



## HOLWELL SHUSTER & GOLDBERG AND OAD SECURE NEW YORK COURT OF APPEALS DECISION REVERSING “ENTERPRISE CORRUPTION” CONVICTION

11.27.2018

**N**ew York—The New York Court of Appeals today unanimously reversed a conviction and dismissed the indictment against defendant Damian Jones for “enterprise corruption”—known as New York’s “mini-RICO” statute—in the closely-watched case, *People v. Jones*.

Mr. Jones and more than two dozen co-defendants were accused in 2012 of knowingly and intentionally participating in the affairs of a “criminal enterprise,” which the prosecution had defined to include a New York City-wide association of motorcycle thieves, mechanics, brokers, dealers, and distributors. Mr. Jones was alleged to be one of the thieves, and to have possessed and sold stolen motorcycles, at arm’s length, to other alleged enterprise members. In 2013, he was convicted of enterprise corruption and sentenced to five to 10 years in prison.

Holwell Shuster & Goldberg LLP and the Office of the Appellate Defender, representing Mr. Jones in his appeal *pro bono*, argued that his conviction for enterprise corruption should be reversed and the indictment dismissed because the government’s theory of the case and trial evidence failed to establish either the existence of a criminal enterprise or that Mr. Jones knowingly and intentionally participated in its affairs.

The Court of Appeals assumed, without deciding, that the evidence at trial established a criminal enterprise within the meaning of the statute. Nevertheless, the Court unanimously reversed Mr. Jones’ conviction and dismissed the indictment against him on the ground that the prosecution presented legally insufficient evidence that Mr. Jones knew of the existence of any alleged enterprise, or intentionally participated in its affairs.

“We are very happy for our client,” said HSG associate Scott Danner, who argued the case on behalf of Mr. Jones before the Court of Appeals. “Today’s decision by New York’s highest court confirmed an important point of law: an individual who stands outside an alleged criminal enterprise, acting at all times at his own direction for his own benefit, lacks the mental state necessary to commit the crime of enterprise corruption. As importantly, it relieved Mr. Jones of the continuing consequences of a serious overreach by the prosecution.”

HSG is currently handling several cases with the OAD, including appeals in the New York Court of Appeals and the Appellate Division, First Department, and habeas corpus proceedings before the Southern District of New York. Six of HSG’s 22 associates, or more than 25 percent, are currently handling OAD cases. They benefit from the unique insight and experience of partner Jim

McGuire, a former justice on the First Department, and Mr. Danner, a former law clerk on the New York Court of Appeals.

## **ATTORNEYS**

Scott Danner