

ALFRED W. TRENKLER

THE CASE FOR REASONABLE DOUBT IN SUPPORT OF
ALFRED'S COMPLETE INNOCENCE

SERVING LIFE IMPRISONMENT FOR A CRIME HE DID NOT COMMIT
WHEREAS HIS CO-DEFENDANT, CO-CONSPIRATOR WAS RELEASED AFTER
12 YEARS

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Alfred W. Trenkler
The Case for Reasonable Doubt

1. The Court of Appeals stated that "The district court abused it's discretion in admitting the EXIS-derived evidence to prove the identity of the builder of the Roslindale bomb."

2. The Court of Appeals state that "the district court erred in not allowing Shay's psychiatrist, Dr. Phillips, to testify that Shay suffered from a mental disorder which caused him to tell grandiose, self-incriminating lies."

3. The majority felt that David Lindholm had convincingly testified that Alfred had admitted building the Roslindale bomb.

The jurors did not agree as some felt Lindholm's testimony was very important while others did not.

They could not have gotten unanimous agreement on Lindholm.

4. The ATF never produced the diagram at the trial which showed two (2) blasting caps inserted into two (2) sticks of dynamite.

The agents testified that they neglected to take with them the diagram of the dynamite device, and, strictly from memory, testified that the second diagram resembled the first, with the exception of the dynamite and blasting caps.

In actuality there were three (3) to four (4) sticks of dynamite and three (3) blasting caps.

5. The Court of Appeals disagreed with the district court that the evidence of the 1986 incident did not pose any risk of unfair prejudice to the defendant.

One juror said the evidence about the 1986 incident was "very decisive in the jury finding."

6. Chief Justice Torruella notes "that the key witness against Mr. Trenkler, David Lindholm, who testified that Trenkler confessed to building the Roslindale bomb, had some serious credibility problems which make his testimony "shaky", to say the least.

Lindholm dismissed his federal criminal appeal on December 15, 1992 just two days before being placed in the Plymouth County jail with Alfred Trenkler.

It has been held that a motion to reduce a sentence cannot be entertained while an appeal is pending. If the defendant is able to persuade the sentencing court to reduce the sentence he might conclude that it is no longer in his interest to pursue the appeal.

The jury was unaware that Lindholm did not miss the transport to Middleton, but was deliberately sent to the Plymouth County Sheriff's Department for housing over the week-end. One of the Marshall's made this comment to Alfred's trial attorney after the trial.

7. The Court admitted the signature issue in Alfred's Trial but specifically found in the Shay trial that the 1986 device was "not so unusual and distinctive as to be like a signature."

8. One June 22, 1995, the Court of Appeals for the First Circuit remanded Shay's case to the district court for further proceedings.

On September 14, 1997, two years and several months later, Judge Zobel ruled that she should have allowed testimony from a psychiatrist, Dr. Phillips, who believes Shay may have lied about his role in the bombing.

On October 29, 1998, Shay entered a change of plea when he pled guilty resulting in a reduction in his sentence from 15 years and 8 months down to 12 years with credit for time served.

Shay was released from prison on August 30, 2002. He tells everyone that Alfred is innocent of the crime he was accused of. This was reported to Alfred's Appeal Attorney, Morris Goldings, by David Apfel, Assistant U.S. Attorney, who handled Shay's plea bargain hearing.

9. "It was all circumstantial evidence and very hard to come to a decision," said one juror who spoke on a condition of anonymity. We took many votes. In spite of the fact that district court instructed the jury not to use the evidence of the Quincy incident to infer Trenkler's guilt, it is obvious that they did.

10. Shay, Jr. stated "there's only two things I purchased that were inside that explosive device that killed Officer Hurley... the toggle switch and AA battery holder."

The toggle switch was not, as the government asserts, "the precise toggle switch found inside the bomb."

A Chemist testified that the contacts of the switch found in the bomb debris were like those of a switch manufactured for Radio Shack.

The battery holder found in the debris was a Futaba (not a Radio Shack).

11. I purchased a Radio Shack toggle switch no. 275-602 and the contacts did not match the evidence the prosecution presented.

I purchased a competitive toggle switch and the contacts matched perfectly. The product was not exclusively made for Radio Shack as the prosecution stated.

12. Contrary to the ATF agent's statement the use of blasting caps was disclosed to the public in a Boston Globe article on October 30, 1991, prior to the interview, by John Ellement and Toni Locy.

Neither agent attempted to keep this drawing and consequently, it was not produced at the trial.

The diagram which Trenkler allegedly drew featured two sticks of dynamite and two electrical blasting caps did not match the number disclosed.

