

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

THOMAS A. SHAY

CRIMINAL NO. 92-10369-Z

MOTION FOR HEARING ON EXTRANEOUS PREJUDICIAL INFORMATION

The defendant Thomas A. Shay ("Shay Jr.") hereby moves this Court pursuant to Rule 606(b) of the Federal Rules of Evidence and S.J.C. Rule 3:07, Code of Prof. Resp., DR 7-108(D), to order a hearing, at which the jurors may be questioned as to whether certain extraordinarily unreliable and prejudicial evidence which was ruled inadmissible at the trial came to their attention before the verdict. As reasons for this motion, Shay Jr. states as follows:

1. Shay Jr. moved that the jury be sequestered both before trial, see Motion to Sequester Jurors, June 27, 1993, and before their deliberations (T.p. 17-113, 18-91), based on pre-trial and continuing publicity. The motions were denied.

2. The publicity before trial covered the 1986 flash simulator allegedly built by Trenkler in 1986 and this Court's suppression of the unnecessarily suggestive identification of Shay Jr. by Armbrister. See Boston Globe articles of June 12, 1993 and June 17, 1993, attached as Exhibits A, B; Boston Herald articles of June 17, 1993 and June 19, 1993, attached as Exhibits C, D.

3. During trial, the newspapers covered this Court's ruling that the 1986 flash simulator was inadmissible, see Boston Herald articles of July 20 and 21, 1993, attached as Exhibits E, F, and, again, the suppression of the identification. See Boston Globe article of July 20, 1993, attached as Exhibit G.

4. On July 29, 1993, an article appeared in the Boston Globe, stating that two jurors whom the reporter had interviewed after the verdict on July 27, 1993, "both said the jury thought evidence was suppressed that the jury should have been told about, but would not be more specific." See Boston Globe article, July 29, 1993, attached as Exhibit H.

5. Given the volatility of the evidence which was ruled inadmissible, and the clear indication that the jurors were aware of it, a hearing should be held at which the jurors "may testify on the question whether extraneous prejudicial information was improperly brought to the jury's attention or whether any outside influence was improperly brought to bear upon any juror." Fed. R. Evid. 606(b).

Respectfully submitted,

THOMAS A. SHAY  
By his attorneys

Amy Baron-Evans  
Nancy Gertner (BBO #190140)  
Amy Baron-Evans (BBO #560312)  
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(617) 357-9202

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney or record for each other party by mail (by hand) on 8/3/93

Dated: August 3, 1993

Jefferson Boone by ABE  
Jefferson Boone

Boone & Henkoff  
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Allston MA 02134  
(617) 782 8210

# Defendant in officer's death is said linked to earlier bomb

By Matthew Brehis  
GLOBE STAFF

A computer analysis of more than 14,000 bombs planted nationwide between 1979 and 1991 found only one bomb that was nearly identical to the bomb that killed a Boston police officer in 1991, according to court documents.

The matching bomb was planted in Quincy in 1986 and built by Alfred Trenkler, a Quincy engineer awaiting trial on charges that he built the bomb that killed Officer Jeremiah Hurley Jr. on Oct. 28, 1991, in Roslindale, according to the document.

Calling the two bombs "remarkably similar," federal prosecutors argued in a memorandum filed in US District Court that they should be able to present evidence about the 1986 bombing at the federal trial of Trenkler's codefendant, Thomas A. Shay, which is scheduled to start June 28.

"As a practical matter, in order

to prove the charged offense, the government will be required to prove at trial that one of the conspirators, either Shay, or Trenkler, had the knowledge, skill, ability and experience to build an explosive device," the filing states.

Shay is accused of enlisting Trenkler in a scheme to kill his father, Thomas L. Shay, by planting a bomb under his car. Hurley was killed and his partner, Francis X. Foley, was injured when they responded to a call from the elder Shay reporting a suspicious box that had fallen from the underside of his car at his home on Eastbourne Street in Roslindale. The officers were inspecting the box when it exploded.

The prosecution said its computer analysis proves that the same electronic components used in the bomb that killed Hurley were used in a bomb that Trenkler allegedly built for a friend in 1986. Trenkler was charged with unlawful posses-

sion of an explosive in 1986 for allegedly building a bomb that was ignited under a Quincy fish company truck. The charge was continued without a finding after Trenkler operated with authorities in an unrelated case, according to sources.

"The government's explosive expert will testify that the presence of each device, of this combination of features, coupled with the similar modus operandi, amply demonstrates the 'signature' quality of devices, that is, that it is more probable than not that the 1986 and 1991 devices were designed and constructed by the same person," the document states.

