

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

ALFRED W. TRENKLER,

Defendant

CRIMINAL NO. 92-10369-Z

**DEFENDANT ALFRED W. TRENKLER'S MOTION FOR A NEW TRIAL  
OR, IN THE ALTERNATIVE, FOR AN EVIDENTIARY HEARING**

Pursuant to Fed. R. Crim. P. 33, the Defendant Alfred W. Trenkler ["Trenkler"], who is currently serving a sentence of life imprisonment, hereby moves this Court to set aside the verdict returned in the above-entitled action on November 29, 1993 (and the judgment entered thereon on March 8, 1994) and to grant a new trial on the grounds of newly discovered evidence. In the alternative, the Defendant requests an evidentiary hearing relating to certain newly discovered evidence. As reasons therefor, the Defendant asserts the following:

1) In late October and November 1993, Trenkler was tried by a jury for conspiracy under 18 U.S.C. §371, receipt of explosive material under 18 U.S.C. §844(d), and attempted malicious destruction of property by means of explosive under 18 U.S.C. §844(I) arising out of an explosion in Roslindale, Massachusetts, on October 28, 1991, which killed a Boston Police officer and seriously injured a second Boston Police officer.

✓

Trenkler was convicted on November 29, 1993, and sentenced to concurrent terms of imprisonment for life on the counts of receipt of explosive materials and attempted malicious destruction of property by means of explosives and for sixty months on the count of conspiracy by a judgment of conviction entered on March 8, 1994.

2) The hallmark question in the case against Trenkler was the identity of the creator of the Roslindale bomb. Trial Transcript, pp. 162, 229. There was no direct physical evidence linking Trenkler to the 1991 bomb. Trial Transcript, pp. 910, 944-945.

3) As a result of the appeal of Trenkler's conviction, the First Circuit Court of Appeals in United States v. Alfred W. Trenkler, No. 94-1301, found that this Court erred in admitting certain computer-derived evidence under the residual exception to the hearsay rule to prove the identity of the creator of the Roslindale bomb, but nonetheless found the error harmless beyond a reasonable doubt. The testimony of a government witness David Lindholm was crucial to upholding the conviction. There was a strong and lengthy dissent by Chief Judge Torruella.

4) The Defendant was not aware at the time of the trial of this action in October and November 1993, of the following newly discovered evidence:

- ✓
- (a) At the trial of this case, the United States introduced into evidence a certain receipt and other evidence concerning the alleged purchase at a Radio Shack facility in Boston Massachusetts of a certain item by the Defendant, Alfred W. Trenkler.
  - (b) Inquiry made on behalf of the Defendant with the Radio Shack corporation has demonstrated that the receipt was fabricated and did not correspond to the testimony offered by the United States on this subject.
  - (c) That testimony was critical to the prosecution of this case and without it, it is likely that the jury would not have reached a verdict against the Defendant, Alfred W. Trenkler.
  - (d) An interview with Thomas A. Shay, who was indicted with the Defendant, Alfred W. Trenkler, and was tried separately and before Alfred W. Trenkler by Morris M. Goldings, Esquire at Shay's place of incarceration at the McKeen County Correctional Facility in Bradford, Pennsylvania has resulted in statements by Shay that the testimony by the Radio Shack employee concerning the purchaser of the items was false and biased.

✓

The interview also yielded a statement by Thomas A. Shay that Alfred W. Trenkler did not commit the crimes for which he has been convicted.

- (e) Thomas A. Shay has on previous occasions stated to other persons known to the United States that Alfred W. Trenkler did not commit the crimes for which he has been convicted.
- (f) An additional witness concerning the veracity of the testimony of David Lindholm has come forward and has offered to testify as to that crucial guilt witness. His name is John J. Bowden and he is presently incarcerated in Allenwood Federal Correctional Institute.
- (g) A hearing is necessary in order to produce the evidence demonstrating the falsity of the Radio Shack evidence and the exculpatory testimony of Thomas A. Shay, and further evidence concerning the veracity of the witness Lindholm and consequently, a Petition for Writ of Habeas Corpus Ad Testificandum is filed herewith with respect to Thomas A. Shay and a similar Petition for a Writ is filed herewith with respect to John J. Bowden.

