



Opinion

SCOT LEHIGH

An embarrassing failure for federal prosecutors in Boston Calling case



PAT GREENHOUSE/GLOBE STAFF FILE PHOTOS

US District Court Judge Leo T. Sorokin on Thursday dismissed the case against City Hall officials Timothy Sullivan (left) and Kenneth Brissette (right). Their trial was set to begin next week.



By [Scot Lehigh](#)

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As Laurel and Hardy might say, what a fine mess the US Attorney's Office has gotten itself into!

On Thursday, US District Court Judge Leo T. Sorokin dismissed the extortion case federal prosecutors have spent two years pursuing against City Hall employees Tim Sullivan and Ken Brissette. Why? Because, as the prosecution acknowledged, the "evidence" it planned to present to support the extortion charges didn't meet the standard that Sorokin said was required for a conviction.

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And what was that high bar? That to prove extortion, prosecutors had to show that Sullivan and Brissette had personally benefited from having pushed the Boston Calling music festival to hire some union workers for its 2014 event on City Hall Plaza. The prosecution's assertion has been that the very fact that the two men, appointees of pro-labor Mayor Marty Walsh, allegedly pressured Boston Calling into hiring union members was in and of itself extortion.

That contention becomes even more of a stretch once you know that the

prosecution acknowledged in a recent document that Brissette and Sullivan “did not overtly threaten that they would impede the permitting and licensing process for the Boston Calling music festival if the company did not hire members of Local 11 for its production.”

The government says that’s because the two “carefully chose their words.” But think about it: The feds are trying to send two people to prison for pushing a music festival organizer to hire some union workers, even though they didn’t make any overt threats as part of that effort or receive any personal gain from that action. The US attorney’s office may try to appeal Sorokin’s dismissal of the case, in the hope of getting a higher court to order a different evidentiary threshold for conviction.

But let’s call that move what it would be: a face-saving maneuver.

While we’re at it, let’s also call this prosecution what it was: a waste of tax dollars — one that upended the lives of two decent people and left them with hundreds of thousands of dollars in legal bills.

“This was an unorthodox prosecution that was far outside the norm of federal extortion law,” notes long-time defense attorney Martin Weinberg. That, I think, is a legal luminary’s gentlemanly way of calling it a colossal case of prosecutorial overreach.

I say that as someone who has been a regular critic of union excesses and who has absolutely no truck with the kind of abusive behavior the Teamsters directed at a nonunion “Top Chef” group taping a show in Milton in 2014. Yes, they were acquitted of any crimes, but their conduct was the sort of bullying that gives labor a black eye. I’m also someone who believes City Hall should never try to put a pro-union thumb on the scale when it comes to events on city property. Or apply

pressure of any sort in that regard.

But not everything that one finds objectionable is automatically unethical or criminal behavior.

Pushing for union work at events on City Hall Plaza is a political matter. The attempted remedy for actions like that should be political as well. If one objects to something an administration does, he or she can register that opposition with the mayor or the city council. If their objections are strenuous enough, they can cast their vote accordingly.

This prosecution started long before [Andrew Lelling](#) landed at the US attorney's office, so the egg is not really on his face. Still, he should do two things here:

First, forget about trying to appeal [Judge Sorokin](#)'s dismissal of the case.

Second, offer an apology to Sullivan and Brissette.

That would be a classy and gracious move. No, it wouldn't erase their legal bills. But it would go some distance to make up for unfairly dragging the two men through the mud.

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