

UNITED STATES COURT OF APPEALS
FOR THE
FIRST CIRCUIT COURT

CASE NO: 07-2764
Civ. No: 07-11752-RWZ

THOMAS A. SHAY,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

MOTION REQUESTING PERMISSION TO SUBMIT ADDITIONAL
DOCUMENTATION/AFFIDAVIT'S TO APPELLANT'S APPLICATION
FOR CERTIFICATE OF APPEALABILITY

THOMAS A. SHAY
REG. NO: 19193-038
FCI MEMPHIS
POST OFFICE BOX 34550
MEMPHIS, TN. 38184-0550

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

THOMAS A. SHAY,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

Appeal No: 07-2764

Civ.No: 07-11752-RWZ

MOTION REQUESTING PERMISSION TO SUBMIT ADDITIONAL
DOCUMENTATION/AFFIDAVIT'S TO APPELLANT'S APPLICATION
FOR CERTIFICATE OF APPEALABILITY

COMES NOW the Appellant Thomas A. Shay in propria persona acting as his own counsel respectfully files this Motion Requesting this Courts Permission to Submit Additional Documentation/Affidavit's to Appellant's Application for Certificate of Appealability.

GROUNDS IN SUPPORT, thereof, the Appellant contends that the enclosed Affidavit's from John D. Wallace help support the factual findings as to Appellant's Second Amendment Discovery of New Evidence.

Appellant contends that John D. Wallace, (herein) Mr. Wallace visted Dwayne Armbrister at the Radio Shack Store located at 197 Massachusetts Avenue, Boston, MA. It is clear by statement made by Mr. Armbrister he was intimidated by the agents who visted him at the store. These same tactics were also used on Michael Coady and Bob Craig. Mr. Craig was further "threaten" to be put in jail if he

didn't agree to come to Florida to Boston to testify at Appellant's co-defendants trial (Alfred Trenkler).

It is clear from the Affidavit from Robert W. Blair that the copy of the receipt that was submitted to this Court in Appellant's Second Amendment could now be considered to have been made by Mr. Armbrister under the threat of intimidation by the Agent's that question him.

The agents used the same intimidating tactics outside of the trial court room, while people were waiting to testify at Appellant's co-defendant's trial. It is further clear that the agent's were successful in getting Randy Winchester of MIT and Martin Alexander of Metro Media Pager not to testify for Mr. Trenkler.

The question before this Honorable Court is: Would a jurist of reasons believe that Radio Shack Clerk, Dwayne Armbrister was intimidated with threats by the agents to make up a bogus receipt from Radio Shack, in order to place the Appellant and Co-defendant Alfred Trenkler at Radio Shack in order to arrest and convict two innocent men that had nothing to do with any bombing what so ever. It is clear that the Agents intimidated witness not to testify and also intimidated witness Bob Craig with jail time if he didn't testify.

Appellant also submit's his own testimony to Questions that had they be asked the Appellant would have answer the questions as submitted within the testimony of Appellant Thomas A. Shay.

Appellant contends that he did not testify at his co-defendant's trial nor at his own trial by the advise of his attorney, Nancy Gertner, this was a major mistake, that had this testimony been used would have been more than trial strategy... could have proved that the Appellant could not be found guilty of the crime he was charged with.

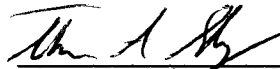
CERTIFICATE OF SERVICE

I hereby certify that the forgoing Motion is true and correct and was forwarded by U.S. Mail postage prepaid to the below following party;

Clerk of the Court
United States Court of Appeals
First Circuit
U.S. Courthouse Way John Joesph Moakley
1 Courthouse Way Ste: 2500
Boston, MA. 02210

Acknowledged on this the 17 day of September 2008.