✓

(h) An affidavit of Robert W. Blair, Associate General Counsel - Litigation for Tandy Corporation, which owns and operates over 5,000 RadioShack stores throughout the United States, states:

1. I am Associate General Counsel - Litigation for Tandy Corporation which owns and operates over 5,000 RadioShack stores throughout the United States.
2. I have cause [sic] to be made a search for and examination of certain business records of the RadioShack Division, specifically the general journal printout for RadioShack store No. 01-1021 located at 197 Massachusetts Avenue, Boston, Massachusetts for the date of October 18, 1991.
3. I have also examined sales receipt No. 098973 a copy of which is attached to this Affidavit.
4. Based upon my examination of these documents and my knowledge of the business practices of RadioShack stores, other than the store address and store number, none of the information on sales receipt No. 098973

✓

matches any information contained in  
RadioShack's general journal for store No.  
01-1021 on October 18, 1991.


(A copy of Attorney Blair's Affidavit and the  
sales receipt attached thereto are attached  
hereto and marked Attachment "A.")

WHEREFORE, the Defendant Alfred W. Trenkler respectfully  
requests that this Court grant his Motion for a New Trial or, in  
the Alternative, for an Evidentiary Hearing.


**CERTIFICATION UNDER LOCAL RULE 7.1(A)(2)**

The undersigned hereby certifies that counsel for the  
Defendant has attempted in good faith to resolve the issues  
surrounding this motion with counsel for the government.

Dated: 8/10/00

  
\_\_\_\_\_  
Morris M. Goldings

By his Attorney,

  
\_\_\_\_\_  
Morris M. Goldings  
BBO #198800  
MAHONEY, HAWKES & GOLDINGS, LLP  
The Heritage on the Garden  
75 Park Plaza  
Boston, Massachusetts 02116  
(617) 457-3100

Dated August 10, 2000

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA  
Plaintiff,

v.

ALFRED W. TRENKLER  
Defendant.

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§  
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§  
§  
§  
§

CRIMINAL NO. 92-10369-2

AFFIDAVIT OF ROBERT W. BLAIR


I, Robert W. Blair, being duly sworn depose and state the following:

1. I am Associate General Counsel – Litigation for Tandy Corporation which owns and operates over 5,000 RadioShack stores throughout the United States.
2. I have cause to be made a search for and examination of certain business records of the RadioShack Division, specifically the general journal printout for RadioShack store No. 01-1021 located at 197 Massachusetts Avenue, Boston, Massachusetts for the date of October 18, 1991.
3. I have also examined sales receipt No. 098973 a copy of which is attached to this Affidavit.
4. Based upon my examination of these documents and my knowledge of the business practices of RadioShack stores, other than the store address and store number, none of the information on sales receipt No. 098973 matches any information contained in RadioShack's general journal for store No. 01-1021 on October 18, 1991.

FURTHER THE AFFIANT SAYETH NOT.

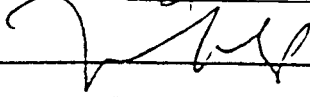
SIGNED AND SWORN TO UNDER THE PAINS AND PENALTIES OF PERJURY THIS

8th DAY OF SEPTEMBER, 1999.

  
Robert W. Blair

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document(s)  
was served upon the attorney of record for each other party by hand-  
delivery - US Mail on 3/1/00



60903

# RADIO SHACK

A DIVISION OF TANDY CORPORATION

ORA

197 MASS AVE  
BOSTON

MA 02115

01-1021

098973

10000 000-8770 00100704 000007

5100 CUSTOMER NAME 10-0700

STREET OR ROUTE - BOX

APT. #, SUITE

BOSTON MA 02115 ZIP CODE

The card number identified below may apply the total amount on this slip to the customer's account to be paid according to an account terms. All transactions subject to return or exchange must be in like and reasonable condition. All original orders with original pricing, illustrations, guarantees and instructions, are valid for replacement of this item only. IN ADDITION, SALES AND RETURNS OF COMPUTER EQUIPMENT AND SOFTWARE LICENSED ARE SUBJECT TO THE TERMS AND CONDITIONS IDENTIFIED ON BACK.

