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## 5 of 7 counts dismissed against Douglas

By NATHAN BROWN - Staff Writer

A Clinton County judge has dismissed all but two charges against a Black Brook man accused of violating environmental conservation laws.

LeRoy Douglas, who owns a campground on Silver Lake, was accused of illegally disposing of numerous 55-gallon drums containing a hazardous substance onto property his corporation owns.

He is still being charged with third-degree endangering the public health, safety or environment, a felony, and prohibited disposal of solid waste, a misdemeanor.

County Court Judge Kevin Ryan dismissed five other misdemeanor counts last week, agreeing with a defense motion that charges were brought too late.

The state Department of Environmental Conservation started to investigate Douglas in summer 2008, and the charges stem from violations on Aug. 27, 2008, when Douglas' property was searched. Douglas was indicted in December 2010.

The statute of limitations was two years, however. Ryan wrote that, since Douglas was charged with breaking the law on a specific date and not with committing a continuing criminal offense, the statute of limitations ran out on Aug. 27, 2010, making the charges too late. He let the felony charge, which the defense had also sought to dismiss, stand, citing a section of that law that allows that charge to be brought within four years.

The felony carries a maximum sentence of four years in prison and a \$150,000 fine. Douglas says he was innocent and was set up by his estranged son, Michael Douglas.

Ryan denied a motion for a Franks hearing, which is used to determine whether a search warrant was based on false statements by a police officer. He did, however, order a Mapp hearing, which is used to determine whether police legally obtained evidence.

"That will determine ... whether the application for the search warrant grounds were sufficient or were defective in any way," said Matt Norfolk, Douglas' attorney.

Shawn LeClair, who rented an apartment on Douglas' property in 2007 and 2008, filed an affidavit earlier this year saying he saw Michael Douglas bring the oil drums onto the property when his father was in Florida.

Michael Douglas said in an affidavit that he gathered evidence of the alleged violations and later shared it with state Department of Environmental Conservation officials. Black Brook town Justice Gary E. Frenia issued a search warrant for the property on Aug. 25, 2008, at the request

of DEC Investigator Kenneth Bruno, to look for evidence of the mess Michael Douglas described.

Ryan granted a motion for a Sandoval hearing, which is held before jury selection to notify the defendant of any prior, uncharged criminal or immoral conduct the prosecution plans to use. He denied several other defense motions, including ones to dismiss the indictment and to suppress LeRoy Douglas' grand jury testimony.

No further court dates have been set in the case.

Leroy Douglas is currently suing the environmental group the Adirondack Council in state and federal court, and the state Adirondack Park Agency in federal court, alleging they colluded to reopen a closed enforcement case against him to prevent him from subdividing and selling his land. The APA and Council have denied wrongdoing.