Respectfully submitted,



Thomas Shay 19193-038
FCI Mempis
P.O. Box 34550
Memphis, TN. 38184-0550

APPENDIX-A

A P P E N D I X - A

AFFIDAVIT'S OF JOHN D. WALLACE

John D. Wallace
13 Quisset Brook Road
Milton, MA 02186
617-696-1284

Affidavit

I, John D. Wallace, do hereby depose and state that:

1. During Alfred Trenkler's trial, I visited Dwayne Armbrister at the Radio Shack store at 197 Massachusetts Avenue, Boston, MA
2. Mr. Armbrister told me that he was intimidated by the agents who visited him. He also told me that they were very tough on him.
3. These same intimidating tactics were also used on Michael Coady and Bob Craig when the agents interviewed them.
4. Mr. Craig was threatened to be put in jail if he didn't agree to come from Florida to Boston to testify at Mr. Trenkler's trial.
5. The agents used the same intimidating tactics outside of the trial court room, while people were waiting to testify for Alfred Trenkler. They were successful in getting Randy Winchester of MIT and Martin Alexander of Metro Media pager not to testify for Mr. Trenkler which was extremely unfair and improper.

Signed under the penalties of perjury this third day of September, 2008

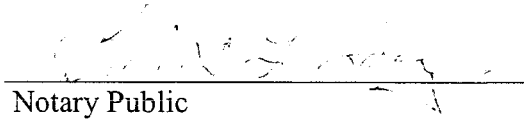
John D. Wallace
John D. Wallace

1. 2. ARMBRISTER
5. OF MIT

COMMONWEALTH OF MASSACHUSETTS

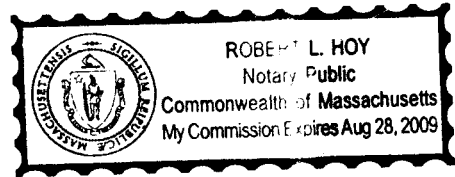
County of Norfolk

On this 4th day of September, 2008, before me, the undersigned notary public, personally appeared John D. ~~Walker~~ ^{WALLACE}, having first been duly sworn, and proved to me through satisfactory evidence of identity, which was personally known, to be the person whose name was signed on the preceding or attached document in my presence, and he acknowledged that he signed it voluntarily for its stated purpose.



Notary Public

My commission expires:



John D. Wallace
13 Quisset Brook Rd.
Milton, Ma 02186
617-696-1284

AFFIDAVIT

Some time ago I purchased a toggle switch at You-do-it Electronics Center in Needham, Ma. The model number was Philmore No. 30-219.

I was impressed with its similarity to the Radio Shack toggle switch No. 275-602 used by the prosecution in the Alfred Trenkler and Tom Shay trials.

As a result I contacted my friend, Allan Stikeleather, president of Industrial Blast Coil (IBC) in Easton, Ma who is very engineering minded where as I am not.

At Allan's office in Easton we disassembled the two toggle switches carefully keeping them separated. We discovered that they were identical except for the two contacts. After careful examination we found that the Philmore contacts matched the ATF evidence and the Radio Shack contacts did not.

We then looked at Cynthia Wallace's testimony as to how she determined that it was a Radio Shack switch. She stated that "the contacts are pretty distinctive, they vary widely from switch to switch, and toggle switch to toggle switch."

"Well, based upon my analysis and my comparing all the features the toggle switch had, not only including the contacts but the adhesive impressions in the adhesive where I could see the nut mark and the thread marks from the thing sticking up on top of the toggle switch."

The Philmore and Radio Shack switches are identical on the comparison with all of the other features she analyzed.

Sometime later I was informed that the Radio Shack switch may have had the same contacts as the ATF had in its evidence.

Since "we have what we have", we pictured our findings, kept the two switches in different envelopes and have preserved our findings eliminating any need to check out the Radio Shack contacts.

My son, David, took the pictures comparing the two switches and what we discovered.

Cynthia Wallace and Thomas Waskom, ATF, both testified that the packaging said that the toggle switch was exclusively made for Radio Shack.

In support of our questioning the government's use of the Radio Shack contacts in the trials of Alfred Trenkler and Thomas Shay are the following facts:

- 1) The home office of Radio Shack never found a copy of the receipt viewed in the trials. They only found a computer print out showing the sale of one 275-602 but with no name, address or telephone number to trace this sale to anyone let alone Thomas Shay. All of this information came from Robert W. Blair of the Tandy Corporation, which own and operate over 5000 Radio Shack stores throughout the United States.
- 2) The receipt was not properly made out with the wrong name, wrong address, wrong telephone number and wrong zip code. Of the items listed, 5 of the 6 were never found and the sixth, the toggle switch, was never found, only two unmarked contacts. The receipt was not authentic; it should not have been allowed to be introduced in the trials.
- 3) Denny Kline, out bomb expert, stated that he bought a Radio Shack toggle switch, no. 275-602 and the contacts were different from what he saw in evidence at the ATF.

