

## Analysis: Those in college scandal could still go to prison, despite first defendant skating

Joey Garrison, USA TODAY Published 4:06 p.m. ET June 13, 2019 | Updated 9:25 a.m. ET June 14, 2019



**BOSTON, MA - JUNE 12:** Stanford University sailing coach John Vandemoer walks into the John Joseph Moakley United States Courthouse on June 12, 2019 in Boston, Massachusetts. Vandemoer is being sentenced in Boston Court over the college admissions scandal. (Photo by Scott Eisen/Getty Images) ORG XMIT: 775355283 ORIG FILE ID: 1149496252 (Photo: Scott Eisen, Getty Images)

BOSTON — The Justice Department wanted to "set the tone" with a strong first sentence in the nation's college admissions scandal. Instead, former Stanford sailing coach John Vandemoer was spared prison altogether Wednesday.

It was a clear win for Vandemoer and his defense team — two years of supervised release, including the first six months confined to his home, and a small \$10,000 fine. Most importantly, he got just one day of prison, deemed already served, after pleading guilty to racketeering charges in March.

For prosecutors, who had sought 13 months of prison, the outcome was a setback.

But should other defendants — parents, coaches and other co-conspirators — who have pleaded guilty to either paying or accepting bribes now expect the same?

**More:** [Former Stanford sailing coach avoids prison in first sentence of college admissions scandal \(/story/news/nation/2019/06/12/no-prison-first-defendant-bribery-scandal-college/1429812001/\)](https://www.usatoday.com/story/news/nation/2019/06/12/no-prison-first-defendant-bribery-scandal-college/1429812001/)

While some legal experts say it's a positive sign for other people charged in the scandal, most contend the Vandemoer case isn't a great barometer to preview how their cases will turn out. Vandemoer's actions were unique among all 50 defendants in the entire "Varsity Blues" scandal:

- Vandemoer was accused of accepting bribes totaling \$610,000 from the scheme's mastermind Rick Singer who was paid by parents of three students. But none of the students were actually admitted into Stanford as a direct result of the coach's actions.
- Vandemoer funneled the payments directly to the school's sailing program and did not pocket any of the money.

U.S. District Judge Rya Zobel, prior to handing down the sentence, called Vandemoer "probably the least culpable of all the defendants." She said he was no doubt a participant but painted Singer as the real instigator. "Mr. Singer pushed, and he really pushed," the judge said, and "Mr. Vandemoer responded by saying, 'yes, yes.'"

"That certainly has something to say about what the sentence should be," Zobel said, later calling the actions "serious crimes" but not enough to warrant prison.

The snap reaction from some legal observers was to frame the sentence as not just a victory for Vandemoer, but perhaps other defendants.

"This is a good sign for all of the parents," said criminal defense attorney [Lara Yeretsian \(https://www.laralaw.com/\)](https://www.laralaw.com/), who is not representing any defendant in the varsity blues case but who has worked for other celebrities. She said the Vandemoer outcome should bolster the case of actress Lori Loughlin, for example, who has been charged for paying Singer bribes totaling \$500,000 to get her two daughters classified as crew recruits to get them into the University of Southern California.

"The coach, who was charged with racketeering, accepted a lot more money than Lori Loughlin or other parents paid, and the judge said that he shouldn't serve jail time," Yeretsian said. "The parents lost money by doing this, and the fact that the judge granted leniency for the coach means that Loughlin and other parents may not end up serving time."

**More:** [Lori Loughlin digs in – and 7 more surprises and takeaways in college admissions scandal \(/story/news/nation/2019/06/10/college-admissions-scandal-lori-loughlin-digs-and-7-more-takeaways/1350892001/\)](#)

But unlike Vandemoer's case, the prosecution can argue Loughlin's payments took away two admissions slots at USC from more qualified students. Loughlin has pleaded not guilty to mail fraud and money laundering charges, while the case's other celebrity defendant, actress Felicity Huffman, has pleaded guilty to paying \$15,000 to Singer to have someone correct answers on her daughter's SAT exam.

