

Judge admits error in car bomb case

BOSTON (AP) — A federal judge says she was wrong when she would not let a psychiatrist testify for the defense in the trial of a man who was convicted of conspiracy in a bombing that killed one police officer and injured another.

The psychiatrist believes the man, Thomas A. Shay, 25, of Quincy lied about his role in the bombing.

Defense attorney William Kettlewell said he expects the U.S. Court of Appeals will vacate Shay's conviction and order a new trial, at which the psychiatrist can testify, as a result of yesterday's ruling by U.S. District Judge Rya W. Zobel.

Shay was convicted of conspiring to build the bomb that exploded Oct. 28, 1991, in a driveway in Roslindale, killing Officer Jeremiah J. Hurley and injuring his partner, Officer Francis X. Foley.

Shay was sentenced to 15 years in prison. Alfred Trenkler was convicted of building the bomb, and was sentenced to life in prison.

The bomb had been attached to the undercarriage of Shay's father's car with magnets. It fell off, and the elder Shay called the police bomb squad. The bomb blew up while Hurley and Foley were inspecting it.

Zobel had refused to allow Dr. Robert T.M. Phillips, a Washington psychiatrist, to testify at Shay's 1993 trial. Shay's lawyers appealed, and the Court of Appeals ruled 15 months

ago that Zobel had been wrong in concluding jurors did not need to hear expert testimony from Phillips. The court ordered her to hold a hearing.

Phillips had concluded that Shay suffered from "factitious disorder," a mental condition that gave him an "uncontrollable urge to spin out webs of lies which are ordinarily self-aggrandizing and serve to place him the center of attention."

Kettlewell said, "There was almost no physical evidence linking (Shay) to the bombing. The government relied almost solely on his statements to convict him."

U.S. Attorney Donald K. Stern said he is considering appealing Zobel's new ruling, but if that fails, "We are committed to retrying the defendant."

Tommy Nee, president of the Boston Police Patrolmen's Association, the union to which Hurley and Foley belonged, said it would be crazy to have a new trial.

"We'd be dismayed that there is the potential that the families will have to live through this great injustice again. They've gone through their period of closure. They've kind of put it behind them. This is nuts."

"Zobel has admitted to making a mistake. It is our belief that the only mistake that was made was when the young man was not put in jail for the rest of his life."