

# Bunch and Roberts in Reuters: The Chilling Effect on Senator Menendez's Obstruction Conviction

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PRACTICES Litigation

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Haynes Boone Partner [Nick Bunch](#) and Associate Payton Roberts authored an article for *Westlaw Today* following Senator Robert Menendez being convicted in a bribery trial in connection with an alleged corrupt relationship with three New Jersey businessmen.

Read an excerpt below.

Prosecutors are routinely confronted with a choice between whether they "can" do something or whether they "should" do it. Often the answer to the first question— Can I do this? — is easily answered in the affirmative: The evidence supports the charge; the case is righteous; the defendant's conduct easily warrants prosecution. The answer to the second question — Should I do this? — is often much harder and requires a more nuanced analysis.

That choice was put on stark display in a recent corruption prosecution in the Southern District of New York involving now-former Senator Robert Menendez.

In September 2023, Senator Menendez faced a series of corruption charges related to a five-year bribery scheme involving foreign officials from Egypt and Qatar. A few days before the original indictment was returned, Menendez's attorney met with the government in a last-ditch effort to stave off indictment.

During the meeting, the attorney made a presentation on behalf of his client that attempted to illustrate why certain payments at issue were for legitimate, non-corrupt purposes. The government apparently disagreed and sought an indictment that included corruption charges. That did not end matters.

In a move that startled the legal community, the government obtained a superseding indictment a few months before trial, adding two counts of obstruction of justice based in part on those presentations made by Menendez's attorney.

Trial played out over the course of several weeks with the majority of the evidence establishing the bribery scheme, complete with text messages involving sensitive information, large sums of cash, and gold bars found in the Senator's home.

But the government also had to prove the obstruction counts, and that's where things got tricky. The government introduced a redacted version of a presentation made by Menendez's former counsel during the pre-indictment meetings and asserted that those representations, despite being made by the attorney, were adopted admissions made by Menendez himself. The government also called one of the office's paralegals to testify to notes taken during the meeting with Menendez's attorney.

Menendez was convicted on all counts and is awaiting sentencing. He has filed a motion for acquittal on the corruption counts and the obstruction charges.

To read the full article from *Westlaw Today*, click [here](#).