

Lelling drops Boston Calling case

Says he won't appeal the US decision vacating convictions of Walsh aides

By **Danny McDonald**

GLOBE STAFF

A month after a federal judge vacated convictions of two former City Hall aides accused of extorting union jobs from organizers of the Boston Calling music festival, the US Attorney for Massachusetts announced Friday his office will no longer pursue the case.

The decision US Attorney Andrew Lelling officially brings to a close a years-long legal saga that has dogged Mayor Martin J. Walsh's administration, and highlighted his long established ties to organized labor.

"The government has decided not to appeal the Court's reversal of the jury verdict," said Lelling in a statement Friday evening. "We have prevailed in this case before both the court of appeals and a jury, but after nearly four years of litigation it is time for the government to move on."

Last month, US District Judge Leo T. Sorokin overturned the jury verdicts from August that found former aides Ken Brissette and Tim Sullivan guilty of extorting union jobs from organizers of the music festival, under the threat of losing lucrative permits. The judge, who

had signaled misgivings about the case long before it went to trial, instead entered verdicts of not guilty.

Brissette, the city's former head of tourism, and Sullivan, the former head of intergovernmental affairs, had been convicted by a jury of eight women and four men of strong-arming the festival into hiring union workers in 2014. Federal prosecutors said the men leaned on concert organizers to promote Walsh's political agenda and exploited the organizers' fear that city officials might shut down the popular event if they failed to comply.

The pair resigned from their posts after their convictions, but were seen by some in the Boston political community as having been unfairly targeted by an overzealous prosecution.

Walsh's office declined to comment on the matter Friday night.

Lelling's decision to end the years long probe did not surprise some legal observers.

Rosanna Cavallaro, who teaches criminal law and evidence at Suffolk University, said Friday that if the purpose of this type of case is to set an example or send a message of deterrence to government officials

LELLING, Page B6

Continued from Page B1

regarding behavior prosecutors believe to be criminal, Lelling's office has accomplished that.

"The fact that these two people do or don't go to jail doesn't increase the message value that they've already gotten from the case," she said.

Indeed, in his Friday statement, Lelling said, "Going forward, public officials should be aware that we will not hesitate to bring extortion cases

based on the legal theory endorsed by the court of appeals in this case."

To press on with the case in light of Sorokin's "carefully reasoned" decision last month would be a heavily criticized move, said Cavallaro.

"And it would have been an uphill battle," she said.

Martin G. Weinberg, a Boston-based defense attorney who is not associated with the case, called Lelling's decision "the absolute correct one, legally," given that Sorokin's ruling was "compelling both in terms of his review of the trial record and his determination of the boundaries of federal extortion law."

"On a human level, I think it's the right decision given all these years that the defendants faced federal prosecution for something that was outside the perimeter of criminal law," he said.

Lelling's announcement marks the end of a legal tale that has had its share of twists. In March 2018, Sorokin dismissed charges after prosecutors conceded they could not prove Brissette and Sullivan had personally benefited from the union jobs, the legal standard the judge had established for a conviction.

Prosecutors appealed, and in March 2019 the First Circuit Court of Appeals ruled that Brissette and Sullivan did not have to benefit personally from the jobs to have committed extortion.

At the same time, the appeals court said it was not taking a stance on whether the



City Hall workers had acted illegally and noted “the concerns expressed by the Supreme Court that an overly broad application of the Hobbs Act could unduly chill official conduct.”

When Sorokin overturned the verdicts in February, legal experts called it an unusual development that represented a repudiation of the prosecution’s handling of the case. It was also viewed as a victory for City Hall.

In that ruling, the judge said, “Neither Brissette nor Sullivan received a personal payoff or any other cognizable benefit in connection with the charged conduct.”

Nestor Ramos of the Globe Staff contributed to this story.

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