All charges against Lewiston man dismissed

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AUBURN — Prosecutors dropped the remaining charges against a Lewiston man Tuesday, after a judge refused to reconsider her order that dismissed more than a dozen counts of welfare fraud against the man.

At a brief Tuesday morning hearing in Androscoggin County Superior Court, Judge Susan Oram rejected the state's motion seeking to have 13 charges of theft, forgery and unsworn falsification restored against Abdi Hassan, 47, of Lewiston.

In her motion, Assistant Attorney General Darcy Mitchell argued that only two of 72 documents in the case "purportedly containing defendant Hassan's signature may have been completed by a DHHS employee." Three of the documents "have been identified as having potential issues with their veracity," she wrote.

"The court indicated that the possibility that this document could have been improperly prepared … 'calls into question the integrity or reliability of the documentation and witnesses as to all the counts in the (Androscoggin County grand jury) indictment related to the (Maine) Department of Health and Human Services," Mitchell wrote, quoting Oram's Monday order dismissing the 13 charges.

Mitchell further quoted from Judge Oram's order that she "does not know how many of these documents purport to contain defendant's signature, how many appear to have been prepared, signed or reviewed by DHHS employees and how many of the remaining documents are devoid of any suspect elements."

Oram's dismissal stems from Mitchell's discovery late last week during a pretrial interview with a former DHHS worker who disclosed that applications for welfare benefits in Hassan's case may have been improperly filled out by several caseworkers at the Maine Department of Health and Human Services.

In a Thursday email from Mitchell to James Howaniec, Hassan's attorney, she wrote that a former DHHS worker: "indicated that it was possible that Ms. (Mary) Coffin completed the form in its entirety, i.e. also completed the portion of the form bearing Abdi (Hassan) Aideed's name." When the former DHHS worker, Dawna Bailey, was asked "if she could ever recall doing that herself, i.e., signing a form for a client, she indicated that she would like to think that if she had ever done it, that she would put her initials next to the name and that she would have gotten the individual's permission before doing so."

Two DHHS caseworkers referenced by Mitchell in her email are no longer employed by that agency, a spokeswoman confirmed Tuesday.

A hearing was held Friday on Hassan's motion to continue the case at least a month or dismiss the charges.

Mitchell said she had planned to call at trial 22 current and former DHHS workers, including Bailey. Included in her motion were recent interviews with DHHS workers who handled Hassan's paperwork.

"The workers generally indicated that they would not sign a document for a client and are not aware of that being done," Mitchell wrote. "One worker indicated that if she did sign a form for a client, it would read 'her name for client's name.'"

In her ruling dated May 14, Oram wrote that the case had "been pending for far too long" and that the only remedy to the new revelations other than a continuance was dismissal of the charges related to DHHS documents. Her action, which means the state can't recharge Hassan on those 13 DHHS-related charges, was taken "as a sanction for the state's violation of its discovery obligations," she wrote.

Mitchell took issue with Oram's ruling, writing in her motion Monday that, "this court incorrectly grafts onto the prosecution's (and state's) responsibilities a duty to continually conduct an investigation."

She went on to write that the Maine Supreme Judicial Court "recognized that new information discovered in witness interviews and trial prep sessions and disclosed does not constitute a discovery violation."

Howaniec responded to Mitchell's motion by pointing out that she and DHHS investigators had four years from the time of Hassan's indictment to disclose impeachable information about the prosecution's witnesses. Attorneys spent three long days picking a 14-person panel from 300 prospective jurors, including 87 private interviews, with as many as seven Somali interpreters, including those flown in from Minnesota, Ohio and Utah.

Of the remaining two counts not dismissed by Judge Oram, prosecutors had been prepared to dismiss one of them, leaving the sole charge of negotiating a worthless instrument, or writing bad checks. The Class C felony is punishable by up to five years in prison.

Howaniec had argued in his response to the state's motion that the remaining charge could be dismissed or his client could go to trial on that charge.

Prosecutors have 21 days to file notice of appeal to the Maine Supreme Judicial Court of Oram's order dismissing the 13 DHHS-related charges against Hassan.

If they were to do that and the high court overturned Oram's order, the 13 welfare fraud charges involving DHHS would be on track once again for trial.

By dismissing the remaining two non-DHHS-related charges, prosecutors ensured they at least would be able to again seek indictment on those charges at a later date.

For his part, Howaniec applauded Oram's rejection of the state's effort to revive the DHHS-related charges.
"Obviously, we're pleased with the decision," he said Tuesday. "We feel it is the appropriate decision."
But, Howaniec said, disclosure about possible wrongdoing by DHHS workers shouldn't end with the dismissal of his client's charges.
"We are concerned about this new evidence," he said. "We hope that the Attorney General's Office will investigate not only this new evidence, but will conduct a more general investigation into the workings of the Maine Department of Health and

Human Services” on a “broader scale.”

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