He also stated the batteries would not last longer that 22 hours. If placed in the driveway on Saturday or Sunday they would have been dead by noon on Monday when the bomb exploded.

- 4) Dennis Leahy, ATF agent, was told that they were informed that a Radio Shack switch was found in the bomb debris. Untrue as they only found two unmarked contacts.
- 5) The Court of Appeals ruled that the agents from the Bureau of Alcohol, Tobacco, and Firearms (ATF) recovered from the debris of the Roslindale bomb a switch identical to the one purchased at Radio Shack., untrue as they only found two unmarked contacts, not the switch.
- 6) A Futaba dealer is of the opinion that because the on/off switch was old, it would put a heavy drain on the batteries. He estimates the batteries would only last approximately two (2) hours once the switch was turned on.

This was confirmed by the Hobbico Corporation of America (Futaba) who estimated approximately three (3) hours once the switch was turned on.

If correct, the device would have had to have been turned on the morning of the explosion as the device was allegedly placed under the car from 24 to 48 hours before the explosion.

Terry Segal asked Thomas Waskom about the length of time the four AA batteries in the fusing system could last, while powering the receiver to the on position, and Waskom said he didn't know and hadn't tested that question.

Cynthia Wallace testified at the trial that she did not conduct any experiments using the Futaba receivers that they found and the batteries that were part of that.

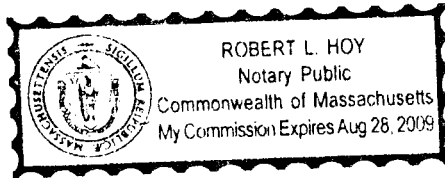
7) Thomas Shay denied that he even bought the items at Radio Shack.

In conclusion, the Radio Shack and Philmore toggle switches are as close as you can get to being a signature. 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".

Sworn under pains and penalties of perjury,

John D. Wallace 11/12/07
John D. Wallace

Robert L. Hoy



APPENDIX-B

A P P E N D I X - B

TESTIMONY OF THOMAS A. SHAY

(APPELLANT)

Appendix B: The testimony of Thomas A. Shay (Tom Shay)

Thomas A. Shay did not testify before the grand jury, or at the trial of Alfred Trenkler, or at his own trial. It's argued in this book that his decision not to testify, as advised by his attorney, Nancy Gertner, was a major mistake, for Shay and for Alfred Trenkler. It was a difficult decision at the time, but hindsight is 20/20 and a probably innocent man was convicted. It's assumed that the legal advice was that Tom Shay's own testimony would do more harm than good, and that it was likely that Tom Shay would be found innocent anyway, without the need for him to testify and without running the risks of cross-examination. The gamble failed, tragically for Tom Shay, for Alfred Trenkler, and also for the Corbett, Hurley and Foley families who have been burdened with the lingering memories of the case due to the efforts to correct the injustice.

To help the reader determine whether you agree or disagree with Tom Shay's decision, this Appendix presents a hypothetical version of Tom Shay's testimony as it might have occurred in 1993 in Q and A format. If there is ever a retrial or some kind of hearing on the issue of Tom Shay's role in the 1991 Roslindale Bomb, his testimony would hopefully parallel what's presented here. He has read and reviewed this testimony and the resulting affidavit is true to the best of his knowledge.

The questions for direct examination are posed by the author, and were based on the testimony of others at the trial.

There are no cross-examination questions as they would have been difficult to anticipate, and given that the direct questions covered most of the substantive incriminating materials. Presumably, it was the apprehension about damaging cross-examination that led to the decision not to testify; and that potentially damaging material is presented here as much as possible. Even more difficult would have been to anticipate a redirect and recross, so they are left out. If a reader has a question to propose, please send to the author at tomshay@tomshay.com. We will send the question to Tom Shay and his answer will be posted on the website and, if timely, in a paperpack edition of this book. If necessary, a supplemental Affidavit will be prepared.

The time of the testimony is as of late 2007. Even though it's presented as if Tom Shay had testified at his or Alfred Trenkler's trial, the knowledge that we attribute to Tom Shay brings to the answer to our current 2007 knowledge. For example, we now believe that the toggle switch contacts found with the bomb debris did not come from a Radio Shack #275-602 switch, but from a Philmore Mfg. 30-219 switch.

