

Man gets 12-year term in bomb death of officer

By Patricia Nealon
GLOBE STAFF

Seven years ago yesterday Cynthia Hurley was planning to bury her husband, Jeremiah, the father of her four children, blown apart by a wayward bomb planted by a troubled young man.

Yesterday in federal court, she sat a few feet away from Thomas Shay, the man whose homemade bomb killed her husband, a Boston Police Bomb Squad officer, and maimed his partner, Francis X. Foley, on Oct. 28, 1991.

After seven years, one federal trial and an overturned conviction, Cynthia Hurley said she was forced to accept a bitter reality: She and her family had no choice but to support a lesser sentence for Shay.

"We could not sit through another trial," she told US District Judge Edward F. Harrington, who minutes later sentenced Shay to 12 years in prison — three less than he received from another judge following his conviction in 1993.

"We're looking for some kind of closure, which we're never going to get, but this is a start," she said afterward.

The family's wishes to end their ordeal led the Boston Police Department to accept the lesser sentence, even though it had condemned the initial 15-year sentence as an insult.

At the time, federal prosecutors had asked for a life sentence for Shay, but US District Judge Rya W. Zobel, who presided over the 1993 trial, refused. She maintained the government failed to prove that the bomb that killed Hurley had been intended to kill Shay's father; the intent to murder is a necessary predicate for a life sentence.

"For our point of view, the concerns of the Hurley family are paramount," Police Commissioner Paul V. Evans said after the sentencing. "We were there to support them however they chose to go."

When time is deducted for good behavior, Shay will serve a total of 10 years in prison. Since he has already been behind bars for more

than six years, Shay could be free in four years.

Both Evans and US Attorney Donald K. Stern, whose office prosecuted the case, pointed out that the actual bomb builder, Alfred W. Trenkler, is in prison for life.

"In a more perfect world, perhaps a more just world, a harsher sentence could have been imposed against Shay, Stern said.

Shay, 28, of Quincy, won a new trial after US District Judge Rya W. Zobel ruled last fall that she should have allowed testimony from a psychiatrist who believed Shay may have lied about his role in the bombing. Shay's lawyers wanted jurors to hear that their client suffered from a mental disorder that caused him to tell self-aggrandizing lies.

That testimony, they said, was crucial because it would offer another explanation for Shay's incriminating statements to police and others — including the boast that he was the one "who killed the Boston cop."

Zobel's ruling followed a decision by a three-judge panel of the US Court of Appeals for the First Circuit in 1996 that found that Zobel had erred when she barred the psychiatrist from testifying. The appeals court ordered Zobel to hold a hearing on the proposed testimony; afterward, the judge reversed herself and ruled last October that it should have been allowed.

The appeals court then ordered a new trial last spring. Shay was scheduled to stand trial before Harrington on Jan. 19.

Shay was convicted in federal court in 1993 of conspiring with Trenkler to make the bomb that exploded as Hurley and Foley examined it. The device had fallen from the undercarriage of Shay's father's car and exploded in the elder Shay's Roslindale driveway.

"You may only serve 12 years for this vicious and heinous act," Harrington told Shay. But "you have to live your whole life with the realization that you killed a man, a father; a police officer, who was innocent, who was only doing his duty. Just to live with that has to be punishment enough."

Guilty plea expected after court overturns bombing conviction

By Patricia Nealon
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Thomas A. Shay, whose conviction for the 1991 bombing death of Boston police officer Jeremiah J. Hurley Jr. was ultimately overturned by a federal appeals court, is expected to plead guilty today rather than face another trial.

Shay, who is serving 15 years and eight months in prison, is scheduled to plead guilty to the same two counts he was convicted of in 1993, including conspiring to build the bomb that killed Hurley and maimed his partner, Francis X. Foley, seven years ago yesterday.

Assistant US Attorney David J. Apfel yesterday declined to discuss the specifics of the plea agreement Shay has reached with the government. Shay's attorney, William Kettlewell, could not be reached for comment yesterday.

Shay, 28, of Quincy, won a new trial after US District Judge Rya W. Zobel ruled last fall that she had wrongly barred testimony from a psychiatrist.

Shay's lawyers wanted jurors to hear from the psychiatrist, who said Shay suffered from a mental disorder that caused him to tell self-aggrandizing lies.

They considered the testimony crucial because it would offer an alternative explanation for incriminating statements Shay made to police and others — including the boast that he was the one “who killed the Boston cop.”

Zobel's ruling followed a decision by a three-judge panel of the US Court of Appeals for the First Circuit in 1996 that found that Zobel had erred in concluding that jurors did not need to hear from the psychiatrist.

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bel to hold a hearing on the proposed psychiatric testimony. After the hearing Zobel reversed herself and ruled last October that the psychiatric evidence should have been allowed at trial.

As a result, the appeals court last spring ordered a new trial. Shay was scheduled to go on trial before US District Judge Edward Harrington on Jan. 19.

Shay was convicted in federal court in 1993 of conspiring to make the bomb that killed Hurley, a Boston police bomb squad officer, as he and Foley examined it. The device had fallen off the undercarriage of Shay's father's car and exploded in the elder Shay's Roslindale driveway on Oct. 28, 1991.

The man convicted of building the bomb, Alfred Trenkler, is serving a life sentence. Shay faced the possibility of a life sentence if he was convicted at a second trial.

Zobel had refused the government's request for a life sentence when she sentenced Shay in 1993. The judge ruled that prosecutors had failed to prove Shay intended to kill his father with the bomb that ended up killing Hurley, a necessary predicate for a life sentence.