13. Trenkler's contention with respect to intent stands on firmer ground. The Court of Appeals had some difficulty comprehending (and the government does not

clearly articulate) any theory of "special relevance" tending to show intent that does not depend heavily on an inference of propensity.

See Benevente Gomez, 921 F 2d at 386 (harmless error if it is "highly probable" the error did not contribute to the verdict).

The juror said the evidence about the 1986 bombing was very decisive in the jury finding.

Obviously, considering the fact that they took many votes, it did influence their verdict.

14. The Court of Appeals majority stated that even putting aside our concerns about the reliability of the under lying reports (EXIS) we remain, in general, somewhat troubled by the government's use of the evidence.

The statement that out of more than 14,000 bombings and attempted bombing incidents in the EXIS database only the Roslindale and Quincy incidents share the eight specific queried characteristics is a fairly powerful statement, but perhaps a somewhat misleading one.

15. The Court of Appeals stated that if the admission of the EXIS- derived evidence rises to the level of constitutional error, we accordingly employ a stricter, standard, asking whether we can consider the error harmless beyond a reasonable doubt.

See United States v. Augustine, 814 F 2d. 783, 788, 789 (1st. Cir. 1987) (constitutional errors may not be regarded as harmless of there is a reasonable possibility that the error influenced the jury in reaching a verdict.)

The jury took many votes, so obviously they were undecided between guilt and innocence on the evidence presented. The error did influence the jury in deciding between guilt and innocence.

16. Judge Zobel stated "there isn't one that says that Mr. Shay's statements implicating Mr. Trenkler, whether

by name or otherwise, can be used against Mr. Trenkler, not a one says that."

In fact, later in the proceedings, the district court recognized that the actual statements referred to by the prosecutor and sought to be introduced as statements against Shay, Jr.'s penal interest raised confrontation issues and therefor, ruled them inadmissible.

The majority on the Court of Appeals stated the District Court admitted the statements but did not mention that they were later ruled inadmissible.

17. The dissenting judge in the 2 to 1 decision found the erroneous admissions was a violation of the defendant's sixth amendment right to confront witnesses against him.

18. John Bowden was incarcerated with Lindholm at Middleton County Jail when Lindholm testified against Alfred Trenkler.

He signed an affidavit and a letter that Lindholm told him that he was going to lie to get an early release from jail.

Lindholm was released on September 30, 1994, five years early on his eight-year sentence for drug trafficking and income tax evasion.

19. Robert W. Blair of Tandy Corporation, which owns and operates over 5000 Radio Shack stores throughout the United States, informed me that they never found a copy of the receipt the prosecution introduced at the trial.

A computer print out showed one toggle switch was shipped to the named store, however, the prosecution was unable to prove conclusively that Tom Shay, Jr. was the purchaser.

20. Judge Zobel's clerk, Lisa Orso, misled me on the time I had to file and appeal on the judge's denial of Alfred's motion. I say this is a conflict of interest. It was extremely unfair in lieu of Morris Goldings, Alfred's attorney, unfortunate situation.

21. I spoke with George McGinnis of Hanson Hobby, Hanson, MA 1-781-293-2804. He sells Futaba products, the ATF came to his store and went through all of his sales receipts. George said that once the toggle switch was turned on the batteries would not last for more than 2 hours as the heavy battery drain limits the time. The Futaba product was old.

The Government maintains the device was put on Thomas Shay's Sr.'s car on Saturday or Sunday night. If the toggle switch was turned on the batteries would have been dead by Monday morning, the day of the explosion.

The last person seen with the bomb was Thomas Shay, SR. Mrs. Pirrello and her son, Robert, both stated that they saw Shay, Sr. leave the vehicle holding an object in his right hand. When asked to describe the object Mrs. Pirrello stated that it was about one foot long, either 4 or 5 inches wide and flat. She stated that the object had a drab color. Shay Sr.'s description 1" thick by 5" or 6" wide by 10" or 12" long.

Mrs. Pirrello said Shay Sr., walked up the driveway with the object; the bomb exploded no more than 10 minutes later. He was the only one there to activate the device.

22. We received three letters from Tom Shay, Jr., when he was incarcerated and Alfred attorney, Morris Goldings, received one letter.

In all of the letters he reported Alfred's innocence in the crime he was accused of. Copies of the letters are enclosed. In addition, I met with Tom on four occasions at every meeting he maintained Alfred's innocence.

23. Terry Segal, Alfred's trial attorney, advised Shay's attorney, Nancy Gertner, that Denny Kline, our bomb-expert, purchased a toggle switch which Shay is alleged to have purchased on October 18th, and the switch does not match the remnants of the toggle switch ATF has as part of the physical evidence in this case.

24. Shay, Sr. sold the automobile the bomb was allegedly attached to.

A search for dynamite having been on the car proved negative.