The direct testimony is organized simply enough. First, there are a few biographical questions, as is customary for trial testimony or depositions. However, most of the biographical information about Tom Shay is in the book.

Then, there are some general questions about the important parts of the case and then specific questions to respond to every allegation made by every Government witness, and even by the prosecutors during bench conferences out of earshot of the jury.

The objective of this testimony is to reveal the truth as best we know it. We believe it shows that Tom Shay had nothing to do with the 28 October 1991 bomb at 39 Eastbourne Street.

AFFIDAVIT

I, Thomas Arthur Shay, do solemnly swear that the statements below are truthful.

Biographical

Q Name, birth and family.

A My name is Thomas Arthur Shay and I was born on 3 November 1971 to Nancy Ellen Peters Shay and Thomas Leroy Shay. I have two older half-sisters (Jeanne and Amy), two older sisters (Nancy and Paula) and one younger half-sister (Kristen).

Q How old are you now?

A 35. As the Morgan Freeman character in the *Shawshank Redemption* movie said at his parole hearing at Shawshank prison, "I'm a different man now than I was."

General

Q Were you wrongfully convicted in Boston Federal Court on 27 July 1993?

A Yes.

Q Did you have any role in the building or placing of the 1991 Roslindale Bomb.

A Absolutely not.

Q Why didn't you testify before the grand jury?

A I don't recall discussing the option with my attorney. I understand that defense lawyers are usually very reluctant to permit their clients to be questioned before a grand jury without the at-hand presence of a lawyer. True, that lawyers can remain outside a grand jury room, and witnesses can suspend their testimony in order to seek legal advice, but in practice, witnesses are on their own.

Q Why didn't you testify at your own trial?

A I was advised by Nancy Gertner and Amy Baron-Evans not to do so. They figured that I had so much bad stuff in my record that it would not help, and probably hurt for me to testify. Their major concern was whether I would be able to tell the truth. I said that I would, but I had lied so much in the past, including to them, that they didn't know what to think. So they played it safe. Being

sentenced to 15 1/2 years was terrible, but it was still better than life in prison, which is what I faced, and, of course, the length of Al's sentence.

Q Why didn't you testify at the trial of Alfred Trenkler?

A I wanted to, because as far as I know Alfred had nothing to do with the 1991 Roslindale Bomb, just as I did not. If he did, he did nothing that I knew about and said nothing to me which would indicate such a role. The day of my decision not to testify at Al's trial was 3 November 1993, the day before my 22nd birthday and I was still a confused uneducated person. I had already been sentenced to 15 1/2 years in prison and was advised that more years could be added if I said the wrong thing at Al's trial. I wasn't sure what I would say, and neither were my lawyers. I should have insisted on testifying to help Al, but I didn't and I'm sorry.

Q Would it have made a difference if he or his lawyers had asked you to testify, would you have done so?

A Yeah, sure. At the time, it was only the prosecutors who were demanding that I testify, so I thought they were up to something. As far as I knew, Al's lawyers, and Al, too, didn't want me to testify. If Al had requested it, yes, I would have testified. I would have testified that Alfred was innocent, as far as I knew.

Q If you had testified at either trial, would you have told the truth?

A Yes.

Q It was alleged in the *Boston Globe* and the *Boston Herald* that you were Alfred W. Trekler's lover. Were you?

A No. I didn't even have any sex with him, and there's a difference. That was one reason, actually, why I respected Al and why I tried to be his friend. He was not eager to take advantage of me. I've seen Al's answer to the same question and I adopt his answer entirely, even when he says that I tricked him into giving me his business card with its telephone number. I did that. I did a lot of things to attract attention and to try and get what I thought I wanted at the time. The only boyfriend I've ever had was Luis Guzman of New York.

Q Please explain the full extent of your face-to-face encounters with Alfred Trenkler.

A My answer is the same as Al's. He gave me five rides in June/July 1991 and I saw him against, only once, in August. I asked for each and every one of those rides. They were not Alfred's idea. He was willing to drive me to my requested places, so I tried to take advantage of that.

Q What about phone calls?

A Again, my answer is the same as Al's. I called him a few times. I left lots of messages for him, but he called me back only once to tell me to stop calling him.