The prosecution asserts that such "signature" type evidence is admissible under federal rules of evidence.

Shay's attorney, Nancy Geri, could not be reached for comment. Terry Segal, Trenkler's attorney, said he will file a "detailed response" that refutes many points.

## 40 arrested in drug and theft probe in Lowell area

An effort to crack down on petty thieves who police believe were shoplifting to get money to buy heroin in Lowell resulted in 40 arrests last night.

Titled Operation Intercept, the sweep was a collaboration among State Police and officers from Lowell and surrounding communities, said Jill Reilly, spokeswoman for Middle-

sex District Attorney Thomas Reilly.

The suspects, who are from communities near Lowell, were arrested over the course of a few hours by state and local police in Lowell and Tewksbury after visiting homes known to distribute heroin, Reilly said.

They were charged with possession of heroin and will be arraigned today in Lowell District Court, Reilly said.

Malls and retail stores in Lowell, Tyngsborough, Tewksbury and Andover have been hit by a wave of shoplifting and burglary in recent weeks. Investigators believe the perpetrators were seeking money to support heroin habits.

They allegedly committed crimes in the smaller towns

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Concord congratulates his son, Dave Jr., at his graduation yesterday from the Perkins  
which he has attended since an infant. The 6-year-old will shift to his town's schools this fall.

# Bus rehab will pay off

MBTA assistant general manager for bus operations

They have had to respond to competition.  
and 40 buses to the less expensive  
an contractor but decided that eight  
should be rehabilitated by its own  
workers.  
e added cost to taxpayers - about  
00 for the eight buses.  
at's the bad news. The good news,  
ding to MBTA officials, is that it cost  
000 for the union workers to overhaul

a bus until the threat of competition sur-  
faced.  
The Massachusetts Bay Transportation  
Authority Board of Directors yesterday  
decided to send 40 of its estimated 200 six-  
year-old buses to Midwest Bus Rebuilders  
Corp. in Owosso, Mich., which charges  
\$59,500 per vehicle.

MBTA, Page 43

# Bishop may reconsider Worcester church closing

By Gerard F. Russell  
SPECIAL TO THE GLOBE  
and Doris Sue Wong  
GLOBE STAFF

WORCESTER - In the first glimmer  
hope in a yearlong struggle between pa-  
rishioners of the closed St. Joseph's  
church and the man who closed it, Bishop  
Timothy Harrington said yesterday he  
may reverse the decision if parishioners  
can prove that they can afford to fix the  
77-year-old, crumbling, brick building.

The parishioners also received a tem-  
porary reprieve yesterday from a court or-  
der that would have forced them to end  
their occupation of the church by 8 this  
morning.

Meanwhile, the Supreme Judicial  
Court, acting on its own initiative, decided  
Tuesday to hear the parishioner's appeal  
on the dismissal of their lawsuit.

Appeals Court Justice Gerald Giller-  
man delayed the execution of the order for  
up to 33 hours, saying he needed the time  
to decide whether the order should be  
stayed pending appeal. Gillerman is ex-

pected to issue his decision by 5 p.m. to-  
morrow.

The order came seven months after an-  
other Superior Court judge, Charles Gra-  
bau, dismissed a lawsuit by the parishion-  
ers challenging the bishop's ownership of  
the church.

The defiant but prayerful parishioners,  
who have occupied the church for nearly  
13 months in an around-the-clock protest,  
were overjoyed yesterday afternoon after  
learning about the stay.

"That's great news," Ron Fortin, head  
of the Save St. Joseph's Committee that  
orchestrated the occupation of the church,  
said yesterday afternoon.

Bishop Harrington, who will retire at  
the end of the year, said in an interview in  
his office yesterday that it is "possible"  
that he or his successor will reconsider the  
decision to close the church.

The concession came after a meeting  
with parishioners Tuesday night, which  
Bishop Harrington requested in anticipa-  
tion of the scheduled eviction today.

ST. JOSEPH'S, Page 40

# Ruling by judge limits bomb prosecution

By Matthew Breilis  
GLOBE STAFF

A federal judge has dealt a major bk  
to the government's efforts to prosec-  
Thomas A. Shay for the 1991 bomb bl  
that killed a Boston police officer,  
throwing out the testimony of a store cl  
that linked Shay to components of the k  
used in the bomb.

