

STATE OF ILLINOIS)

)SS

COUNTY OF COOK)

FILED

JUN 17 2009

**DOROTHY BROWN
CLERK OF CIRCUIT COURT**

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION

PEOPLE OF THE STATE OF ILLINOIS,)

)

Plaintiff,)

)

v.)

No. 08 CR-10502

)

ANNABEL K. MELONGO)

)

Defendant.)

MOTION TO DISMISS INDICTMENT

COMES NOW the defendant, ANNABEL K. MELONGO, Pro Se, and respectfully moves this court to dismiss the indictment in violation of section 109-3.1(b) of the Code of Criminal Procedure of 1963 (725 ILCS 5/109-3.1(b) (West 1996)). In support of this motion the Defendant states as follows:

1. In Illinois an indictment must take place within 60 days after the Defendant is released on bond.

Section 109-3.1(b) of the Code of Criminal Procedure of 1963 (725 ILCS 5/109-3.1(b) (West 1996)) states:

“Every person in custody in this State for the alleged commission of a felony shall receive either a preliminary examination as provided in Section 109-3 or an indictment by Grand Jury as provided in Section 111-2, within 30 days from the date he or she was taken into custody. Every person on bail or recognizance for the alleged commission of a felony shall receive either a preliminary examination as provided in Section 109-3 or an indictment by Grand Jury as provided in Section 111-2, within 60 days from the date he or she was arrested. ”

2. The Defendant was released on bond on November 15th 2006. Exhibit “A” is hereto attached as evidence of that release. The indictment took place on January 17th 2007 (“the first indictment”) and a letter regarding its outcome was sent to the Defendant, hereto attached as exhibit “B”. Between the bond release and the first indictment, there is a **63 DAYS** gap which is outside the limit prescribed by section 109-3.1(b) of the Code of Criminal Procedure of 1963 (725 ILCS 5/109-3.1(b) (West 1996)).
3. However, section 109-3.1(b) of the Code of Criminal Procedure of 1963 (725 ILCS 5/109-3.1(b) (West 1996)) has provisions for which that section doesn't apply:
 - (1) when delay is occasioned by the defendant; or
 - (2) when the defendant has been indicted by the Grand Jury on the felony offense for which he or she was initially taken into custody or on an offense arising from the same transaction or conduct of the defendant that was the basis for the felony offense or offenses initially charged;
or
 - (3) when a competency examination is ordered by the court; or
 - (4) when a competency hearing is held; or
 - (5) when an adjudication of incompetency for trial has been made; or
 - (6) when the case has been continued by the court under Section 114-4 of this Code after a

determination that the defendant is physically incompetent to stand trial.

4. The subsections (3) – (6) of section 109-3.1(b) of the Code of Criminal Procedure of 1963 (725 ILCS 5/109-3.1(b) (West 1996)) can't apply to Defendant . In response to this motion however, the State can argue about subsections (1) and (2) of that same section:

- In subsection (1) the delay wasn't caused by the Defendant rather by the State. The police detective based his case on arresting the Defendant and coercing a confession out of her. When that didn't happen, that detective couldn't present **ANY** evidence to the then State Attorney Lynn Palac in Rolling Meadows . As a result, the case was dismissed in that court on January 10th 2007 for lack of evidence. The certified statement of disposition is hereto attached as exhibit "C". After that, not being able to go through a preliminary hearing because they couldn't produce any evidence, they opted for a less challenging option in Chicago, a Grand Jury. To their dismay however, that Grand Jury hearing didn't fall within the days' limit prescribed by section 109-3.1(b) of the Code of Criminal Procedure of 1963 (725 ILCS 5/109-3.1(b) (West 1996)).
- The first indictment was replaced by another indictment on May 28th 2008 ("the second indictment") based on a technicality raised by the then Defendant's counselor James J. Flood. The counselor argued that the second count of the indictment didn't warrant a felony charge. That second count stated:

"THAT ON OR ABOUT MAY 1, 2006 ANNABEL K. MELONGO ACCESSED SAVE A LIFE FOUNDATION, INC'S (N.F.P) COMPUTER EMAIL SERVERS LOCTED IN SCHILLER PARK, ILLINOIS AND ACCESSED THE ACCOUNT OF CAROL SPIZZIRRI,

SAVE A LIFE FOUNDATION, INC'S (N.P.F) PRESIDENT AND FOUNDER. THESE ACTS WERE DONE WITHOUT THE AUTHORIZATION, KNOWLEDGE OR CONSENT OF THE COMPUTER'S OWNER."

Under Illinois Computer Crime Law however, the aforementioned charge doesn't fall into a felony rather a misdemeanor. That's why Judge Schreier asked the State to re-indict and hence the second indictment. The state might argue that this second indictment is protected by subsection(2) of section 109.3.1(b) of the Code of Criminal Procedure of 1963 (725 ILCS 5/109-3.1(b) (West 1996)); unfortunately, such an argument is unsustainable. If we tie both indictments, that is, if we consider the first indictment as the cause of the second indictment, then subsection(2) of section 109-3.1(b) is only valid if the initial indictment, the first indictment, is valid. On the other hand, if the two indictments are treated as independent entities, then they **BOTH** also violate section 109-3.1(b) of the Code of Criminal Procedure of 1963 (725 ILCS 5/109-3.1(b) (West 1996)). The first indictment violating it by 63 days and the second indictment violating it by more than one year and 6 months.