Q Did you see him between September 1991 and your trial?

A On 25 June 1993, we were in separate cells in the lockup in the Federal Courthouse. Al wrote down his recollections of our limited, non-line-of-sight contact, and they are in Chapter 5.

Q Have you seen or communicated with Alfred Trenkler since the trial?

A No. I've written letters to his parents, the Wallaces, and asked for their help from time to time. After my release in 2002, I had dinner with Jack Wallace. Most recently, Jack Wallace arranged an interview with a newspaper reporter in July of 2006 at The Patriot Ledger. I just feel that there is nothing I can say to Al that can make up for my lies.

Q While you are on the subject of that interview, did you say then that you were sick and expected to die soon? What happened to that diagnosis, and how are you feeling now?

A I misspoke then. It was a classic Tom Shay exaggeration. However, I do have a liver illness that I understand will likely shorten my life by about 20 years.

Q Have you read the book about the 1991 Roslindale Bomb case, *Perfectly Innocent*?

A Yes. It's quite a story. Stranger than fiction. I found it very disturbing. I feel like a man drowning in his own lies.

Q Do you agree with what it says?

A The book is mostly about Al and from his perspective, but when it mentions me, it's basically accurate. Where others have made statements about my words and actions, the book should be clear about my views are about those statements. This testimony is my belated effort to set the record straight. Where it is not sufficient, I invite others to send me a request for clarification, care of the author at tomshay@att.net.

Witnesses - Robert Maloney (No questions arose from his testimony as nothing was said that related to Tom Shay in a way that Tom's testimony could clarify.)

Witnesses - Denise Kraft Corbett (No questions arose from her testimony as nothing was said that related to Tom Shay in a way that Tom's testimony could clarify.)

Witnesses - Thomas Creavin

Q He didn't mention you in his testimony, but didn't you have contact with him later?

A No, that was Officer Brendan Craven, who was one of the two Boston policemen who, together with two ATF guys, brought me back to Boston from San Francisco in early April 1992. Once I saw Officer Creavin at the Homicide Unit in South Boston.

Witnesses - Daniel Boeh (No questions arose from his testimony as nothing was said that related to Tom Shay in a way that Tom's testimony could clarify.)

Witnesses - Christopher Porecca (No questions arose from his testimony as nothing was said that related to Tom Shay in a way that Tom's testimony could clarify.)

Witnesses - James McKernan

Q Did you know Mr. McKernan who lived across the street from your father?

A No, I didn't. I'd seen him the neighborhood a few times when I lived with my father in 1988, but I didn't know him.

Witnesses - Stephen Adams (No questions arose from his testimony as nothing was said that related to Tom Shay in a way that Tom's testimony could clarify.)

Witnesses - Cynthia Wallace

Q One of the fragments from the bomb was a piece of the pages 24-25 of the July 1991 issue of Robert Kennedy's *MuscleMag International*. Have you ever seen or read that magazine?

A No.

Q Were you ever actively exercising and working on body building or magazines about those activities?

A No. I was interested in magazines about skateboarding, surfing and snow boarding.

Witnesses - Thomas Waskom

Q Thomas Waskom said the maker of the Roslindale Bomb was "*very painstaking*." Did you build that bomb?

A No I didn't.

Q What had been your previous experience with woodworking?

A Basically, none. I was in institutions most of my childhood, and they didn't have hand tools, or available wood to work with. At the Spaulding Youth Center in Tilton, New Hampshire, we had a wood program work shop, but I didn't do well in it.

Q What had been your experience with remote control toys?

A I had a remote control car as a kid, but things like that didn't last long, as they usually broke really fast. Cheap toys.

Witnesses - Thomas L. Shay, father of Tom Shay

Q When you saw and heard your father testify for the prosecution against you, what did you think?

A At the time, I was confused. I knew I had nothing to do with the crime, even though I had said some crazy things to people as a way of getting attention. The bomb was the biggest, most publicized thing to hit my life. Why he believed those crazy stories about me, I didn't know. I was shocked. I was hurt that he could think I could or would do something violent to him. My shock turned to anger as I realized he may have played a role in this event and to him I was expendable.

Q The prosecution claimed that one of the two reasons you sought to kill your father was because you hated him for his treatment of you and your long institutionalization. Was that true?

