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ADVANCE SHEET HEADNOTE
May 18, 2026

2026 CO 31

No. 24SC513, *Hupke v. People* – Statutory Construction – Attempt to Influence a Public Servant.

Section 18-8-306, C.R.S. (2025), criminalizes attempts to influence a public servant's actions "by means of deceit." The supreme court holds that this phrase encompasses a defendant's use of a third party to engage in deception. The supreme court observes that the plain and ordinary meaning of the word "deceit" is broad and concludes that it encompasses using a third party to convey false information. Therefore, the supreme court holds that a defendant violates section 18-8-306 when the defendant uses a third party to convey false information in an effort to influence a public servant's actions and the false information actually reaches the public servant.

The supreme court further concludes that the evidence at trial, viewed in the light most favorable to the prosecution, was sufficient to support Michael Thomas Hupke's conviction under section 18-8-306. Accordingly, the supreme court affirms the judgment of the court of appeals.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2026 CO 31

Supreme Court Case No. 24SC513
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 23CA106

Petitioner:

Michael Thomas Hupke,

v.

Respondent:

The People of the State of Colorado.

Judgment Affirmed

en banc

May 18, 2026

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CHIEF JUSTICE MÁRQUEZ delivered the Opinion of the Court, in which **JUSTICE BOATRIGHT, JUSTICE HOOD, JUSTICE GABRIEL, JUSTICE SAMOUR, JUSTICE BERKENKOTTER,** and **JUSTICE BLANCO** joined.

CHIEF JUSTICE MÁRQUEZ delivered the Opinion of the Court.

¶1 Under section 18-8-306, C.R.S. (2025), any person who attempts to influence a public servant's actions "by means of deceit" commits a class 4 felony. In this case, we are asked to determine whether a person acts "by means of deceit" when using a third party to lie to a public servant on their behalf.¹

¶2 Michael Thomas Hupke was convicted of violating section 18-8-306 for instructing his mother to lie to his parole officer in an effort to persuade the officer to lift Hupke's parole hold. His mother complied and conveyed the false statement. Hupke argues that section 18-8-306 criminalizes only a defendant's own direct deceit and does not extend to defendants who engage a third party to commit deceptive acts on their behalf. In other words, he argues that he did not act "by means of deceit" for purposes of section 18-8-306 because he did not personally lie to the parole officer. We disagree.

¶3 The plain and ordinary meaning of the word "deceit" is broad, encompassing any trick, contrivance, or act designed to lead someone to believe something that is not true. Using a third party to convey a lie, especially someone who may appear more trustworthy or believable, is an act designed to lead the

¹ We granted certiorari to review the following issue:

Whether the court of appeals incorrectly held that a violation of section 18-8-306, C.R.S. (2024) can be accomplished through a third party's deceit.

recipient of that information to believe something that is not true. We therefore hold that the phrase “by means of deceit” in section 18-8-306 encompasses a defendant’s use of a third party to engage in deception.

¶4 Viewed in the light most favorable to the prosecution, the evidence at trial was sufficient to support Hupke’s conviction. Accordingly, we affirm the judgment of the court of appeals.

I. Facts and Procedural History

¶5 In November 2021, Hupke was arrested and booked into county jail. At the time, Hupke was on parole for unrelated charges, so he was placed on a parole hold pending review by his parole officer. Hupke had moved his residence without informing his parole officer, which was a violation of a condition of his parole. Hupke called his mother from jail, explained the situation, and emphasized the importance of getting the parole hold lifted so he could be released from jail. Hupke instructed his mother not to tell his parole officer that he had already moved, but instead to say that he was in the process of moving. Hupke’s mother ultimately conveyed the false information to the parole officer as instructed.

¶6 Hupke’s phone calls were recorded and reviewed, and he was charged with one count of attempt to influence a public servant under section 18-8-306. The phone calls were admitted as evidence at trial, and Hupke was convicted.

¶7 On appeal, Hupke challenged the sufficiency of the evidence supporting his conviction. *People v. Hupke*, 2024 COA 73, ¶ 1, 557 P.3d 816, 817. Specifically, he argued that the phrase “by means of deceit” in section 18-8-306 requires a defendant to personally deceive a public servant. *Id.* Here, Hupke contended, the prosecution presented no evidence that he personally deceived his parole officer – rather, any deception was carried out by his mother. *Id.* A division of the court of appeals rejected his contentions and affirmed his conviction. *Id.* at ¶ 16, 557 P.3d at 819.