With the stroke of a pen and no im-  
mediate explanation, US District Judge  
W. Zobel ruled Tuesday that the gov-  
ernment cannot call Radio Shack el  
Dwayne Armbrister as a witness to te-  
stify that he sold Shay a toggle switch, an  
battery holder and a small lamp capat  
testing circuitry.

"This case is a circumstantial case  
any time you start taking away evide-  
weakens the case," said a law enforce-  
source familiar with the investigat-  
"Armbrister's identification was impo-  
to us."

Since Zobel is scheduled to hea-  
case against Shay's codefendant,  
Trenkler - who federal officials thin-  
the bomb - her ruling could also h-  
efforts to prosecute Trenkler, becau-  
case against him is even more circu-  
tial, sources said.

The bomb, which federal official  
Shay enticed Trenkler into buildin-  
attached to the undercarriage of Sh-  
ther's car. After the device was disc-  
the Boston police bomb squad wa-  
to Thomas L. Shay's house on East  
SHAY.

4/17

Exhibit B

6/17

# US judge throws out testimony, crimps prosecution in bomb case

## ■ SHAY

Continued from Page 33

Street in Roslindale on Oct. 28, 1991. The bomb then exploded, killing Officer Jeremiah Hurley and maiming Officer Francis Foley.

Neither Paul V. Kelly nor Frank A. Libby Jr., the two assistant US attorneys prosecuting Shay and Trenkler, could be reached for comment.

At a suppression hearing in April, Shay's attorneys, Nancy Gertner, Amy Baron-Evans and Jefferson Boone, argued that Armbrister's identification was unduly suggestive, since Armbrister did not pick Shay out of a set of photographs of various people and recognized him only when shown an individual photograph of Shay.

"The identification plays a substantial role in the government's case, and we thought it was unreliable," said Baron-Evans. "He was

shown the photo array four or five months after the purchase and could not identify Tom Shay. Even after he was shown an individual photograph, he could not connect Shay to the transaction.

"We are gratified by the decision and think it is the right one."

Zobel also ruled that several incriminating statements Shay made to police following the bombing are admissible, but suppressed statements he made to federal Alcohol, Tobacco and Firearms agents a year ago.

ATF agents canvassed electronics stores in the Boston area, reviewing sales receipts for components that were in the bomb.

Agents discovered a Radio Shack receipt dated Oct. 18, 1991 - 10 days before the bomb blast - that contained many of the same items used in the bomb and listed the customer as "Sahy." The Radio Shack store was across Massachusetts Avenue from the Christian Science Church, where Trenkler was working.

Agents initially dismissed the receipt and pursued other leads, but returned to the store in February to interview Armbrister, the clerk whose initials were on the receipt. The receipt also had a customer identification number - the last four digits of a telephone number - that

matched Shay's father's telephone number with two digits transposed.

Armbrister did not recognize Shay until he was shown the individual photograph, and was not able to connect him to the purchase until some time in March.

The government is alleging that Trenkler built the remote-controlled bomb with the Radio Shack toggle switch and AA batteries and used the lamp to test the circuitry.

Zobel did not rule on a government motion to present evidence at Shay's trial that Trenkler was involved in a 1986 bombing in Quincy that was remarkably similar to the 1991 bomb blast.

Law enforcement sources said the case would still be strong if Zobel allows them to point out the similarities between the two bombings.

"As a practical matter, in order to prove the charged offense, the government will be required to prove at trial that one of the conspirators, either Shay Jr., or Trenkler, had the knowledge, skill, ability and experience to build an explosive device," the government argued in a filing last week.

Zobel also has yet to rule on whether the fees charged by Shay's court-appointed attorneys - \$200 an hour for Gertner, \$85 for Boone and \$50 for Baron-Evans - are too high.

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End of Story Reached

DOCUMENT=

2 OF

50

PAGE =

1 OF

3

ACCESS #  
HEADLINE

BHLD59377

Judge bars store clerk's ID of bomb suspect

Byline: RALPH RANALLI

Day of week: THU

LENGTH  
DATE

ESTIMATED INFORMATION UNITS: 2.7

Words: 345

06/17/93

SOURCE

BOSTON HERALD (BHLD)

Edition: 01

Section: NEWS

Page: 010

(Copyright 1993)

A key identification of a suspect in the bombing death of Boston Police Officer Jeremiah Hurley was suppressed yesterday by a federal judge along with other statements the man made to federal agents, lawyers involved with the case said.

\* U.S. District Court Judge Rya W. Zobel granted a defense motion to throw out an identification of suspect Thomas Shay by a Radio Shack employee, who said Shay had purchased a toggle switch and other electrical components.

