Brazilian Pol Can’t Shake Indictment in New York
By MARK THOMPSON

MANHATTAN (CN) - A New York County appellate court refused to bar the district attorney’s office from prosecuting a prominent Brazilian politician who is accused of looting more $11 million in Brazilian public funds and passing the money through a New York bank account.

Paulo Maluf, a former mayor of Sao Paolo and onetime candidate for the nation’s presidency, and his son Flavio were indicted in 2007 by then-Manhattan District Attorney Robert Morgenthau.

The indictment charged the Malufs with participating in a scheme to generate kickbacks from contractors involved in massive highway construction project in Sao Paolo.

The proceeds were allegedly transferred to a bank in New York and then routed to offshore accounts, including one in the British Channel Islands.

In arguments before the appellate division, the Malufs claimed that the case against them in New York, now being pursued by District Attorney Cyrus Vance, violates their constitutional rights to due process and to a speedy trial. They also argued that prosecuting them in the United States is a breach of principles of international comity.

But a unanimous panel of the appellate division ruled that whether those arguments have merit or not, the Malufs cannot invoke the “extraordinary remedy of prohibition” to cut the case short at this point, because they have not demonstrated that they have a “clear legal right” to the relief they seek.

“These claims allege errors of law for which petitioners have adequate alternative remedies, including filing pretrial motions in the underlying criminal action and challenging any conviction on appeal,” the appellate panel declared in Matter of Maluf v. Vance.

The court noted that Maluf and his son would have to come to New York to avail themselves of those remedies, “since Brazil will not extradite its own citizens.” But that “does not render them inadequate.”

In a March 8, 2007, press conference announcing the indictment, Morgenthau said that more than $140 million was routed through a secret bank account in New York. New York prosecutors are focusing on about $11.6 million in bank transfers because those funds can be traced directly to the highway-construction kickback scheme, Morgenthau said.

“This case represents corruption and greed on a colossal scale,” Morgenthau said at the time. Morgenthau said he would not allow Manhattan to become “Grand Cayman on the Hudson.”

Maluf’s press office in Brazil responded with a statement, saying Maluf would welcome a trial in the United States, because it would “finally permit Paulo Maluf to defend himself and prove he is innocent of the accusations made against him.”