

08-1196 WEYHRAUCH V. UNITED STATES

DECISION BELOW:548 F.3d 1237

LOWER COURT CASE NUMBER: 07-30339

QUESTIONS PRESENTED:

Whether 18 U.S.C. § 1346, by criminalizing denials of "the intangible right of honest services," mandates the creation by the federal courts of a federal common law defining the disclosure obligations of state government officials.

CERT. GRANTED 6/29/2009

LIMITED TO THE FOLLOWING QUESTION: WHETHER, TO CONVICT A STATE OFFICIAL FOR DEPRIVING THE PUBLIC OF ITS RIGHT TO THE DEFENDANT'S HONEST SERVICES THROUGH THE NON-DISCLOSURE OF MATERIAL INFORMATION, IN VIOLATION OF THE MAIL-FRAUD STATUTE (18 U.S.C. §§1341 AND 1346), THE GOVERNMENT MUST PROVE THAT THE DEFENDANT VIOLATED A DISCLOSURE DUTY IMPOSED BY STATE LAW.