

Federal judge raises questions about DiMasi co-defendant's upcoming release - The Boston Globe

Aram Boghosian for The Boston Globe/file 2011

Richard McDonough.

A federal judge questioned Wednesday whether an accomplice of convicted House speaker Salvatore F. DiMasi's falsely claimed to prison officials that he had a drug addiction so he could be released from prison close to a year earlier than scheduled.

US District Judge Mark L. Wolf said he only realized while recently reviewing DiMasi's case that lobbyist Richard McDonough — a codefendant in the 2011 public corruption trial — is in home confinement, instead of a prison, and that he will complete his sentence in January, rather than November 2017.

McDonough, 71, apparently completed a 500-hour Residential Drug and Alcohol Abuse program that allows for a reduction of his sentence, even though he previously told probation supervisors that he did not have a drug or alcohol problem. Before beginning his prison sentence in 2011, he told probation supervisors he had tried cocaine in the 1960s and he last used marijuana in the 1990s.

But when applying for the treatment program, McDonough later told prison officials that he used cocaine weekly and alcohol daily in the year prior to his arrest in 2009.

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Wolf questioned whether McDonough had given false information to the prison officials, pointing out that it is a federal crime to lie to a prison or probation official.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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|---------------------------|---|----------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| v. |) | |
| RICHARD W. McDONOUGH, |) | Cr. No. 09-10166-MLW |
| Defendant. |) | |

MEMORANDUM AND ORDER

WOLF, D.J.

October 19, 2016

On September 9, 2011, the court sentenced Salvatore DiMasi to eight years in prison and Richard McDonough to seven years in prison for conspiring to use DiMasi's office as the Speaker of the Massachusetts House of Representatives to commit extortion, mail

The judge also said prison officials appear to have violated their own policies and procedures by failing to compare McDonough's account with what he earlier told probation officials in a presentence report, which Wolf used to calculate McDonough's seven-year sentence.

"The issues discussed in this memorandum may raise questions for the [Bureau of Prisons] concerning the efficacy, if not integrity, of its procedures," the judge said, pointing out that the procedures were implemented because inmates have been known to seek acceptance into the program solely to cut their sentence.

Martin Weinberg, an attorney who represented McDonough in the appeal of his conviction, said McDonough legitimately took part in a "national program that helps people rehabilitate."

"My understanding is the Bureau of Prisons has a documented record to support its discretion to admit him to [the addiction] program," Weinberg said. "People who properly address [their addiction] get credits in one of the few programs that permit an incremental reduction of a sentence. He got no special treatment once admitted to [the program]. He gets the same credits everyone else got."

Wolf said prison officials never contacted their counterparts in the Massachusetts probation office about McDonough's stated addiction, even though probation officials will have to monitor McDonough for two years after he completes his sentence. The judge said he was told by probation officials that the failure to communicate a drug addiction with probation is "very unusual, if not unprecedented in the district of Massachusetts."

He ordered Bureau of Prisons officials to provide records, including a signed affidavit by a supervisor, that show what was done to verify McDonough's history of drug abuse, the reasons McDonough was accepted

into the program, the record on which that decision was based, the reasons McDonough's sentence was reduced, and the reasons prison officials do not believe he requires ongoing treatment. He set a deadline of Oct. 27.

"The court must have a full explanation to understand and evaluate the [Bureau of Prisons'] recommendation that McDonough not receive drug treatment while on supervised release," the judge said in the order Wednesday.

McDonough, a longtime lobbyist on Beacon Hill, was convicted along with DiMasi of coordinating an elaborate scheme to steer kickbacks to DiMasi in exchange for the former speaker's help in securing a \$17.5 million state contract for a Burlington software company, Cognos. A third man, Joseph P. Lally Jr., a Cognos salesman, pleaded guilty and testified against DiMasi and McDonough. He served an 18-month-sentence.

DiMasi was sentenced to eight years in prison, though that sentence has also recently come under review. Bureau of Prisons officials have recommended releasing DiMasi early, under what is known as a compassionate release program. DiMasi has fought cancer twice since he was incarcerated, and his supporters say he now has complications from those illnesses.

Wolf, who has the final say in whether DiMasi is released, set a Nov. 1 hearing, saying he wants to know more about DiMasi's health and whether his political connections persuaded prison officials to recommend his early release.

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