Shay, 21, and Albert Trenkler, 36, of Quincy, were indicted Dec. 16, 1992, on charges of making and planting the bomb that killed Boston Police Bomb Squad member Hurley and wounded his partner, Francis Foley.

Zobel did not issue a written opinion yesterday, but defense attorneys had argued that law enforcement officials had been "impermissibly suggestive" while handling Dwayne Armbrister's identification of Shay from a single photo.

U.S. Bureau of Alcohol, Tobacco and Firearms agents suspected Shay may have bought the part at the Fenway Radio Shack store after checking thousands of computer-generated sales receipts and finding one listing the name "Sahy," for a toggle switch carrying the same stock number as one found in the bomb.

At a hearing in April, Armbrister admitted he was unable to identify Shay from a photo spread initially, but said it was because he was grieving the recent death of his grandfather and didn't pay careful attention to the photographs.

Amy Baron-Evans, one of Shay's attorneys, said Zobel's decision significantly bolstered his defense. "The fact that it has been suppressed will have a substantial impact on the trial," she said.

Zobel also barred testimony about statements Shay made to ATF agents last June.

Defense attorneys had argued that Shay had an attorney at the time, and that the agents and Assistant U.S. Attorney Paul V. Kelly should not have spoken with him without a lawyer present. Kelly, however, argued that Shay said he had fired his attorney, William McPhee.

Zobel denied defense requests to exclude statements Shay made to Boston Police detectives and ATF agents shortly after the

ACCESS # BHL59542

HEADLINE Editorial

Tilting justice's scales

Day of week: SAT

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DATE 06/19/93

SOURCE BOSTON HERALD (BHL5)

Section: EDITORIAL

Page: 014

(Copyright 1993)

\* U.S. District Court Judge Rya Zobel seems hell-bent on keeping Thomas A. Shay Jr. from spending the rest of his life behind bars. Shay is the sterling fellow federal officials believe attached a bomb to the underside of his father's car 20 months ago. The bomb, which exploded, killed a Boston police officer, Jeremiah Hurley, and permanently disabled and maimed Officer Francis Foley.

Zobel has already bent over backwards for Shay, allowing him not one, not two, but three court-appointed attorneys. Defendants unable to retain counsel are generally assigned one court appointed lawyer at the standard rate of \$60 per hour for in-court time and \$40 for out-of-court time.

Shay's gaggle of defenders - one of whom costs \$200 per hour for all court time - duns the state a grand total of \$335 an hour. Zobel's coddling of Shay is not just unusual; it's costly.

Federal attorneys have filed a motion challenging Shay's right to three lawyers at taxpayer expense. But Zobel has yet to rule on that.

Instead, this week she further undermined the government's case by ruling inadmissible the testimony of Dwayne Armbrister, a Radio Shack clerk, who has said that 10 days before the explosion he sold Shay components found in the bomb.

Because of Zobel's ruling, a jury will not hear Armbrister testify that on Oct. 18, 1991, a customer walked into the Radio Shack store across the street from the Christian Science Monitor at 2:30 p.m. and bought a toggle switch, an AA battery holder, and a small lamp capable of testing circuitry.

A jury will not hear Armbrister read the name on the receipt this customer signed: "Cahy" - potentially "Shay" with the two middle letters transposed. Or hear him repeat the last four digits of the customer's phone number - Shay's father's phone number, again with two digits transposed.

A jury will not hear Armbrister explain why he didn't immediately identify Shay when shown his picture by authorities; but how when he did make the identification, he was positive the man he waited on was Shay.

\* Zobel's exclusion of evidence that a jury should have the right to hear, and her special treatment of Thomas Shay, are not justice.

A courtroom is supposed to be an even playing field. Zobel's courtroom seems rather dangerously tilted

PERFORMANCE  
 CLASS  
 TIME OFFER  
 CLOSURE OR MORE  
 POLYMERS  
 QUALITY MATERIALS  
 D CORNERS  
 DURABILITY  
 TERTIGHT  
 DESIGN  
 POCKETS  
 MASS UNIT  
 LOCKS  
 FROM INSIDE  
 LOCKS  
 FREE  
 EFFICIENT  
 Reg # 112563  
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 5653

to finance a long-term radioactive waste disposal plan for Massachusetts.

Echoing concerns raised by environmental advocates, state Rep. Steven Angelo (D-Saugus) is calling on the administration to raise the funds from Massachusetts' large generators of the materials. Such funding is needed to build an in-state disposal facility or pay for an out-of-state alternative to take the wastes.

