

(b) The provisions of Titles 1, 2, and 3 apply to offenses defined by other laws, unless the statute defining, the offense provides otherwise; however, the punishment affixed to an offense defined outside this code shall be applicable unless the punishment is classified in accordance with this code." (Emphasis added.)

4. The Texas Conspiracy Statute, § 15.02, is contained in Title 4 of the Texas Penal Code. The Election Code was amended, effective September 1, 2003, by adding Sec. 1.018, which makes Title 4 of the Penal Code applicable to the Election Code. Before September 1, 2002 the Conspiracy Statute was NOT applicable to the Texas Election Code.

5. The indictment does not state an offense under Texas law and should be quashed and dismissed and Defendant so moves.

Respectfully submitted,

DeGUERIN DICKSON & HENNESSY

Dick DeGuerin (with permission)
Dick DeGuerin
Texas Bar Card No. 05638000
1018 Preston Ave., 7th Floor
Houston, Texas 77002
Telephone: 713-223-5959
Facsimile: 713-223-9231

LEAD COUNSEL FOR
DEFENDANT TOM DELAY

CO-COUNSEL FOR DEFENDANT

LAW OFFICE OF WILLIAM A. WHITE

William A. White
608 W. 12th Street, Suite B
Austin, Texas 78701
Telephone: 512-476-1494
Facsimile: 512-476-8050

WILLIAMS & FORSYTHE

Stephen W. Brittain
1100 West Ave.
Austin, Texas 78701
Telephone: 512-477-9959
Facsimile: 512-477-9262

OF COUNSEL:

NICKENS KEETON LAWLESS FARRELL & FLACK LLP

Richard Keeton
600 Travis Street, Suite 7500
Houston, Texas 77002
Telephone: 713-571-9191
Facsimile: 713-571-9652

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of **Defendant Tom DeLay's Motion to Quash and Dismiss Indictment For Failure to State an Offense Under Texas Law** has been served on District Attorney Ronnie Earle by facsimile on this the 3rd day of October, 2005.

Dick DeGuerin (with permission)
Dick DeGuerin

NO. D1-DC-05-900725

THE STATE OF TEXAS	§	IN THE DISTRICT COURT OF
V.	§	TRAVIS COUNTY, TEXAS
TOM DELAY	§	331 ST JUDICIAL DISTRICT

ORDER

UPON PRESENTATION of the above and foregoing **Defendant Tom DeLay's Motion to Quash and Dismiss Indictment For Failure to State an Offense Under Texas Law**, the same is GRANTED, and the indictment herein is QUASHED and DISMISSED.

SIGNED in Austin, Travis County, Texas on this the ___ day of October, 2005.

JUDGE PRESIDING

DEGUERIN DICKSON & HENNESSY

DICK DEGUERIN
MATT HENNESSY
NEAL DAVIS
JOHN PARRAS
TODD WARD
LEWIS DICKSON
OF COUNSEL

ATTORNEYS AT LAW
SEVENTH FLOOR, THE REPUBLIC BUILDING
1018 PRESTON AVENUE
HOUSTON, TEXAS 77002

AREA CODE 713
TELEPHONE 223-5959
FACSIMILE 223-9231
ddeguerin@aol.com

WEST TEXAS OFFICE
P.O. BOX 1452
MARFA, TX 79843
915-729-3343

October 3, 2005

Amalia Rodriguez-Mendoza
Travis County District Clerk
Criminal Justice Center, Criminal Division
509 W. 11th Street
Austin, Texas 78701

Re: *The State of Texas v. Tom DeLay*
Cause No. D1-DC-05-900725
331st Judicial District Court, Travis County

Dear Ms. Rodriguez-Mendoza:

Enclosed for filing please find **Defendant Tom DeLay's Motion to Quash and Dismiss Indictment For Failure to State an Offense Under Texas Law** as well as a copy of my transmittal letter of the motion to Mr. Earle. Please file among the papers of the case.

Yours truly,



Dick DeGuerin

DD:bls

cc: William White
Stephen Brittain
Richard Keeton
Mark Stephens
Joe Turner

DEGUERIN DICKSON & HENNESSY

DICK DEGUERIN
MATT HENNESSY
NEAL DAVIS
JOHN PARRAS
TODD WARD
LEWIS DICKSON
OF COUNSEL

ATTORNEYS AT LAW
SEVENTH FLOOR, THE REPUBLIC BUILDING
1018 PRESTON AVENUE
HOUSTON, TEXAS 77002

AREA CODE 713
TELEPHONE 223-5959
FACSIMILE 223-9231
ddeguerin@aol.com

WEST TEXAS OFFICE
P.O. BOX 1452
MARFA, TX 79843
915-729-3343

October 3, 2005

District Attorney Ronald D. Earle
Travis County
Criminal Justice Center
509 W. 11 Street
Austin, Texas 78767

Transmitted Via Facsimile: 512-854-9695

Re: *State of Texas v. Tom DeLay*
Cause No. D1-DC-05-900725
331st Judicial District Court, Travis County

Dear Mr. Earle:

A review of Texas law reveals that the conspiracy statute did not apply to violations of the Texas Election Code in 2002. I am enclosing your copy of a Motion to Quash the Indictment in the *DeLay* case and ask that you and your assistants review this motion and agree to dismiss the indictment right away.

As you are aware, Congressman DeLay was required by Republican Congressional Rules to step down temporarily from his position as Majority Leader simply because of this indictment. Since the indictment charges no offense, and since you have professed not to be politically motivated in bringing this indictment, I request that you immediately agree to dismiss this indictment so that the political consequences can be reversed.

Yours very truly,



Dick DeGuerin

DD:bls

Enclosure

cc: Judge Robert A. Perkins
Criminal District Clerk

DEGUERIN DICKSON & HENNESSY

ATTORNEYS AT LAW
SEVENTH FLOOR, THE REPUBLIC BUILDING
1018 PRESTON AVENUE
HOUSTON, TEXAS 77002

DICK DEGUERIN
MATT HENNESSY
NEAL DAVIS
JOHN PARRAS
TODD WARD
LEWIS DICKSON
OF COUNSEL

AREA CODE 713
TELEPHONE 223-6959
FACSIMILE 223-9231
ddeguerin@aol.com

WEST TEXAS OFFICE
P.O. BOX 1452
MARFA, TX 79843
915-729-3343

October 3, 2005

District Attorney Ronald D. Earle
Travis County
Criminal Justice Center
509 W. 11 Street
Austin, Texas 78767

Transmitted Via Facsimile: 512-854-9695

Re: *State of Texas v. Tom DeLay*
Cause No. D1-DC-05-900725
331st Judicial District Court, Travis County

Dear Mr. Earle:

Rumor has it that you are going to try and get another indictment against Tom DeLay.

Please tell the Grand Jury that Mr. DeLay has filed a Notice to Withdraw his Waiver of Statute of Limitations.

Yours very truly,



Dick DeGuerin

DD:bls