A No, it wasn't. Look, I've known a lot of guys whose fathers were messed up or who abused their wives or kids. I still loved my father and was reconnecting with him in the Fall of 1991 when the bomb exploded. I was taken by the State. It wasn't my father's fault. I didn't hate him. I loved him.

Q So, you didn't hate your father?

A No. Sure, my father didn't pay much attention to me when I was younger. Like many fathers, he just couldn't deal with difficult children; and I WAS difficult. However, he brought me home in 1987-88 to live with him and Mary Flanagan and Kristen. I was the one who blew that one, by first stealing money from Dad, and then by stealing a lot of coins from him and Mary's jewelry and taking off to Florida. That was one of the dumbest things I've ever done. So, my father had a reason to be angry with me, but I think he got over it by 1991; and we were getting along again. My father always treated me well, even after what had happened with stolen goods at Eastbourne St.

Q Why didn't you originally join your father's lawsuit against the Dedham Service Center, as you were partially injured, too, right?

A I did consider it, but wasn't really interested. I was concerned with other short-term things, and the lawsuit seemed like a long shot. Yes, I have a 50% hearing loss due to the incident, but I didn't care about money.

Q Before your deposition in that case, which occurred on 13 September 1991, you were previously scheduled once and maybe twice before, but you didn't make it. Why not?

A It was a quick decision that first time. I just didn't feel like it. I was living in New York, and through phone calls with my mom, arranged to come home to give a deposition.

Q On the 12th of October, when your father took you to the Seabrook race track and then back to the South End to a club, you wrote him an affectionate note which was read to the jury. When you learned that your father had discarded it initially, and that his courtroom reading was the first time he had read it all, what did you think?

A Well, I tried. I knew that he had a hard time with touch-feely stuff, and so did I, actually. That's why I wrote a letter. Lots of guys have trouble talking to their fathers about feelings, and vice versa. I learned about that stuff in the institutions I lived in. He had been drinking lightly that night. Maybe he was saving it to read later. He didn't smoke. He kept change and gum in the ashtray.

Q Why did you flee to San Francisco?

A My sister's boyfriend, James Keough, had attempted suicide on the morning of my scheduled meeting with a probation officer, and in the confusion afterwards, I

just didn't go to the appointment, and didn't call him either. I thought that my probation might be revoked, so I skipped town.

Q Were you not concerned that the police would think that you were involved in the bomb at your father's and see your flight as a sign of guilt?

A As I had nothing to do with the Roslindale Bomb, I really didn't think about being accused of any role in it. Some policeman thought I knew more about it, but I didn't. I didn't have anything to do with it, so it didn't occur to me until I heard later they were looking for me.

Q When did you realize that Al Trenkler and you were being accused of working together to build and detonate the bomb?

A When the four officers, including Dennis Leahy ATF and Brendan Craven from the Boston Police Dept, found me in San Francisco, they told me about finding Al's name in my address book and also they told me about his 1986 Quincy incident, which they called a bomb.

Q Your father testified that he went to visit you in the Norfolk County House of Correction in Dedham shortly after the bombing and he said that you asked him, "Where did you go Saturday night?" Why did you ask him that?

A Well, as my attorney said in my trial, I had these fantasies of trying to solve the crime, so I was trying to put a few pieces of the puzzle together. I was at a Halloween party on that Saturday night, and I was trying to piece together the possible suspects of who could do this.

Q Did you think he had a role in the bomb?

A I didn't think so, but was trying to make sure. I didn't think so then, but all his coincidences don't add up. Like his talking about bombs, of all things, to his doctor, and looking under his car for bombs; and then one appears under his car in his driveway.

Q What do you think now?

A I don't know. Sometimes I think he must have, but it seems too crazy. All I know is that I had nothing to do with it. I pled guilty and avoided a second trial because I was afraid that the prosecutors would convict me again and sentence me to as much time as they were able to get for Al - life. I'm no mathematical genius, but 12 years is less than life. I just don't know what to think. I dream that I will wake up and this nightmare will be over.

Q At one point in the trial, at a bench conference, Nancy Gertner said that you were, at least in part, trying to solve the crime. Is that true?

A Yes. Of course, I didn't know what I was doing, and obviously created more harm than good. I was also glorified in all the attention I was getting and probably would have claimed that I killed Jimmy Hoffa to get more.