According to state records, facilities owned by four firms — Du Pont, Nuclear Metals Inc., Boston Edison Co. and Yankee Atomic — generate 80 percent of the 43,000 cubic feet of wastes produced in the state each year.

Angelo, who co-chairs the Legislature's Joint Committee on Natural Resources and Agriculture, said these and other generators should be asked to foot the bill for the plan.

Yet legislation filed by Gov. William F. Weld, now before Angelo's panel, proposes authorizing a publicly funded \$45 million bond for the plan.

ment from the companies that have announced siting a facility," he said. "We have concerns about using \$45 million in public funds."

Leo Roy, waste policy director for the Executive Office of Environmental Affairs, said Weld also viewed the disposal facility as a publicly financed "infrastructure issue."

But he added that officials are friendly to the idea of new generator fees. In addition, he said officials at Yankee Atomic and Du Pont have agreed to the idea in principle.

"We're very much considering a change," Roy, a member of the Massachusetts Low-Level Radioactive Waste Board.

Currently, Massachusetts' 130 generators of wastes send their debris to a South Carolina dump site, which has agreed to accept it on an interim basis until July 1994, while the state drafts its disposal plans, as required by federal law.

# Key ruling expected in Hub bomb case

By RALPH RANALLI

A U.S. District Court judge is expected to make a key ruling this morning in the case against a Quincy man, Thomas Shay Jr., charged with conspiring to make a bomb that killed a member of the Boston Police Bomb Squad.

Government prosecutors want to introduce evidence of a previous bomb built in 1986 by Shay's co-defendant, Alfred Threnkler of

Quincy, who'll be tried separately.

Assistant U.S. Attorneys Paul V. Kelly and Frank Libby Jr. must convince Judge Rya W. Zobel there is enough in common between the two bombs for the evidence of the prior bomb to be admissible.

A large part of the government's case involves tying Shay to Threnkler and showing that Threnkler, an electrical engineer, had the skills and experience to build the bomb.

At a hearing yesterday afternoon, two experts from the fed-


eral Bureau of Alcohol, Tobacco and Firearms testified the vices at issue were two of seven devices that had been under cars with magnets and activated by remote control or the more than 14,000 bombs or attempted bombings reported to ATF.

But defense expert Don Hansen, a former member of the San Francisco Police Department Bomb Squad, testified the exterior of the bomb was so different that making a good match was not possible.

Exhibit E

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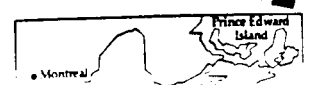
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# Suspect fingers friend in videotape

*Herald  
7/21/91*

## Claims bomb was 'surprise'

By RALPH RANALLI

Roslindale, bombing suspect Thomas Shay, in a videotaped interview played yesterday in federal court, said the bomb meant to kill his father was built by a Quincy electrical engineer as a "surprise" for Shay.

In an interview with WLVI-TV that was never broadcast in its entirety, the 21-year-old Shay admitted to buying pieces of the bomb, but insisted he didn't know about a plan to blow up his father.

One Boston police officer, Jeremiah Hurley, died and a second, Francis X. Foley, was permanently disabled when the bomb exploded as they examined it. Shay's father was uninjured.

"I never asked Al Trenkler to do any type of physical harm by use of explosive or otherwise," Shay said during the interview, taped a year after the Oct. 28, 1991, bombing. "He did this on his own without my knowledge."

After the trial broke for the day, however, Shay's attorney Nancy Gertner continued to insist that none of Shay's statements are trustworthy.



THOMAS SHAY  
Admits buying bomb parts

rately for his alleged role in the Shay case.

"In the videotaped interview, Shay said he believes Trenkler, 36, built the bomb because both men had been abused as children.