5. Section 114-1(a)(11) of the Code of Criminal Procedure (725 ILCS 5/114-1(a)(11) (West 1996)), alleges that :

"(a) Upon the written motion of the defendant made prior to trial before or after a plea has been entered the court may dismiss the indictment, information or complaint upon any of the following grounds:

(11) The requirements of Section 109-3.1 have not been complied with."

6. Section 114.1(e) of the Code of Criminal Procedure (725 ILCS 5/114-1(e) (West 1996))

further states that:

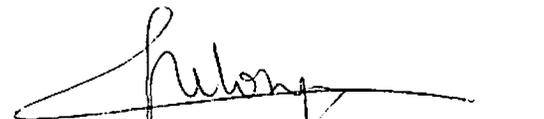
“Dismissal of the charge upon the grounds set forth in subsections (a)(4) through (a)(11) of this Section shall not prevent the return of a new indictment or the filing of a new charge, and upon such dismissal the court may order that the defendant be held in custody or, if the defendant had been previously released on bail, that the bail be continued for a specified time pending the return of a new indictment or the filing of a new charge. ”

However, the Defendant argues that a new indictment is warranted **ONLY** within the 60 days window prescribed by section 109-3.1(b) of the Code of Criminal Procedure of 1963 (725 ILCS 5/109-3.1(b) (West 1996)). Furthermore, any new indictment alleging the same offenses will violate the Defendant's Speedy Trial Rights of section 103-5(a) of the Code of Criminal Procedure of 1963 (725 ILCS 5/103-5(a) (West 1996)).

WHEREFORE, the Defendant prays this Honorable Court to dismiss the indictment and to prevent the return of a new one. Mr. Kyle French, the then lead investigator on the case, used the office of the Attorney General to provide a self-serving justice. A justice in which a warrant was issued solely with the intention to arrest and coerce a confession, a justice where a court report was falsified, credentials of the forensic examiner are questionable, evidence not supporting the charges and sometimes tampered with, a filing of an indictment even though its dateline is long overdue, pression on the Defendant's through her counselors to accept deals. A justice which sole purpose was to protect an embattled complainant from a supposedly financial investigation, see attached exhibits “D” - “F”. At the wake of Rod Blagojevich scandal, US Attorney Patrich Fitzgerald said about Illinois “If it isn't the most corrupt

state in the United States, it's certainly one hell of a competitor ". Well, the Defendant's case might not compete with the grandeur of Blagojevich's scandal, it nevertheless reflects, in its splendor, the very thing that makes Illinois famous. Sadly though, unlike that scandal where the Justice System stood up to prevent a misconduct, in the Defendant's case however, the Schiller Park Police Detective, the Attorney General lead investigator in the case and the Assistant State Attorney all concerted to knowingly indict without the shred of any evidence. Creating thereby their own form of justice, not a justice that serves and protects, but a perversion and an abomination thereof.

Respectfully submitted,



ANNABEL K. MELONGO/Pros Se

ANNABEL K. MELONGO

Pros Se Defendant

9200C HAMILTON COURT

DES PLAINES, ILLINOIS 60016



Exhibit ~~B~~

Exhibit C

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 06300688001

ANNABEL K MELONGO

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County/Local Prosecutor has filed a complaint with the Clerk of the Circuit Court.

Charging the above named defendant with:

720 5/16D-3 (A) (3) F COMPUTER TAMPERING
720 5/16D-3 (A) (3) F COMPUTER TAMPERING

The following disposition(s) was/were rendered before the Honorable Judge(s):

10/31/06 WARR ORD, WARR ISSUED
 URSO, JOSEPH J.

10/31/06 O/C ONLY REL DEF ON C/D BOND \$ 10000
 URSO, JOSEPH J.

10/31/06 WARRANT OUTSTANDING
 URSO, JOSEPH J.

10/31/06 WARRANT SENT TO POLICE AGENCY
 10/31/06 CONTINUANCE BY ORDER OF COURT 10/31/06 0378

11/15/06 RECALL/EXEC SENT TO POLICE AGY

11/15/06 PUBLIC DEFENDER APPOINTED
 URSO, JOSEPH J.

11/15/06 WARR RETURNED, EXECUTED, FILED
 URSO, JOSEPH J.

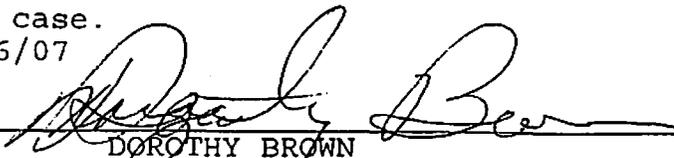
11/15/06 MOTION FOR BAIL REDUCTION S 2
 URSO, JOSEPH J.