Q How was your relationship with your father, mother and sisters while you were in prison? Did you talk by phone? Did he visit you? Did he write letters?

A In New York and Pennsylvania, I was too far away for visits. I've written my father many letters but never got a response. My relationship with the rest of my family has grown.

Q How has your relationship been with your father, mother and sisters since you were released from prison in August 2002?

A There has been no contact with my father, but I've grown closer to the rest of my family.

Witnesses - Christopher Shapley (No questions arose from his testimony as nothing was said that related to Tom Shay in a way that Tom's testimony could clarify.)

Witnesses - William Bridgeforth

Q On the night of 28/29 October, you went to the Area E police station and Officer Bridgeforth drove you downtown to meet with homicide detectives. As you will recall, Bridgeforth said that on the way you, quote, "*... told me he had heard about the officer who had got killed. And that he was sorry about it and wished he could turn back the hands of time and make it not have to have happened,*" unquote. What did you mean by that?

A I know that I said some screwy things during the investigation that were simply wrong and fabrications, but this was an example of where I said something quite innocently and the cops twisted it. I just meant that I felt sorry about what happened, just as I feel sorry for what happened on 9/11, but that didn't mean that I had anything to do with either crime. Just what I said. Imagine how many lives we could save if we had time machines. It was an innocent statement just as was the note I wrote to my father, only to be twisted by the police.

Witnesses - Miller Thomas

Q Boston Detective Miller Thomas said that when he questioned you at the Boston Police Homicide Dept. in South Boston on that same night, 28/29 October, you told him about a conversation you had with Alan Pransky in his office. Det. Thomas said that you had seen an advertisement for a \$250,000 Lamborghini and you had asked Alan Pransky if your father could afford such a car if he won the lawsuit. That claimed recollection was allowed into evidence as an admission by you that you had an interest in killing your father to get your share of that money.

A This is another example of how the police, and other people, can twist things. I was just a 19 year-old kid who grew up in state-run institutions, and was very impressed with expensive things. Even normal kids are, right? I thought the car was super nice, and I told Mr. Pransky that. It showed in no way my interest in killing my father. Maybe there was a hope that Dad could actually buy such a car and we could drive off together in it. Who knows? Did you see the movie, *Good Will Hunting*? Well, I was like some of Will's going-nowhere friends, except worse.

Q Detective Thomas said that you had told him that you and your family had driven to South Carolina, perhaps annually, to purchase firecrackers. Was that true, because he testified that it wasn't.

A No it wasn't.

Q Why did you say that?

A Good question. Well, I knew that rich families drove south for winter vacations, and, from my own trip to Florida, I knew that it was legal to buy firecrackers in South Carolina. Also, and this a crazy part, I knew that if I said something to the police about being interested in firecrackers, they'd try to make a connection. Part of me was attracted to the danger of it, like a moth to a candle flame. So I told them that. And they were very interested, and I craved that attention.

Q Do you remember also telling the police that you had a remote control submarine when you were a kid? Was that true? If not, why tell the police?

A They asked me if I ever owned a remote control car and I said "Yes," when I was 10.

Q Did you say to Detective Miller Thomas that things might have been different if you hadn't been sent to those institutions or boys schools when you were younger?

A No, I never said that. If it did, I don't remember. Now that I see the statement, I tend to agree with it. I was just struggling to figure out what happened and speculating. If I had been at home with my family, maybe my father would have been different and no one would have tried to kill him, or make it look like someone was trying to kill him. Another idea was that if I had lived at home I would have been a different person and no one would have tried to kill me. In my own self-conscious way, I actually thought that the bomb might have been intended for me, which was crazy, but that was my thought. But! The wrong interpretation to take was that I was angry at my father for the institutionalization and that I was trying to kill him for that. That's what the prosecutors tried to do, and they did so, successfully. I was taken away from my parents by the State. If I was mad at anyone, it would have been DSS.

Witnesses - Dennis Harris

Q Detective Dennis Harris was one of the detectives who video recorded your Trailways press conference. By the way, why did you hold that press conference?

A You know, the bomb at my father's was a big deal for me. Somehow, I thought I was really the center of attention, or should be. Since then, I've heard of an artist who said something about everyone getting 15 minutes, or whatever, of fame. That was my chance.

