

# Trial canceled in Boston Calling case



PAT GREENHOUSE/GLOBE STAFF/FILE

**Timothy Sullivan (left) and Kenneth Brissette**

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The upcoming trial of two City Hall officials accused of illegally pressuring organizers of the Boston Calling music festival into hiring union members was

anceled Wednesday after federal prosecutors conceded their evidence was unlikely to meet the judge's standard for conviction.

US District Judge Leo T. Sorokin did not outright dismiss extortion charges against Kenneth Brissette and Timothy Sullivan, who allegedly threatened to withhold permits for the festival in September 2014 if organizers did not hire union members.

But he told prosecutors and defense attorneys he was canceling the public corruption trial, which had been scheduled to begin next week, amid a flurry of motions indicating that neither side wanted the high-profile case to move forward.

Prosecutors had acknowledged that Sorokin's threshold for a guilty finding, based on an interpretation of federal extortion law, was devastating to their case, and urged him to reconsider. On Wednesday, they filed a motion that laid out the evidence they would present to a jury, putting the onus on Sorokin to dismiss the charges.

If he does, as is expected, prosecutors have already signaled their intention to seek permission from the US solicitor general to appeal.

“This was the wise election among many bad options that [gives] prosecutors the option to ask the solicitor general to approve an appeal,” said Martin G. Weinberg, a veteran criminal defense attorney who has been following the case. “The government's case is nearing its end in the district court.”

The last-minute legal maneuvering marked the latest twist in a case that has stretched over nearly two years and dogged the administration of Boston Mayor Martin J. Walsh. After the charges were filed, a series of legal rulings by higher courts weakened the government's case and forced prosecutors to revise their

strategy.

A spokeswoman for Walsh declined to comment Wednesday.

The latest blow in the prosecution case came Monday, when Sorokin held firm to his planned jury instructions about the legal definition of the Hobbs Act, the federal law that forbids extortion. Prosecutors had criticized his interpretation as too narrow.

Sorokin had said that the government needed to prove the defendants benefited personally when they obtained the jobs for the union, a standard that prosecutors said would undercut the Hobbs Act and set a dangerous precedent for future extortion cases.

In a strongly worded response, Sorokin said it was prosecutors who were misunderstanding the law and noted that the Supreme Court had repeatedly warned against taking too broad a view of the Hobbs Act.

“The government’s position converts many actual or potential violations of civil law by government officials into federal felonies punishable by up to 20 years in prison,” Sorokin wrote.

In their motion Wednesday, prosecutors disclosed evidence in the case, including an e-mail sent by Colleen Glynn, the business agent for Local 11, to union members. The message praised Sullivan — and Walsh — for helping to secure jobs for nine members at the festival.

“I want you all to know we got a ton of help from City Hall. Starting with the top, Mayor Walsh and his staff members . . . these folks fought hard for us because Local #11 fought hard for them . . . and we MUST keep supporting them & the political candidates who will keep fighting on the side of labor,” Glynn wrote, according to

the e-mail. “When there is a call to action event Local #11 must send help.”

It was the clearest evidence prosecutors had presented that union leaders were grateful after Brissette, the city’s chief of tourism, and Sullivan, head of intergovernmental affairs, allegedly threatened to withhold city permits unless the organizers hired union workers.

Prosecutors also said Walsh was elected in 2013 with considerable help from unions and said Brissette and Sullivan were seeking to avoid the embarrassment of a union picket outside City Hall if Boston Calling didn’t hire members of organized labor.

“Walsh enjoyed the support of multiple unions during his campaign for mayor, and some members of his administration assumed that unions would be among his preferred constituents,” they wrote.

Still, prosecutors acknowledged the evidence would fall short under Sorokin’s guidelines.

“As the government previously stated, it concedes that, under the Court’s view of the relevant law, this evidence will be insufficient to meet the government’s burden of proof at trial,” prosecutors wrote.

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