

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 V.) CRIMINAL NO. 92-10369-RWZ
)
 ALFRED W. TRENKLER)

**GOVERNMENT'S OPPOSITION TO DEFENDANT'S MOTION FOR
AN ORDER TO REVIEW TRIAL EVIDENCE**

The government hereby opposes the motion [D. 672], filed by defendant Alfred W. Trenkler ("Trenkler") on June 29, 2006, asking this Court to enter an order permitting him to make arrangements for a fingerprint expert to examine evidence from his trial, which concluded on November 29, 1993 with guilty verdicts on all counts. [D. 487]. Trenkler's motion has been both unopposed and not acted upon to date. As grounds for this opposition, the government states, as explained below, that this Court lacked jurisdiction to grant the requested relief when the motion was filed, and, in any event, the motion is mooted by the destruction of the trial evidence before the filing of the motion.

1. Trenkler cites no authority in his motion for the relief he requests. At the time the motion was filed in June 2006, no post-judgment §2255 attack on his conviction (or any other collateral challenge) was before this Court. Accordingly, this Court was without jurisdiction to consider or grant Trenkler's motion.

2. In October 2005, with no collateral attack on Trenkler's judgment pending or reasonably anticipated by the government, and

ten years after judgment became final for §2255 purposes (on October 16, 1995, 90 days after the affirmance of Trenkler's judgment on direct appeal), and the new trial filing period having long before expired, the United States Attorney's Office authorized ATF to destroy the evidence in this case. The trial evidence Trenkler asks to review was destroyed in October 2005 and February 2006, well before the filing of the instant motion.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Timothy Q. Feeley
TIMOTHY Q. FEELEY
JAMES F. LANG
Assistant U.S. Attorneys
(617) 748-3172/3175

January 8, 2008

CERTIFICATE OF SERVICE

This is to certify that I have this 8th day of January 2008 served upon petitioner, Alfred W. Trenkler, Reg. No. 19377-038, U.S.P. Allenwood, P.O. Box 3000, White Deer, PA 17887, a copy of the foregoing document by first class mail.

/s/ Timothy Q. Feeley
TIMOTHY Q. FEELEY
Assistant U.S. Attorney