

STATE OF LOUISIANA

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2017 SEP 21 AM 8:58 23<sup>RD</sup> JUDICIAL DISTRICT COURT

VERSUS

BY  
D. VOGLER & RECORDER  
PARISH OF ASCENSION  
ASCENSION PARISH, L.A.

KENNETH P. MATASSA

STATE OF LOUISIANA

**MEMORANDUM IN SUPPORT OF MOTION TO QUASH**

The law in construction of criminal statutes is clear. They are subject to strict construction under the rule of lenity. *State v. Carr*, 761 So.2d 1271. They are given a narrow interpretation, and any ambiguity in the substantive provision of a statute as written must be resolved in favor of the accused. *State v. Becnel*, 674 So.2d 959.

In all cases of statutory interpretation, legislative intent is the fundamental question. The start is the language of the statute. When it is clear and unambiguous and its application does not lead to absurd consequences, its language must be given effect, and its provisions must be construed so as to give effect to the purpose indicated. The words must be given their generally understood meaning. La. R.S. 1:3. *Boudreaux v. La. Dept. of Public Safety*, 101 So.3d 22 (2012).

In all statutes the term “shall” is mandatory. Art. 4, La. CCRP.

With these rules in place, the issue becomes under Article 532 has the State charged an offense punishable under Title 18:1461(5)(4).

That requires that the party bribed, the recipient of the bribe, be a “candidate.”

The strict interpretations required under this set of facts result in dismissal.

Lawson is never a person who meets that definition. He is never qualified to be a candidate and he never takes the actions necessary to be qualified.

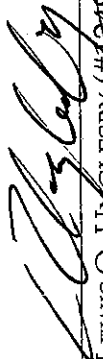
This is not election law, it is criminal law. Based on the facts of the Motion to Quash, to charge Matassa, Lawson must have met the definition of that term. Lawson fails to meet the mandatory minimum requirements of “shall possess the qualifications of office.” He is never qualified and his qualification papers are a nullity. At no time, does he fall under the umbrella of Title 18:451. There can be no confusion here. For

example, if a minor qualified, he or she could never be a "candidate." If someone who lived in Texas qualified, they could never be a "candidate." If the candidate was in prison, he could never be a "candidate." The indictment requires Lawson have a certain status before 18:1451 can apply.

Lawson never meets the requirements and definitions of a "candidate."


The indictment is fatally defective because the status necessary for 18:1461(5)(4) never existed.

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#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been forwarded to all counsel of record via United States Mail, First Class postage prepaid and properly addressed or via Facsimile Transmission on this 21 day of September, 2017.

  
LEWIS O. UNGLESBY