

## **What must prosecutors prove in former Senate Majority Leader Joe Bruno's retrial?**

Bruno Re-Trial Begins

By Dave Lucas

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Former New York State Senate Majority Leader Joseph Bruno was back at the federal courthouse in downtown Albany today to face trial for the second time before U.S. District Chief Judge Gary Sharpe.

A jury was selected Monday morning and opening arguments in his trial began just after 2pm. Prior to entering the courthouse, reporters tweeted that the 85-year old Bruno told them he was "tired" - and was looking forward to putting the long nine-year ordeal behind him. Bruno was first convicted on two charges of mail fraud in 2009, and sentenced to two years in prison. Here's Bruno in 2009 after that sentence was handed down. "I'm very very disappointed in the verdict that I just heard. And the legal process is going to continue. And in my mind and in my heart, it is not over until it's over." The court in 2009 ruled Bruno denied taxpayers honest services by concealing a deal with a business associate who paid him as a consultant. The conviction was subsequently overturned in 2010 after the Supreme Court ruled prosecutors must prove a quid pro quo in order to convict someone of "theft of honest services." Federal courts ruled in 2011 that Bruno could face a second trial if prosecutors could prove a quid pro quo arrangement. Tully Rinckey partner and director of legal services Tom Carr explains how that was possible. "The provision of the law under which he was convicted previously was found to be unconstitutional. So the conviction under those was overturned. However, the fact pattern that is required is very similar in the charges he has now. So it's almost the same charge. Basically it's you must show some kind of a bribe or a kickback that happened between Bruno and somebody else who essentially gained a benefit from paying Bruno to give him that benefit. That wasn't shown last time and that wasn't something that was argued last time, but this time around that's the crux of the matter." The jury for the current trial was released at 3:30pm Monday. Leaving court Bruno was overheard saying he is "thankful" for his years of public service. The trial is expected to last about two weeks - Carr doesn't expect to see any new startling evidence in the case. "It's going to wind

it's way through and then it's going to be up to the jury to decide if there are examples of that quid pro quo that receiving a benefit in exchange for money or some other benefit be it free airplane rides or whatever being provided to the former senate majority leader."There is speculation that former New York Governor George Pataki may be called to testify. Bruno had cancer surgery last year. U.S. District Chief Judge Gary Sharpe has agreed to shorten the daily schedule for the trial—which will run from 10 a.m. to 4:30 p.m.—provided Bruno does not use the extra time to hold press conferences.