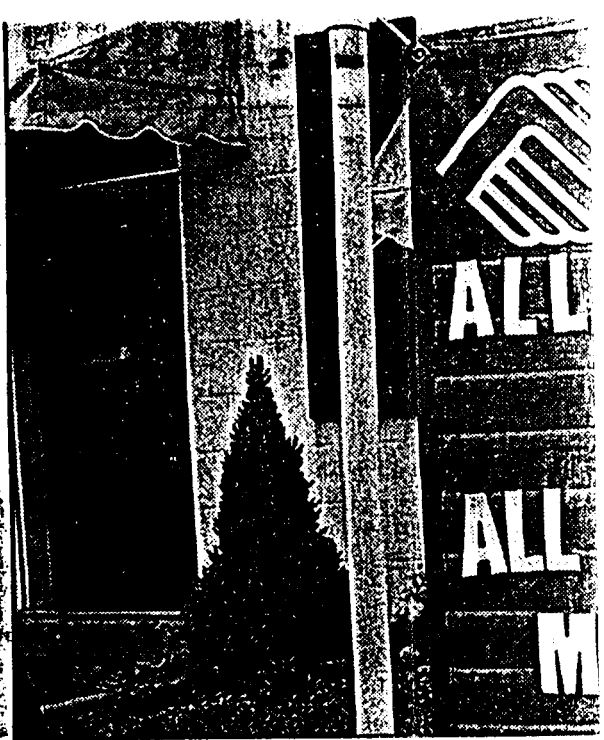
"Al Trenkler was abused by his father. I was abused by other people," he said. "So he decides to get back at my father."

But Shay also said federal authorities sent a "100-man diving task force" to search for evidence he and Trenkler had thrown into the ocean.

After the videotape was shown, Foley took the stand and retold the story of the day he lost an eye and hearing in one ear, among other injuries.

He said he and his partner, Hurley, were deciding whether to get their protective equipment when the bomb went off.

"I remember the explosive going off; I saw a



LAST MEETING: Shawn Moody, 17, of Rehoboth in Rehoboth Monday, just before 1 dog he accidentally hit with his own car on Rot

## Teen-age 'go killed trying

From Page 1

9:30 p.m. Monday.

Shawn Moody — a dog-lover who had two Labrador retrievers at home and once raised puppies — had just left a staff meeting at the camp where he was a counselor, when he hit a large golden retriever and pulled his pickup over onto the shoulder.

That was Moody's nature. A few weeks ago, he had seen a woman get hit on the road in front of him and, stopped to help out. The woman was not badly injured, but friends said the incident was a testament to Moody's generous spirit.

Two Warren, R.I., teenagers, bus boys leaving work after an evening function at the nearby Crestwood Country Club also stopped their car and got out to care for the dog.

The three were standing together in the dark, rainy intersection, trying to drag the dog from the middle of the road, when they were hit by a white Camaro driven westbound by Gregory Camara, 21, of Fall River.



ACCOMPLISHED SWIMMER: Shawn Moody, 17, stands at swim team from the Newt... tured leg and relic from Rhode Island H... tal.

"I feel blessed," said father Barry McCaug...

Roslindale, bombing suspect Thomas Shay, in a videotaped interview played yesterday in federal court, said the bomb meant to kill his father was built by a Quincy electrical engineer as a "surprise" for Shay.

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"I never asked Al Trenkler to do any type of physical harm by use of explosive or otherwise," Shay said during the interview, taped a year after the Oct. 28, 1991, bombing. "He did this on his own without my knowledge."

After the trial broke for the day, however, Shay's attorney Nancy Gertner continued to insist that none of Shay's statements are trustworthy.

She also continued to pursue her allegations that it was Shay's father, Thomas Sr., who built and planted the bomb.

The prosecution is expected to call its final witness this morning.

U.S. District Court Judge Rya W. Zobel yesterday ruled that prosecutors could not introduce evidence of a 1986 remote-control vehicle bomb built by Trenkler, who will be tried sepa-



**THOMAS SHAY**  
Admits buying bomb parts

rately for his alleged role in the Shay case.

In the videotaped interview, Shay said he believes Trenkler, 36, built the bomb because both men had been abused as children.

"Al Trenkler was abused by his father. I was abused by other people," he said. "So he decides to get back at my father."

But Shay also said federal authorities sent a "100-man diving task force" to search for evidence he and Trenkler had thrown into the ocean.

After the videotape was shown, Foley took the stand and retold the story of the day he lost an eye and hearing in one ear, among other injuries.

He said he and his partner, Hurley, were deciding whether to get their protective equipment when the bomb went off.

"I remember the explosive going off; I saw a ball of fire and white smoke, and I heard it... but it didn't sound loud to me," he said.

"I thought that the side of my face was gone and I could feel the warmth down my leg. I knew it was blood.

"I was fighting (unconsciousness) because I was afraid I wasn't going to regain consciousness," Foley said. "Like Jerry, I wanted to communicate my feelings about my family."

# killed trying

From Page 1

9:30 p.m. Monday.

Shawn Moody — a dog-lover who had two Labrador retrievers at home and once raised puppies — had just left a staff meeting at the camp where he was a counselor, when he hit a large golden retriever and pulled his pickup over onto the shoulder.

