

Prosecutor may be called to testify in bomb case

By RALPH RANALLI

The defense attorney for alleged Roslindale bomber Alfred Trenkler has asked the court to let him call the lead prosecutor in the case as a defense witness — a move that could bar him from prosecuting the case.

Assistant U.S. Attorney Paul V. Kelly received accolades in July for his part in winning a guilty verdict in a difficult and almost entirely circumstantial case against Trenkler's co-defendant, Thomas A. Shay.

But according to court papers, Trenkler's attorney, Terry Segal, believes Kelly's telephone conversations with Shay make him a key witness in casting doubt on statements Shay made to Boston Police and federal investigators.

Kelly, however, has opposed the move in his own motion, which also contains a previously unreleased memo about a conversation in which Shay offered to implicate Trenkler as part of a plea deal with a story that closely matches the government's case.

If U.S. District Court Judge Rya W. Zobel allows the motion, she would then have to decide whether Kelly could continue as a prosecutor in the case.

Federal prosecutors charge Trenkler built a bomb at Shay's request and planted it under Shay's father's car in Roslindale in 1991. Boston Police Bomb Squad Officer Jeremiah Hurley was killed and his partner, Francis X. Foley, wounded when the bomb went

off while they were examining it.

Shay was convicted on two of three bombing-related counts, including conspiring with Trenkler.

According to the motion and testimony in the Shay trial, Kelly received several unsolicited telephone calls from Shay before his trial in which he made statements that were either conflicting or pointed blame away from his client.

Kelly called Segal's motion "a creative, aggressive" tactic yesterday. "I don't expect it to prevail, but it's a slick move," he said.

In his opposition brief to Segal's motion, Kelly argued that some statements made by Shay were also witnessed by other investigators who could testify, and that the remaining statements would not be admissible as hearsay.

Attached to the motion is a Jan. 5 memo by Kelly recounting a conversation with Shay shortly before he was indicted.

In the memo, Kelly said Shay told him he and Trenkler planned the bombing for insurance money and he promised Trenkler "at least \$100,000."

Shay also said Trenkler obtained the explosives and blasting caps for the bomb and that the two built it in a shed near a radio tower on the South Shore, the memo said. Shay allegedly said Trenkler planted the bomb under his father's car outside the Warren Tavern in Boston's South End.