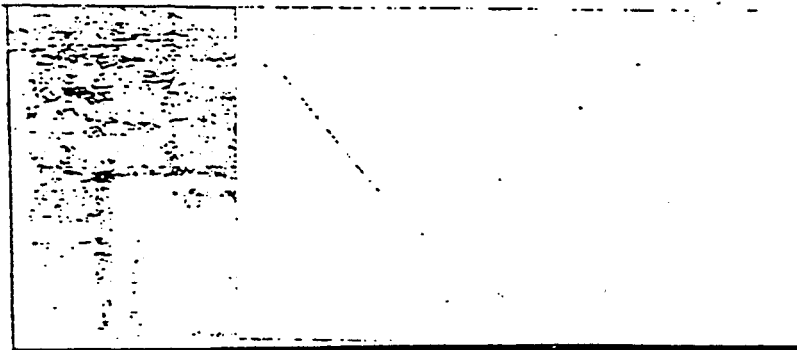
CUSTOMER SIGNATURE: X

270-391	4 AA BATTERY REGR.	1	1.29	1.29
275-602	SPST TOGGLE SW	1	1.29	1.29
272-1133	PK2-150 LAMPS	1	.99	.99
272-356	PLAS. LAMP HOLDER	1	.99	.99
274-226	BT 412X7/8	1	1.89	1.89
274-227	BT 423-15X1.84	1	2.99	2.99
SUBTOTAL				9.44
TAX				.47
				9.91
CASH TENDERED				20.00
CHANGE DUE				10.09

*Thank You*

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

In re Thomas A. Shay,  
a prisoner

In the Matter of:

UNITED STATES OF AMERICA

Plaintiff

v.

ALFRED W. TRENKLER

Defendant

CRIMINAL NO. 92-10369-2

**PETITION FOR WRIT OF HABEAS CORPUS  
AD TESTIFICANDUM FOR THOMAS A. SHAY**

This Petition for Habeas Corpus Ad Testificandum is filed by the Defendant in the above-entitled case and refers to the following:

1. The following witness is a prisoner:

Name: Thomas A. Shay  
Sex: Male  
Prisoner No.: 19193038

2. Thomas A. Shay is presently detained in the following institution:

United States Correctional Facility  
McKeen County  
Bradford, Pennsylvania

3. The Custodian of Thomas A. Shay at the McKeen County Correctional Facility is Ellen McNinch, Superintendent.

4. Thomas A. Shay is an essential witness in the case of United States v. Trenkler with respect to his Motion for New Trial upon newly discovered evidence, as will

be shown at the hearing on this petition and for the reasons set forth in the accompanying Motion for New Trial of Alfred W. Trenkler.

5. A Writ of Habeas Corpus Ad Testificandum is necessary, directing Ms. McNinch, Superintendent to deliver custody of Thomas A. Shay to the United States Marshal to bring Thomas A. Shay to Boston, Massachusetts or some convenient nearby location so that the Marshal may produce Thomas A. Shay for testimony at the hearing on the Motion for New Trial upon newly discovered evidence in the United States v. Alfred W. Trenkler.
6. The Writ of Habeas Corpus Ad Testificandum should also instruct the Marshal to return Thomas A. Shay to the custody of Ms. McNinch, Superintendent as soon as Thomas A. Shay has completed his testimony in this matter.

For the reasons stated above, the Defendant Alfred W. Trenkler prays that:

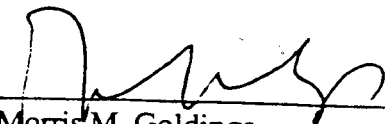
1. This Court issue a Writ of Habeas Corpus Ad Testificandum;
2. The Writ direct Ms. McNinch, Superintendent, to deliver the custody of Thomas A. Shay to the United States Marshal;
3. The Writ direct the United States Marshal to transport Thomas A. Shay to Boston, Massachusetts or some convenient location to produce Thomas A. Shay for testimony in the hearing on the Motion for New Trial for newly discovered evidence of The United States v. Alfred W. Trenkler in time for such hearing;
4. The Writ direct the United States Marshal to return Thomas A. Shay to the custody of Ms. McNinch, Superintendent at the United States Correctional

Facility at Bradford, Pennsylvania, as soon as possible following the completion of testimony by Thomas A. Shay.

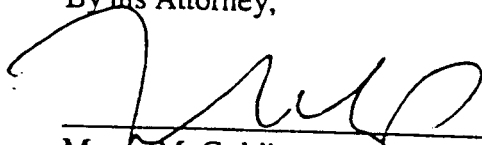
CERTIFICATION UNDER LOCAL RULE 7.1(A)(2)

The undersigned hereby certifies that counsel for the Defendant has attempted in good faith to resolve the issues surrounding this Writ with counsel for the government.