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Two Warren, R.I., teenagers, bus boys leaving work after an evening function at the nearby Crestwood Country Club, also stopped their car and got out to care for the dog.

The three were standing together in the dark, rainy intersection, trying to drag the dog from the middle of the road, when they were hit by a white Camaro driven westbound by Gregory Camara, 21, of Fall River.

All three were sent flying. Moody was killed instantly. Ronald Charves, 16, was thrown into the eastbound lane, where he was hit again, this time by Wayne R. Lebeau, 18, also of Warren.

Charves, a promising guitarist whose pals called him "Elvis," was reported in critical condition at Rhode Island Hospital in Providence, where he was being treated for multiple injuries.

The third victim, 19-year-old Jason McCaughey of Warren, R.I. was treated for a frac-



**ACCOMPLISHED SV**  
left, stands at swim team from the Newt

tured leg and released from Rhode Island Hospital.

"I feel blessed," said father, Barry McCaughey. The dog, whose name could not be found yesterday, was killed.

No charges were filed against the drivers. Camara was not injured. Lebeau was taken to the hospital in hysterics, said Swansea Police Sgt. Ric Carroll.

"He couldn't stop crying," Carroll said. "You imagine carrying around with you for the rest of your life?"

A nurse who lives at the intersection of Route 6 and Mason Street, the scene of the accident, said she came running out of

Exhibit F

**LEONARD GREENE IS OFF TODAY**

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get in any trouble," said Shaheerah Baker, 15, who went to school with the twins. The boys graduated last month from the Luis Munoz Marin elementary school.

Baker said Nathan Lopez was on the student council and was a member of the school's computer club. Neighbors said Deanna Lopez worked at a day care center and had become engaged two weeks ago.

Jose Lopez had been out of work for some time with a back injury he got on the job, neighbors said. Police said Lopez had had serious medical problems and was scheduled to have back surgery.

A neighbor of the Lopezes said he heard three gunshots at about 4 a.m., but did not call police because "every night you hear that here." The house is located on the city's East Side, an area plagued by drug dealing and shootings.

# wife survives



pity across the street at the blackened remains of the free-standing shed, where several burned planks of wood ripped out from the structure by firefighters lay like used matchsticks in front of the yard for disposal.

The couple have lived for decades in the white, two-story house where Lucy Otolos's grandfather once drove around the area to deliver milk in a horse and carriage.

It's one of those stable blocks with houses containing uninterrupted bloodlines, families that have established deep roots in the neighborhood.

As such, Elmwood Street has produced sons and daughters who grew up and stayed on the street well into adult life, like Russo.

The Otolos, because of their longevity and popularity, are much revered among Elmwood Street's residents.

"They're a very nice family," said a woman who has lived in the same house for 81 years. "It's a terrible thing."

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# Witness says Shay queried him on will, proceeds of lawsuit

By Sean P. Murphy  
GLOBE STAFF

One month before Thomas L. Shay became the target of a bomb attack, Shay's son questioned an attorney about getting a sizable inheritance from his father in the event of his father's death, according to testimony yesterday at the younger Shay's trial in US District Court.

The testimony was elicited by federal prosecutors who contend that Thomas A. Shay, 21, of Quincy, wanted to kill his father, in part because he expected to collect a portion of an expected \$400,000 inheritance.

Shay's father discovered a black box attached to the undercarriage of his car on Oct. 28, 1991, and called the Boston police bomb squad to his Roslindale home, where the bomb exploded, killing Officer Jeremiah Hurley and maiming Officer Francis Foley.

Attorney Alan J. Pransky testified that he represented Thomas L. Shay in 1991 in a lawsuit against a Dedham service station for injuries Shay said he suffered during an explosion there.

Under questioning from assistant US Attorney Paul V. Kelly, Pransky recalled a conversation on Sept. 13, 1991, in which Thomas A. Shay said his father believed his opponents in the lawsuit were trying to kill him.

Pransky testified that he told the younger Shay there would be no point in the service station owners killing his father because the lawsuit would survive if he died.

Pransky testified that the younger Shay then asked where the money from the lawsuit would go if his father died. Pransky said

he replied that it would depend on whether his father had a will. Pransky testified that he told the younger Shay that if his father had no will, his four children would inherit the proceeds from the lawsuit.

Shay then asked whether his father had a will, but Pransky declined to answer the question, according to testimony.