11/15/06 DEFENDANT REL ON I BOND \$ 10000
 URSO, JOSEPH J.

11/15/06 CONTINUANCE BY AGREEMENT 01/10/07 0378
 URSO, JOSEPH J.

01/10/07 NOLLE PROSEQUI CALL
 HANLON KAY MARIE

I hereby certify that the foregoing has been entered of record on the above captioned case.
Date 01/16/07



DOROTHY BROWN
CLERK OF THE CIRCUIT COURT OF COOK COUNTY

Exhibit D

<http://abclocal.go.com/wls/story?section=news&id=5354419>

May 30, 2007 (WLS) -- New details emerge about the embattled Illinois charity The Save-A-Life Foundation -- and why it may be losing funding and political support.

The I-Team investigation of Save-A-Life last year uncovered a founder who fabricated her medical credentials. Now we've learned that Save-A-Life's primary government bankroll appears to be drying up.

The Save-A-Life Foundation claims its instructors have taught first aid skills to more than 2 million school children in Illinois and several other states the past decade. Since 2001, Save-A-Life has received millions of dollars in state and federal funding, and has listed powerful State Senate President Emil Jones as one of its major backers.

"I've never supported it funding-wise," Jones said.

Story continues below

Advertisement



And Jones says the charity is not currently slated to receive money in next year's state budget. The apparent cut-off of government funds follows I-Team disclosures about Save-A-Life founder Carol Spizzirri.

For years, while soliciting government funding, Spizzirri claimed to be a kidney transplant nurse and an RN. The I-Team's investigation found that the now-defunct college she attended never awarded her a degree of any kind; and government records show she has never been a registered nurse in either Wisconsin, as she told the I-Team, or in Illinois. During questioning last November, Spizzirri walked out of our meeting and declined to be interviewed for this report.

Over the past few years in Springfield, State Senator Donne Trotter has been the primary sponsor of funding for Save-A-Life in the Illinois budget, last year \$700,000 in taxpayer funds and another \$88,000 in grant money.

Exhibit E

"I am concerned if in fact that she is not spending the taxpayer dollars we have entrusted in her to be spent correctly," said Trotter.

The South Side senator says that Illinois' auditor general would investigate how Save-A-Life has spent state money and fulfilled state contracts before any consideration is given to future funding.

"To me, the jury is still out, because I haven't seen all the results," said Trotter.

Both senators Trotter and Jones have been given awards by Save-A-Life, Jones for saving someone from choking in a Springfield restaurant. Since then, Jones says he has been wrongly listed as Save-A-Life's "Illinois spokesman" and that he has never even helped fund the group.

"What do you mean support? I saved a woman's life down here in Springfield and this group came together, and they want to honor me for the woman choking to death in the Globe restaurant. Remember that?" Jones said.

In a letter, Jones writes that "issues and questions have been raised in the past year regarding SALF," and he "strongly encourages the foundation to answer those questions." He wrote the letter to Chicago woman Julia Rickert after receiving her complaint about Save-A-Life's use of state funds. Rickert worked at Save-A-Life's Schiller Park headquarters in late February as a temporary employee.

"I was told by the temp agency that Save-a-Life was looking for somebody to do proofreading, to proofread their instruction manual, a 600 page manual," said Rickert.

Rickert says she was told her assignment was to find misspellings in a new first responder's manual being prepared for it's instructors, but she says her supervisor had something else in mind.

"He never mentioned proofreading at all. He said their manual needed to be edited. They wanted it rewritten on a high school level. They wanted me to rewrite the entire book line by line," said Rickert said.

A Save-A-Life spokesman confirms to ABC7 that temp workers typed the copyrighted book into their system then hired Rickert as a temp who was told to rewrite it. The charity contends it was to be a first draft for a new training curriculum, even though Rickert had no expertise in emergency response.

"I have proofreading experience but not technical writing experience and no medical background," said Rickert.

Save-A-Life officials say when the year-long project is finished, it will be reviewed by "leading local and national EMS stakeholders and our intellectual property attorney," and then "certified by the Illinois Department of Public Health."

Exhibit f

Rickert has contacted the publisher of the book she was told to rewrite. The publisher declined to discuss with ABC7 what he called their "legal investigation." And she has filed a complaint with the Illinois inspector general asking that Save-A-Life be investigated. Save-A-Life pledges to happily "cooperate with an investigation by responsible parties to dispel these baseless allegations."

Save-A-Life filed a defamation lawsuit this month against a doctor and two other men who have publicly criticized the charity. In the suit, Save-A-Life says the most serious allegations against them were "false, inflammatory and defamatory." Charity officials claim they have "lost business opportunities," funding and have had to spend money to repair damage to their reputation.

Save-A-Life may be losing funding from the Chicago Public Schools as well. A CPS official says they "are scrutinizing every expense" and may not have the budget to help out Save-A-Life as they have in recent years.

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