

LOCAL

Whitefield man guilty in drug case; charges entrapment

By GARY J. REMAL
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AUGUSTA — A 37-year-old Whitefield man was found guilty this week of a reduced drug charge of furnishing marijuana after a four-day Kennebec County Superior Court trial marked by accusations of police misconduct.

Daniel Van Sickle originally was indicted in 1986 on four counts of unlawful trafficking of marijuana, unlawful trafficking in valium and possession of a firearm by a felon, all alleged to have occurred at his home, then in Gardiner.

Three of the marijuana charges and the charge of trafficking in valium were dropped Jan. 30 by the special assistant attorney general who prosecuted the case, Assistant U.S. Attorney Thomas Goodwin.

The firearm charge was severed and will be tried separately.

After deliberating for two hours Monday the jury reduced the single remaining felony charge of trafficking in at least two pounds of marijuana to the lesser included charge of furnishing marijuana.

The maximum sentence for furnishing is 364 days while the maximum sentence for trafficking is five years.

Van Sickle's defense attempted to turn the case into a trial of former State Police Detective Dennis Hayden, claiming he used female informant Denese Upson to set up Van Sickle and plant the marijuana in his Gardiner apartment just before a police raid

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Michael Popkin, defense

July 27, 1985.

Hayden was fired from the State Police drug unit on Jan. 5, 1988 for allegedly engaging in sexual relations with a female informant, lying about the relationship and attempting to get the informant to lie about their relationship in federal court.

Hayden was investigated and cleared of similar charges involving the informant in the Van Sickle case after Upson refused to come back to Maine to testify against him in his disciplinary hearing.

Upson, believed to be in Florida, also avoided subpoenas for her to testify at Van Sickle's trial.

In his closing argument Monday, Van Sickle's attorney, Augusta lawyer Michael Popkin, accused the police of entrapment.

He told the jury they were the only thing standing between his client and

an abuse of the enormous power of the state's undercover drug police.

Popkin pointed out that the jury would not have known of Hayden's involvement in the case or his being fired from the State Police if the defense had not subpoenaed him because the prosecutor did not call him as a witness.

"Would you like to decide this case without knowing of Dennis Hayden's involvement?" he asked.

"Who are the real criminals, the people (like Van Sickle) on trial or Dennis Hayden and his crew," Popkin said.

But Goodwin, a former state prosecutor, told the jury the accusations about police misconduct were being fabricated to confuse them.

"This case in no way depends on Hayden's credibility and in no way depends on Upson's credibility, I would suggest," he said.

"Putting Hayden on trial here is what the defendant has tried to do," he said. "I would suggest you ought not to buy it."

Friday, Upson's mother, Shirley Kalloch, told of her daughter's decline into fear and drug dependency while in the hands of the State Police and Hayden, who was assigned to control her.

She said Hayden picked her daughter up twice and that when Hayden brought her home she was intoxicated on drugs or alcohol.

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Thomas Goodwin, prosecutor

Kalloch said her daughter told her she had to sleep with State Police detectives to stay out of trouble with them.

"She said if you work for the bad guys you got to be scared of them, and if you work for the good guys you got to be scared of them," Kalloch said. "I couldn't understand that because why would she be scared of the cops?"

Prosecutor Goodwin summed it up during cross-examination.

"She was caught between some bad people on the street and some bad people in the Maine State Police, isn't that right?" Goodwin asked. "Yes," Kalloch answered.

As Popkin pointed out in his argument, Van Sickle's defense was made up largely of questions about the prosecution.

Van Sickle claimed there were tape recordings of his transactions with Upson when she came to his home allegedly to buy

drugs between May and July 1985.

Police said she had worn a secret transmitter but they only had Hayden's word about what was said.

Hayden's supervisor, Michael Pratt, also fired from the State Police on similar allegations, testified he was almost sure there were recordings of the conversations.

But Goodwin said he never found any indication of the existence of tapes.

The marijuana was also destroyed and the jury was left with two different weights — one just above the two pounds necessary for a felony conviction and one just under two pounds.

A chemist said the difference probably was due to dehydration in the 14 months between the weighings.

Van Sickle testified that Upson had asked him to help her package and increase the weight of 1.5 pounds of marijuana she supplied by adding seeds and spraying it with sugared water so she could make enough money to enter a drug rehabilitation program.

Popkin told the jury only Upson could have lent credibility either to Van Sickle or Hayden's account of what happened, and Upson was unavailable.

"This case is as much about what isn't here as it is about what is here," Popkin said.

Superior Court Judge Kermit Lipez postponed sentencing on the reduced charge until a pre-sentence investigation can be completed.