Dated: 8/10/00

  
\_\_\_\_\_  
Morris M. Goldings

ALFRED W. TRENKLER  
By his Attorney,

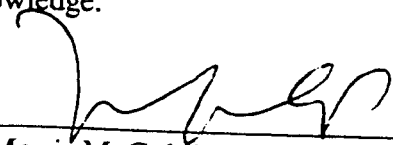
  
\_\_\_\_\_  
Morris M. Goldings, BBO#198800  
Mahoney, Hawkes & Goldings, LLP  
The Heritage on the Garden  
75 Park Plaza  
Boston, Massachusetts 02116  
617-457-3100

Date: August 10, 2000

VERIFICATION

COMMONWEALTH OF MASSACHUSETTS  
SUFFOLK, SS

Morris M. Goldings, Esquire, personally appeared before me, the undersigned notary public. After being duly sworn, he stated under oath that he is the attorney for the Petitioner in this matter, that he has read the Petition, and that every statement in the Petition is true and correct in his personal knowledge.

  
\_\_\_\_\_  
Morris M. Goldings, Esquire

Subscribed and sworn to before me on 8/10/00, as shown by my seal and signature.

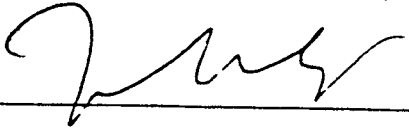
(Notary's seal)

Jennifer A. Gibbons (Notary's signature)  
Jennifer A. Gibbons (typed name)

Notary Public in and for the State of Massachusetts  
My commission expires July 16, 2004 [date]

CERTIFICATE OF SERVICE

I, Morris M. Goldings, hereby certify that a true copy of the above document was served upon the attorney of record for each other party by U.S. Mail this 11 day August 2000



#57409/1

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

In re John J. Bowden,  
a prisoner

In the Matter of:

UNITED STATES OF AMERICA

Plaintiff

v.

ALFRED W. TRENKLER

Defendant

CRIMINAL NO. 92-10369-2

**PETITION FOR WRIT OF HABEAS CORPUS  
AD TESTIFICANDUM FOR JOHN J. BOWDEN**

This Petition for Habeas Corpus Ad Testificandum is filed by the Defendant in the above-entitled case and refers to the following:

1. The following witness is a prisoner:

Name: John J. Bowden  
Sex: Male  
Prisoner No.: 19118-038

2. John J. Bowden is presently detained in the following institution:

USP Allenwood  
White Deer, Pennsylvania 17887

3. The Custodian of John J. Bowden at USP Allenwood is Susan Gerlinski, Warden.
4. John J. Bowden is an essential witness in the case of United States v. Trenkler with respect to his Motion for New Trial upon newly discovered evidence, as will

be shown at the hearing on this petition, and for the reasons set forth in the accompanying Motion for New Trial of Alfred W. Trenkler.

5. A Writ of Habeas Corpus Ad Testificandum is necessary, directing Susan Gerlinski, Warden, to deliver custody of John J. Bowden to the United States Marshal to bring John J. Bowden to Boston, Massachusetts or some convenient nearby location so that the Marshal may produce John J. Bowden for testimony at the hearing on the Motion for New Trial upon newly discovered evidence in the United States v. Alfred W. Trenkler.
6. The Writ of Habeas Corpus Ad Testificandum also should instruct the Marshal to return John J. Bowden to the custody of Susan Gerlinski, Warden, as soon as John J. Bowden has completed his testimony in this matter.

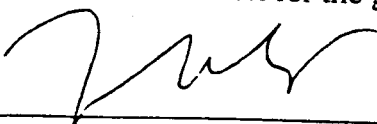
For the reasons stated above, the Defendant Alfred W. Trenkler prays that:

1. This Court issue a Writ of Habeas Corpus Ad Testificandum;
2. The Writ direct Susan Gerlinski, Warden, to deliver the custody of John J. Bowden to the United States Marshal;
3. The Writ direct the United States Marshal to transport John J. Bowden to Boston, Massachusetts or some convenient location to produce John J. Bowden for testimony in the hearing on the Motion for New Trial for newly discovered evidence of The United States v. Alfred W. Trenkler in time for such hearing;
4. The Writ direct the United States Marshal to return John J. Bowden to the custody of Susan Gerlinski, Warden at WP Allenwood, as soon as possible following the completion of testimony by John J. Bowden.

