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New trial denied in '91 killing of officer

5 jurors advocated for man they jailed

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Alfred Trenkler has failed in his latest attempt to convince a federal judge that there is enough evidence to prove he was not the man who planted a bomb that killed a Boston police officer and maimed another nearly 19 years ago.

US District Judge Rya W. Zobel denied Trenkler's motion for a new trial Monday, just days after two more jurors in his 1993 case sent a letter to the court asking that the 53-year-old man receive a new trial. Three other jurors who helped convict Trenkler filed letters last year asking Zobel for a new trial.

In 2007, an appellate court ruled that Zobel could consider a new trial after Trenkler filed a motion saying there was new evidence that could prove he did not plant the bomb that killed Officer Jeremiah J. Hurley Jr. and seriously injured Francis X. Foley in 1991.

In his motion to the Court of Appeals for the First Circuit, Trenkler listed a series of arguments why he should receive a new trial. His motion included arguments that the testimony of two witnesses was unreliable at best; his coconspirator, Thomas Shay, recanted his testimony that Trenkler was guilty; and the defense never received access to fingerprints left at the scene.

But in her 19-page ruling, Zobel disagreed. She said Trenkler failed to show that prosecutors had hidden evidence from him or his lawyer or that his constitutional rights were violated when he was sentenced to two life terms.

She also said the evidence he pointed to was not new, but could have been examined more closely during his trial if he and his lawyer had done more due diligence. Federal prisoners have a year after their convictions become final to bring up such evidence, Zobel wrote.

"Nothing the government did then, or has done since then, has prevented him from making an earlier motion," she wrote. "Now it is too late."

Trenkler's stepfather, Jack Wallace, who lives in Milton, said he was "irate" over the ruling, which he described as yet another error by a judge who committed several during Trenkler's trial.

"The jurors faced up to their mistakes," Wallace said. "I don't know why she won't do it. It mystifies me."

Robert Woods, one of the jurors who filed a letter last week asking for a new trial, said he was disappointed by Zobel's decision.

"I think there was a rush to judgment on that trial," said Woods, a 66-year-old from Lynn whose letter was filed March 6. He said that he had doubts about Trenkler's guilt but that the other jurors convinced him there was enough circumstantial evidence to prove he was responsible.

"I think that my role in the case was less than what it should have been," Woods said. "I probably should have fought more."

Zobel, who did not return a phone call seeking comment, made only a passing reference to the jurors' letters in her ruling. The US attorney's office declined to comment.

In her ruling, Zobel acknowledged that Trenkler presented one new piece of evidence: In 2007, Shay filed an affidavit stating that despite his 1998 guilty plea, both he and Trenkler were innocent.

But, Zobel said, Shay is a self-confessed liar. "Thus, Shay Jr.'s current recantation possesses little credibility," she wrote.

Wallace, who turns 83 in July, said that reasoning frustrates him. "Young Shay had all these problems, yet she allowed his testimony," he said. "Now that he says Alfred had nothing to do with it, she won't believe him."

Wallace said he is not giving up. "I'm still going to fight this all the way," he said. "The guy is innocent."

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