and almost always requires financial sacrifice. When public officials turn to financial gain in exchange for official acts, we have little choice but to prosecute the case.”

Three jurors who spoke about the verdict said the decision was an emotional one, particularly considering Robert McDonnell’s long career of public service.

But they said they believed that the facts and the law were clear and that the verdict had not, in the end, been a difficult one to reach.

Like the trial that consumed the state’s energy for weeks, the verdict shook Virginia’s political community, which has had little experience with public-corruption cases against top officials.

The state’s elected leaders swiftly expressed sorrow.

“I am deeply saddened by the events of the trial that ended in today’s verdict, and the impact it has had on our Commonwealth’s reputation for honesty and clean government,” Gov. Terry McAuliffe (D) said in a statement.

McAuliffe said he and his wife, Dorothy, “continue to pray for the McDonnell family and for everyone who was affected by this trial.”

Through an attorney, Williams, the former chief executive of Star Scientific, declined to comment on the verdict.

Jurors heard from 67 witnesses, including Williams and the former governor, who took the stand in his own defense for nearly 24 hours over several days. They saw memorable photos of McDonnell flashing a Rolex watch and riding in a Ferrari, and they heard sometimes tearful testimony from the governor’s children and former staffers.

They were shown mortgage applications, telephone records more charts than they probably care to remember — all designed to convince them that the governor and his wife conspired to take bribes from Williams.

The case had more nuanced, legal questions, too: Namely, did McDonnell and his wife perform or promise to perform “official acts” for Williams in exchange for \$177,000 in gifts and loans? Prosecutors argued that they did.



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Those acts, they said, came in the form of meetings McDonnell arranged for Williams with state officials, a luncheon Williams was allowed to throw at the governor's mansion to help launch a product he was trying to sell, and a guest list Williams was allowed to shape at another mansion reception meant for health-care leaders.

Defense attorneys argued otherwise, saying there was no evidence that McDonnell even knew what Williams wanted. And what he did want — state-funded studies of his company's dietary supplement, Anatabloc — he never got, defense attorneys stressed.

But prosecutors apparently convinced jurors that the governor entered into a corrupt bargain with Williams. They relied on Williams's own insistence that the governor always knew why he was showering the McDonnell family with gifts.

They backed up his story by using other evidence to weave a strong circumstantial case that an agreement had been reached between the businessman and the first couple based on the close timing of Williams's gifts and loans and efforts by the McDonnells to assist Williams and his company.

In one instance, McDonnell directed a subordinate to meet with Williams on the same night he returned from a free vacation at his lake house. In another, six minutes after e-mailing Williams about a loan, McDonnell e-mailed an aide about studies Williams wanted conducted on his product at public universities.

Defense attorneys emphasized that even Williams did not describe an explicit, corrupt bargain with the governor. And they noted that Williams was testifying with generous immunity agreements, which they said motivated him to lie about his relationship with the McDonnells.

Throughout the trial, jurors were attentive but expressionless. Their verdict made clear that they considered each defendant's role in each charge.

They acquitted Maureen McDonnell, for example, on two public-corruption counts connected to a \$20,000 loan in May 2012 that her husband texted Williams directly about.

They also found her not guilty of one charge connected to a January 2012 golf outing Williams funded for her husband and two sons at the exclusive Kinloch Golf Club, near Richmond, but guilty of another connected to a May 2011 golf outing her husband went on with their sons and future son-in-law.

The investigation into the couple's relationship with Williams consumed much of Robert McDonnell's last year in office. It halted what had been a steady rise through the ranks of Republican politics for the former state attorney general, which seemed likely to culminate in a run for president in 2016.



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McDonnell had just concluded the final legislative session of his four-year term, which included the passage of his signature bipartisan transportation plan, when The Washington Post reported in March 2013 that Williams had paid \$15,000 for wedding catering for one of the McDonnells' daughters.

The wedding came three days after Maureen McDonnell flew to Florida and praised Williams's product at an investor meeting and two months before the first couple attended an event at the governor's mansion for Williams's company.

As the governor's time in office came to a close, he struggled in private with the growing criminal investigation, while publicly, more and more details of his relationship with Williams emerged. Among the embarrassing revelations: Williams had purchased a \$6,500 Rolex for the governor, lent the governor his Ferrari for use on an expensive vacation and taken the first lady on a \$20,000 New York shopping spree.

McDonnell finally apologized in July 2013, after The Post reported that Williams's largesse had included \$120,000 in low-interest loans to the first lady and to a small real estate company the governor and his sister owned.

The former first couple was indicted in January, 10 days after McDonnell concluded his term in office. Even as he repeatedly apologized for poor judgment, he maintained that he and his wife had broken no law.



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Chapter Key for McGraw-Hill/Irwin Business Law Texts:

	Hot Topics	Video Suggestions	Ethical Dilemma	Teaching Tips
Kubasek et al., Dynamic Business Law	Chapters 7 and 8	Chapters 7 and 42	Chapters 2 and 7	Chapters 2 and 7
Kubasek et al., Dynamic Business Law: Summarized Cases	Chapters 7 and 8	Chapters 7 and 42	Chapters 2 and 7	Chapters 2 and 7
Kubasek et al., Dynamic Business Law: The Essentials	Chapters 5 and 6	Chapters 5 and 24	Chapters 1 and 5	Chapters 1 and 5
Mallor et al., Business Law: The Ethical, Global, and E-Commerce Environment	Chapters 5 and 6	Chapters 5 and 51	Chapters 4 and 5	Chapters 4 and 5
Barnes et al., Law for Business	Chapters 5 and 6	Chapters 5 and 25	Chapters 3 and 5	Chapters 3 and 5
Brown et al., Business Law with UCC Applications	Chapters 5 and 6	Chapters 5 and 23	Chapters 1 and 5	Chapters 1 and 5
Reed et al., The Legal and Regulatory Environment of Business	Chapters 10 and 13	Chapters 13 and 21	Chapters 2 and 13	Chapters 2 and 13
McAdams et al., Law, Business & Society	Chapters 4 and 7	Chapters 4 and 12	Chapters 2 and 4	Chapters 2 and 4
Melvin, The Legal Environment of Business: A Managerial Approach	Chapters 10 and 23	Chapters 12 and 23	Chapters 5 and 23	Chapters 5 and 23
Bennett-Alexander & Harrison, The Legal, Ethical, and Regulatory Environment of Business in a Diverse Society	Chapters 6 and 8	Chapters 8 and 11	Chapters 1 and 8	Chapters 1 and 8



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This Newsletter Supports the Following Business Law Texts:

- Barnes et al., Law for Business, 12th Edition 2015© (0078023815)
- Bennett-Alexander et al., The Legal Environment of Business in A Diverse Society, 1st Edition 2012© (0073524921)
- Brown et al., Business Law with UCC Applications Student Edition, 13th Edition 2013© (0073524956)
- Kubasek et al., Dynamic Business Law, 3rd Edition 2015© (0078023785)
- Kubasek et al., Dynamic Business Law: The Essentials, 2nd Edition 2013© (0073524972)
- Kubasek et al., Dynamic Business Law: Summarized Cases, 1st Edition 2013© (0078023777)
- Mallor et al., Business Law: The Ethical, Global, and E-Commerce Environment, 15th Edition 2013© (0073377643)
- Melvin, The Legal Environment of Business: A Managerial Approach, 2nd edition 2015© (0078023807)
- McAdams et al., Law, Business & Society, 10th Edition 2012© (0073525006)
- Reed et al., The Legal and Regulatory Environment of Business, 16th Edition 2013© (0073524999)