¶8 The division reasoned that the plain language of the statute encompassed Hupke’s actions because the phrase “by means of deceit” in section 18-8-306 describes an “offender’s attempt to influence a public servant through *any* fraudulent and deceptive misrepresentation designed to deceive and trick the public servant.” *Id.* at ¶ 11, 557 P.3d at 819. The division then concluded that sufficient evidence supported Hupke’s conviction because he acted by means of deceit when he used his mother to convey false information to his parole officer in an effort to get his parole hold lifted. *Id.* at ¶ 14, 557 P.3d at 819.

¶9 We granted Hupke’s petition for a writ of certiorari, and we now affirm.

II. Analysis

¶10 Hupke argues that section 18-8-306 criminalizes a defendant’s *own* acts of deceit, not a defendant’s truthful instructions to a third party to engage in

deceptive acts on the defendant's behalf. He contends that his conduct did not amount to "deceit" because he told his mother the truth and merely instructed her to lie; his *mother's* actions deceived the parole officer.

¶11 We begin by setting forth the standard of review and applicable legal principles. We then consider the meaning of the phrase "by means of deceit" in section 18-8-306 and hold that, contrary to Hupke's contention, "deceit" encompasses a defendant's use of a third party to engage in deceptive acts on the defendant's behalf.

¶12 Next, we turn to the facts of this case and apply them to the elements of section 18-8-306. We conclude that a reasonable juror could have found that Hupke's conduct, viewed in the light most favorable to the prosecution, constituted an attempt to influence a public servant by means of deceit. Accordingly, we conclude that the evidence was sufficient to support Hupke's conviction.

A. Standard of Review and Applicable Law

¶13 We review matters of statutory interpretation de novo. *McCoy v. People*, 2019 CO 44, ¶ 37, 442 P.3d 379, 389. When we construe a statute, our primary purpose is to identify and give effect to the legislature's intent. *Id.* We look first to the language of the statute and give its words and phrases their plain and ordinary meanings. *Id.* We discern their ordinary meanings by construing

undefined words and phrases according to their common usage. *People v. Johnson*, 2024 CO 32, ¶ 17, 549 P.3d 957, 961.

¶14 We likewise review the sufficiency of the evidence de novo. *Manjarrez v. People*, 2020 CO 53, ¶ 20, 465 P.3d 547, 551. In so doing, we must “determine whether the relevant evidence, viewed as a whole and in the light most favorable to the prosecution, was sufficient to support the conclusion by a reasonable juror that the defendant was guilty beyond a reasonable doubt.” *Butler v. People*, 2019 CO 87, ¶ 20, 450 P.3d 714, 718.

B. The Meaning of the Phrase “By Means of Deceit” in Section 18-8-306

¶15 Section 18-8-306 provides that it is a class 4 felony to “attempt[] to influence any public servant by means of deceit . . . with the intent thereby to alter or affect the public servant’s decision . . . or action concerning any matter which is to be considered or performed by the public servant.” The purpose of this provision “is to protect public servants from undue influence or intimidation by means of deceit.” *People v. Janousek*, 871 P.2d 1189, 1194 (Colo. 1994).

¶16 Because the statute does not define “deceit,” we look to its plain and ordinary meaning. Over thirty-two years ago, we explained that “deceit” means “[a] fraudulent and deceptive misrepresentation . . . used by one or more persons to deceive and trick another, who is ignorant of the true facts, to the prejudice and damage of the party imposed upon.” *Id.* at 1196 (alteration and omission in

original) (quoting *Deceit*, Black's Law Dictionary (6th ed. 1990)). It includes "any trick, collusion, contrivance, false representation, or underhand practice used to defraud another." *Id.* (quoting *Deceit*, Webster's Third New International Dictionary (1986)). Although those dictionary definitions have evolved somewhat over time, their essence remains unchanged. *See Deceit*, Black's Law Dictionary (12th ed. 2024) ("The act of intentionally leading someone to believe something that is not true; an act designed to deceive or trick"); *Deceit*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/deceit> [<https://perma.cc/7V5T-E94Z>] ("[T]he act of causing someone to accept as true or valid what is false or invalid").

