Attorney says Smith will contest charge
By Shaun Zinck
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SPRINGFIELD — The attorney for state Rep. Derrick Smith, D-Chicago, said he expects his client to return to work "sooner rather than later."

Victor P. Henderson, a partner at Henderson, Adam LLC, said he spoke with Smith Thursday, but could not give a specific date for when the representative will return to the capital.

"He is steadfast in his representation of his district and he will be back at work," Henderson said. Smith hasn't appeared on the House floor since his March 13 arrest. A federal grand jury on Tuesday indicted Smith on one count of bribery.

The indictment alleges Smith, in exchange for $7,000 in cash, wrote a letter of support for a day care center he believed sought a $50,000 construction grant from the Illinois Capitol Development Board. The FBI made up a fictitious day care center owner, but the real center never sought the grant, court documents say.

Smith plans to plead not guilty, Henderson said.

The FBI seeks to recover $4,500 in proceeds from the alleged transaction, the indictment says. Court documents also allege the FBI used an informant in Smith's political campaign office who helped set the deal up. The informant recorded a conversation when he gave Smith the cash, the document say.

Henderson said he talked with a few people, including one who signed an affidavit, who said they believe the federal agents investigating Smith were not "candid or straightforward" with what they wanted.

"It was their perception that (the agents) were looking for unfavorable information on Mr. Smith," Henderson said.

Henderson wouldn't elaborate about the defense he plans to pursue, but asked the public not to jump to conclusions.

He pointed to the 2008 trial of the late U.S. Sen. Ted Stevens, R-Alaska, as an example of people rushing to judgment. Stevens was convicted of improperly reporting gifts, including work done on his house.

Later, a federal judge vacated the guilty verdict after revealing the prosecution withheld evidence.

"People did not necessarily listen to what Sen. Stevens had to say, not until the very end when it turned out to be true," Henderson said.

Juliet Sorensen, a clinical assistant professor at Northwestern University School of Law, said agents can use trickery as a technique in their investigations.
"It is a permissible investigative tool," Sorensen said. "A ruse or a deceptive statement is not in and of itself something that would result in the suppression of evidence or undermine the indictment."

Sorensen said the recordings the FBI says it has of Smith accepting the cash will most likely be the center of the case, rather than witnesses' testimony.

A possible entrapment defense could prove challenging, said Alan Raphael, an associate professor at Loyola University Chicago College of Law.

"It's very hard to establish," said Raphael, who focuses on criminal law. "If he can show he refused to take the bribe repeatedly and the government somehow wore him down then he has a more plausible argument."