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N.J. Supreme Court Finds Prosecutorial Abuse in Case Against Mayor

TRENTON, N.J. – June 18, 2015 – The New Jersey Supreme Court held on Thursday that Carlstadt Mayor William Roseman was wrongly barred from the Pretrial Intervention program because of a prosecutor’s “gross abuse of discretion.”

In its unanimous ruling, the justices said the facts in the case were sufficiently extraordinary and unusual to overcome the presumption against PTI in second-degree offenses.

Roseman’s attorney, Patricia Prezioso, said, “As we have pointed out since the beginning, this was an administrative mistake. It is a relief that although prosecutors have seemingly unbridled discretion regarding whom to prosecute, this decision underscores that judges have the ability to review discretionary PTI decisions under circumstances such as these.”

“Judges protect all of us in the New Jersey community, and our system of justice, by not permitting patent and gross abuse of discretion by prosecutors,” added Prezioso, a partner with McCusker, Anselmi, Rosen and Carvelli in Florham Park, N.J.

At issue was health insurance coverage for Roseman’s ex-wife, Lori Lewin. They divorced in 2000 and, under their divorce decree, Roseman and Lewin were each responsible for their own health insurance. Lewin had her own coverage through her employer. Roseman reported his change of status to the borough, but Lewin’s name remained on the borough’s health plan.

When Roseman became aware Lewin was still on the plan, he reported it. Lewin’s insurance repaid all the claims that were not time-barred and she repaid out of pocket for claims that couldn’t be submitted to her insurance due to the passage of time.

Roseman was indicted by the Bergen County Prosecutor’s Office on charges of third-degree conspiracy, third-degree theft by deception and second-degree official misconduct. The prosecutor had wanted PTI conditioned on Roseman’s agreement to resign from office and not pursue public office again. Roseman did not accept those terms. Prosecutor John Molinelli rejected the PTI application, citing the presumption against PTI for second-degree offenses.

Bergen County Superior Court Judge Liliana S. DeAvila-Silebi ordered admission to PTI, finding the prosecutor had engaged in a gross use of discretion. The Appellate Division disagreed, finding a failure to establish abuse.

But the New Jersey Supreme Court found that the circumstances provided compelling reasons to overcome the presumption against PTI admission.

The justices said Roseman reported the violations and “took immediate action to ameliorate the problem by removing Lewin from Carlstadt’s plan and initiating an internal audit of all Carlstadt health insurance policy holders.”

In addition, the justices found “the prosecutor’s bald declarations are insufficient to support denial of Roseman’s PTI application.” As a result, the PTI denial was “plainly a patent and gross abuse of discretion,” the justices concluded.

Prezioso said Judge DeAvila-Silebi “should be recognized for having both the intellect and the guts to do what was and what is right. This is one of several travesties in Bergen County. My client is thrilled and relieved that our New Jersey Supreme Court unanimously agreed with Judge DeAvila-Silebi’s decision, and my client’s admission to PTI. This has been a long and painful road for Mr. Roseman. We are overjoyed it is finally over.”