¶17 While Hupke acknowledges that the term "deceit" is broader than "lie," he argues that "deceit" is not so broad as to include using a third party to convey a lie on a defendant's behalf. We disagree. As reflected by the broad definitions above, the ordinary meaning of "deceit" encompasses a wide range of conduct. True, it is possible to engage in deceit by personally misleading or tricking another individual into believing something that is not true. But it is equally possible to mislead or trick another person by *using someone else* to convey false or misleading information. Indeed, in some cases, it may be even more deceptive to use a messenger to convey untrue information—especially a messenger whom the recipient is likely to find more believable or trustworthy. Either method amounts

to conduct designed to lead another person to believe something that is not true, which is the heart of “deceit.”²

¶18 Importantly, the use of deceit is simply a means to an end. Section 18-8-306 does not criminalize deceit in and of itself; it prohibits attempts to influence public servants “by means of” deceit. Thus, imagine a person asks a third party to convey false information to a public servant to influence some action by the public servant, but the third party never follows through. While such a scenario may amount to solicitation or conspiracy (depending on the circumstances), it does not amount to an attempt to influence the public servant under section 18-8-306 because a public servant cannot possibly be influenced by information that never reaches them.³

¶19 Hupke also contends that the legislature could not have intended for the statute to cover his conduct because other class 4 felonies, such as second degree

² Hupke proposes a broad definition of “deceit” that includes “direct lies, . . . lying by omission, misleading statements, or other acts designed to create a false impression” and insists that such a definition does not encompass instructing another person to lie. Opening Brief for Petitioner at 7-8. But using another person to convey a lie or a misleading statement is also an act “designed to create a false impression.” Thus, Hupke’s own definition of “deceit” does not preclude actions that rely on a third party.

³ We note that it is irrelevant whether the third party is aware that the information to be conveyed is untruthful. The key question in this case is whether section 18-8-306 criminalizes a defendant’s use of a third party to deceive a public servant in an effort to influence that public servant’s actions. The answer to that question does not hinge on the third party’s awareness that the information being conveyed is untruthful.

assault, § 18-3-203(2)(b), C.R.S. (2025), and second degree motor vehicle theft, § 18-4-409(6)(b), C.R.S. (2025), are more serious than using another person to convey a lie. In other words, Hupke argues that the legislature could not have intended to punish his actions as harshly as the legislature punishes crimes like second degree assault. We disagree.

¶20 First, we find no such limitation in the language chosen by the legislature. The legislature chose the phrase “by means of deceit,” which includes many forms of trickery. We must presume that its choice was deliberate and made with full knowledge of the effects. *See In re People v. Beverly*, 2025 CO 18, ¶ 21, 568 P.3d 398, 404. Second, given that the purpose of the statute is to “protect public servants from undue influence or intimidation by means of deceit,” *Janousek*, 871 P.2d at 1194, the legislature reasonably chose language intended to cover a broad range of conduct. Public servants must routinely make consequential decisions where the accuracy of information is paramount. So, criminalizing attempts to influence the actions of public servants is critical to ensuring the accuracy and integrity of their decisions.

¶21 In sum, we hold that the meaning of the phrase “by means of deceit” in section 18-8-306 encompasses a defendant’s use of a third party to engage in deceptive acts on the defendant’s behalf.

C. Application

¶22 Turning to the facts of this case, we conclude that a reasonable juror could have found that Hupke's conduct, viewed in the light most favorable to the prosecution, amounted to an attempt to influence a public servant by means of deceit. First, the parties do not contest that a parole officer is a public servant. Second, undisputed evidence showed that Hupke had changed residences without his parole officer's permission. Third, there is no dispute that Hupke sought to be released; the recorded phone conversations revealed that Hupke wanted his parole officer to lift the parole hold. Fourth, those conversations also revealed that Hupke asked his mother to lie to his parole officer by saying that he was in the process of moving when in fact he had already moved. Fifth, the evidence showed that Hupke's mother actually conveyed the lie to the parole officer. In sum, Hupke effectively used his mother to lie to his parole officer in an effort to influence the parole officer's actions. A reasonable juror therefore could have found that Hupke attempted to influence a public servant by means of deceit, in violation of section 18-8-306.

III. Conclusion

¶23 We hold that the meaning of the phrase "by means of deceit" in section 18-8-306 encompasses a defendant's use of a third party to engage in deception. Under this definition, we conclude that the evidence was sufficient to support

Hupke's conviction for attempt to influence a public servant. Accordingly, we affirm the judgment of the court of appeals.