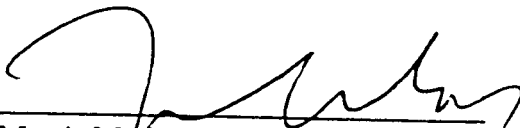
**CERTIFICATION UNDER LOCAL RULE 7.1(A)(2)**

The undersigned hereby certifies that counsel for the Defendant has attempted in good faith to resolve the issues surrounding this Writ with counsel for the government.

Dated: 8/10/00

  
\_\_\_\_\_  
Morris M. Goldings

ALFRED W. TRENKLER  
By his Attorney,

  
\_\_\_\_\_  
Morris M. Goldings, BBO#198800  
Mahoney, Hawkes & Goldings, LLP  
The Heritage on the Garden  
75 Park Plaza  
Boston, Massachusetts 02116  
617-457-3100

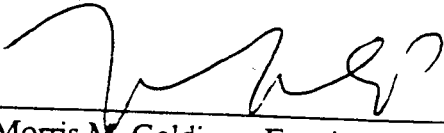
Date: August 10, 2000

VERIFICATION

COMMONWEALTH OF MASSACHUSETTS


SUFFOLK, SS

Morris M. Goldings, Esquire, personally appeared before me, the undersigned notary public. After being duly sworn, he stated under oath that he is the attorney for the Petitioner in this matter, that he has read the Petition, and that every statement in the Petition is true and correct in his personal knowledge.

  
\_\_\_\_\_  
Morris M. Goldings, Esquire

Subscribed and sworn to before me on 8/10/00, as shown by my seal and signature.

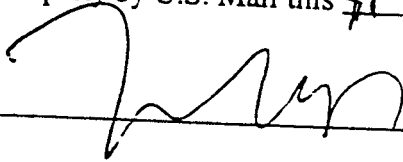
(Notary's seal)

  
\_\_\_\_\_  
Jennifer A. Gibbons (Notary's signature)  
Jennifer A. Gibbons (typed name)

Notary Public in and for the State of Massachusetts  
My commission expires July 16, 2004 [date]

CERTIFICATE OF SERVICE

I, Morris M. Goldings, hereby certify that a true copy of the above document was served upon the attorney of record for each other party by U.S. Mail this 7<sup>th</sup> day of August 2000

  
\_\_\_\_\_

#57409/2

**MAHONEY, HAWKES & GOLDINGS, LLP**  
ATTORNEYS AND COUNSELLORS AT LAW

August 10, 2000

**BY HAND DELIVERY**

Criminal Clerk's Office  
United States District Court  
District of Massachusetts  
United States Courthouse  
One Courthouse Way  
Boston, Massachusetts 02110

Re: United States v. Alfred Trenkler  
Criminal No. 92-10369-Z

Dear Madam/Sir:


Enclosed please find for filing the following documents in connection with the above matter:

1. Defendant Alfred W. Trenkler's Motion for a New Trial or in the Alternative, For an Evidentiary Hearing;
2. Petition for Writ of Habeas Corpus Ad Testificandum for Thomas A. Shay; and
3. Petition for Writ of Habeas Corpus Ad Testificandum for John J. Bowden.

Please date stamp the enclosed copy of this letter and return it to the undersigned with the messenger.

Thank you for your attention in this matter.

Very truly yours,

  
Morris M. Goldings

MMG/jag  
Enclosures

cc: Kevin P. McGrath, Ass. U.S. Atty.  
#61676

Morris M. Goldings  
Loyd M. Starrett  
William S. Hawkes  
Mark Peters  
Frances Allou Gershwint  
Bruce Winthrop Edmonds  
James B. Cox  
Laurence M. Johnson  
Daniel J. Goldberg  
Douglas L. Jones  
Brian W. LeClair  
Richard S. Jacobs  
Matthew P. Zayotti  
Brenda A. Buan  
Alison J. Little  
Angela M. Cox  
  
Diane Rubin  
Of Counsel

Direct Dial  
(617) 210-1477