[Carl Tobias \(https://law.richmond.edu/faculty/ctobias/\)](#), a law professor at the University of Richmond who specializes in federal courts, said other defendants shouldn't breathe a sigh of relief as a result of Vandemoer's sentence.

"I think they'll be taken on their own facts and the arguments they make," he said. "I don't know that it tells us a whole lot about any other cases that are coming up, really."

"It seems like there were some factors that led the judge to appear more lenient than certainly the U.S. attorney wanted in their arguments, but I think the key is each case to some extent is unique on its facts, and the judges hopefully will sentence and accord with that."

Even Vandemoer's defense team, who said keeping him out of prison was their goal, stopped short of declaring the government's larger case in trouble.

"John is a unique defendant in a unique case," said his attorney Robert Fisher, who previously worked as a prosecutor for the U.S. District of Massachusetts. "It's a case that surprised the country, and he's a unique part of that because he's the only one who did not take funds or get a student into school. He added: "I wouldn't say it's a blow to the prosecution."

At the sentencing hearing, Assistant U.S. Attorney Eric Rosen argued that Vandemoer's sentence should set an example in the historic case and that a prison term would "send a powerful message" to those who abuse the admissions system and hard-working high school students who follow the rules.

Prosecutors have recommended varying lengths of prison time for each of the 21 other defendants in the college admissions case who have either pleaded guilty or agreed to later.

**More:** [Felicity Huffman is just the beginning: Who's pleaded guilty in the college admissions scandal — and who's still fighting \(/story/news/nation/2019/05/23/lori-loughlin-felicity-huffman-college-admissions-scandal-rick-singer-guilty-not-guilty-list/3704724002/\)](#)

In a brief statement after the disappointing result for the prosecution, U.S. Attorney Andrew Lelling said, "We will continue to seek meaningful penalties in these cases."

Rosen struggled to make the case that Stanford suffered any loss as a result of Vandemoer's actions and that Vandemoer gained anything from the transaction. But it might be an easier argument for the government in cases where coaches kept the money and fabricated recruits made it on collegiate sports rosters.

Rosen cited Vandemoer's salary paid by Stanford as a loss for the school. And he said directing the money to the sailing program was "absolutely his gain" because he could buy boats and other sailing equipment that benefit him as a coach.

The judge shot back: "So it's a psychological gain."

Rosen, clearly frustrated, responded: "It's not a psychological gain. He had the choice to put (the money) where he wanted."

Perhaps more troubling for the prosecution's larger argument was another line of question from the judge.

The government has prosecuted coaches and other co-conspirators of Singer under the Racketeer and Influenced and Corrupt Organized Act, typically used to prosecute organized crime. But the judge said that while Vandemoer certainly committed fraud against Stanford, she wasn't convinced he paid bribes, which is considered racketeering activity under the act.

"You call them a bribe, but it's not clear to me what makes it a bribe," Zobel said.

Rosen disagreed again: "A bribe is simply a quid pro quo. He wanted the money for the sailing program, and he went about it in a criminal way that goes against Stanford's ethical standards."

At times in the hearing, both Zobel and the defense accused prosecutors of trying to set a precedent with the Vandemoer case to help cases down the road.

"This isn't about him," Fisher said. "It's about the cases that come after him."

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Stanford sailing coach was spared prison. Will others?

"I don't know what you're fighting for other than your other cases," Zobel told Rosen during a back and forth on a technical question about which sentence guidelines to apply.

Zobel, a federal judge for 40 years, has been assigned to only one other defendant in the case – Singer, whose sentencing hearing is scheduled for Sept. 19.

Tobias, the law professor, said some of issues raised by her could "open up some avenues for defense counsel in subsequent cases: what to be prepared for, what the government's argument might look like. It does give them a bit of a window, I would expect."

And because Zobel is well-respected in federal court, Tobias said other judges could be persuaded to take a similar action if a similar case emerges. But he cautioned, "Nothing she did would bind them in any way."

"Her general approach they may follow, but the facts and the law may lead somewhere else."

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