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## Lawyer: Kerik's Rights Violated in Probe

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WHITE PLAINS, N.Y. (AP) — Federal prosecutors violated the rights of one-time New York Police Commissioner Bernard Kerik by improperly questioning his former lawyer, his current lawyer said.

In court papers filed this week, attorney Kenneth Breen said that prosecutors wrongly questioned Joseph Tacopina, and asked a judge to consider whether legal action was warranted.

Kerik — the former Rudy Giuliani protege who was briefly a contender for the nation's top homeland security job — has pleaded not guilty to lying to the White House, filing false income taxes and other charges in a wide-ranging federal indictment.

Prosecutors have said they plan to call Tacopina as a witness about what they claim were false statements Kerik made during an earlier probe into renovations to his Bronx apartment. Kerik admitted in state court last year that the work constituted an illegal gift from a construction firm, pleading guilty to a misdemeanor. The renovations are also an issue in the federal indictment.

U.S. District Judge Stephen C. Robinson is weighing prosecutors' bid to disqualify Breen as Kerik's lawyer, with a hearing set for Monday. Prosecutors say Breen has a potential conflict of interest because he could be called as a witness against his own client.

Prosecutors maintain Kerik's statements amounted to obstructing justice and so aren't subject to attorney-client privilege. They have not accused Breen of acting improperly.

Breen also said removing him from the case would raise issues of fairness.

"The consequences of disqualification would be staggering," he said.

Assistant U.S. Attorneys Perry Carbone and Elliott Jacobson brushed off Breen's arguments in court papers, saying he "desperately grasps at straws."

Giuliani, then New York's mayor and now a Republican presidential hopeful, appointed Kerik as police commissioner in 2000 and endorsed President Bush's 2004 nomination of Kerik to head the Department of Homeland Security. Kerik withdrew, saying he had tax issues involving his former nanny.

Giuliani has repeatedly said he should have done a better job of vetting Kerik.

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