Pransky is scheduled to be cross-examined today by Thomas A. Shay's attorney, Nancy Gertner. "The whole story wouldn't be told" until the cross-examination of Pransky was conducted, said Amy Baron-Evans, Gertner's associate.

Prosecutors have also said that Thomas A. Shay sought revenge on his father for childhood physical abuse.

In earlier testimony, Radio Shack clerk Dwayne Armbrister testified that on Oct. 18, 1991, he sold a battery holder, a toggle switch and other items to a young man who seemed very aggravated.

A receipt from the sale indicates that Armbrister typed the customer's name as "SAHY," which prosecutors contend was meant to be "SHAY." Prosecutors say that a battery holder and toggle switch were used in the bomb that killed Hurley.

Judge Rya Zobel ruled last month that Armbrister could not make an in-court identification of Shay as the man who purchased the items because Armbrister, when first approached by agents of the federal Bureau of Alcohol, Tobacco and Firearms, could not pick out Shay's photograph from several shown to him.

Armbrister later said he could identify Shay as the man in the store.

Exhibit G

# Initially, Shay helped government try to build case against his lover

By Matthew Brelis  
GLOBE STAFF

Before he was tried and convicted for killing a Boston police officer with a bomb intended for his father, Thomas A. Shay was cooperating with the federal government and implicating his lover, who allegedly built the bomb.

Last fall, when Shay, 21, of Quincy, told law enforcement officials that the leftover bomb parts were dumped in a Quincy quarry, investigators turned to US Navy divers and a submarine borrowed from the Woods Hole Oceanographic Institution to explore the quarry's depths, law enforcement sources said.

But the elaborate efforts were fruitless.

Boston police detectives and federal agents from the Bureau of Alcohol, Tobacco and Firearms were also unable to locate the South Shore shack next to the radio tower where Shay insisted his lover, Alfred Trenkler, an engineer, built the bomb.

After concluding that Shay had reneged on his agreement to be truthful in exchange for a lesser sentence for himself, the government decided to prosecute him on charges that he orchestrated the Oct. 28, 1991, blast that killed Officer Jeremiah J. Hurley Jr. and wounded fellow bomb squad officer Francis X. Foley.

The agreement prohibited the government from introducing at trial any of Shay's admissions to them while he was cooperating. But Shay's temporary immunity didn't cover statements he made to the press, and an interview he gave to a WLVI-TV (Ch. 56) reporter came back to

haunt him at the federal trial that ended with his conviction Tuesday.

On the Channel 56 videotape, Shay admits buying parts that were used in the bomb, but insists he did not know what their purpose was.

"That videotape was very important to us," a juror who did not want to be identified said during a telephone interview yesterday. The juror also said a tape of a telephone conversation Shay made to a friend while he was in San Francisco hiding out after the bombing was important. On the tape, Shay said he was in San Francisco because "The cops still think I did it."

Shay tried to enter into another agreement with the government after his trial started June 28. Shay was willing to enter a so-called Alford plea in which he would acknowledge the government had enough evidence for a jury to find him guilty, but wouldn't admit his guilt, law enforcement sources said.

Defense attorney Amy Baron-Evans would not comment on the Alford plea, saying, "It would not be appropriate to comment on plea discussions if there were any. All I will say is he maintained his innocence and went to trial."

Sources said Assistant US Attorneys Paul V. Kelly and Frank A. Libby Jr. - at the urging of the Boston Police Department and the Hurley and Foley families - rejected the Alford plea.

Shay was found guilty Tuesday of conspiring with Trenkler to kill his father by planting a bomb under his car that detonated in his father's Roslindale driveway while being inspected by the Boston police bomb squad. He was also convicted of aiding and abetting the attempted de-

struction of his father's car - under which the bomb was placed.

Trenkler, 36, of Quincy, is scheduled to stand trial for his alleged role in the bombing in October.

It is possible prosecutors will call Shay as a witness at Trenkler's trial.

"If Shay were forced to testify they would be forcing him to commit perjury because he doesn't know anything," Baron-Evans said.

The defense team, headed by Nancy Gertner, tried to raise doubts in jurors' minds about Shay's guilt by attempting to pin the bombing on Shay's father, Thomas L. Shay, a retired auto body mechanic.

But the juror who was interviewed said the jury did not think the elder Shay was capable of making the bomb.

"He just didn't know very much," the juror said.

The juror and one other juror both said the jury thought evidence was suppressed that the jury should have been told about, but would not be more specific.

"The deliberations were very traumatic and soul-searching and we did the best job we could," another juror said.