Q Why did you say that Ralph Pace, who had tried to help you, was likely the person who had tried to kill you? And that it was because you owed him \$50,000?

A I was just making stuff up. Sometimes the reporters caught on, but most of the time they sucked it right up. It was stupid of me to call Ralph Pace right then, but that's what I did. Talk about being self-destructive!

Q Detective Harris said that at the Homicide Dept. Headquarters, he played a trick on you, by telling you that your father had called and that he would be coming down to see you. Do you remember that?

A Yes, I do. I cried, thinking that somehow, finally my father was going to come save me from the police. But he didn't come and I understood the trick. But, hey, I was messing with their heads, too.

Witnesses - William Fogerty

Q Did you tell Detective William Fogerty that you wanted to take a lie detector test? If so, what happened to the offer?

A Yes, I did, and I'm not sure what happened to it.

Q Did you tell Detective Fogerty that you had driven your father's car four times over the past few years? If so, was it true?

A Yes, I told him that, and it, too, wasn't true. I didn't have a driver's license at that time. You know, it was another attempt to show that my father really loved me. I still think he does, but he's still angry about the 1988 thefts and he's been convinced by the police that I actually had a role in the Roslindale Bomb.

Q While we are on the subject of lies, were you aware that you seemed to be able to incorporate new information into your spins of stories so as to make people think that you were the original source of the information?

A Yes, I did that, often without thinking about it. For example, I learned that the police thought that I purchased those items at the Mass. Ave Radio Shack store from my attorney at the time, Bill McPhee, and I started talking about Radio Shack, and it took a while for people to figure out that it was McPhee who told me about it. It was a game for me.

Q Speaking of Radio Shack, did you make that purchase on 18 October 1991?

A No, I didn't.

Witnesses - Edward Carrion

Q Edward Carrion testified that he had observed you "*in possession of*" body building magazines. The observation came because a fragment of MuscleMan International Magazine was determined to be among the recovered fragments from the Roslindale Bomb. I asked you a related question when covering Cynthia Wallace's testimony. Do you believe that Edward Carrion ever saw you reading a body building magazine?

A No. Edward Carrion sexually abused me. I was working the streets as a trick at 14 and 15 and he paid to abuse me as it excited him.

Q Edward Carrion said that he gave you 3-4 rides to the home of Alfred Trenkler's parents in the Spring of 1989. Did he?

A No. I never went to that home before the trials, or in that neighborhood to my knowledge. He might have taken me to my mother's home on Belvoir Road, but I don't remember him doing that. After my release in 2002, I did go to see that home out of curiosity, just to see how it looked.

Q Well, he said that he had taken you to see a man at an older house in Milton 3-4 times in 1989 and two or three time since then. What can you say about that?
A I don't know what Ed was talking about, as he never gave me a ride to Milton. He was hoping that those lies would lead him back to police work. A fantasy, I hope for innocent people, will never come true.

Q Did Ed Carrion give you rides to the homes of other lovers or sex partners?
A No, he didn't drive me to see men in other towns. He did drive me to my Mom's in Dorchester and Quincy.

Q Ed Carrion said that the man he took you to see in Milton, and the man he saw you 2-3 times with in "the Block," and who he thought was Al Trenkler, had a mustache. As Al never had a mustache, who do you think Carrion was thinking of, if he actually did see you with such a man both in Milton and on "the Block."
A I don't know, but it wasn't Al. I think Ed Carrion was mixing up a couple of different people. Ralph Pace was the man I introduced Carrion to on the Block and Ralph had a mustache.

Witnesses - Evelyn Pirello (No questions arose from his testimony as nothing was said that related to Tom Shay in a way that Tom's testimony could clarify.)

Witnesses - Robert Pirello (No questions arose from his testimony as nothing was said that related to Tom Shay in a way that Tom's testimony could clarify.)

Witnesses - Robert Evans

Q Robert Evans testified that you asked him how much time someone might get in prison for murder or murder-3. Did you ask him that? If so why?
A No, I never asked that. He became offended and made up lies because I said he looked like Governor Weld and turned me on. I like men of power.

Q Evans also said that you said that you were involved in the Roslindale Bomb, and you knew who built it. Did you say that to him, and, if so, why?
A Yes, something like that. I was just trying to get attention. These guys were so eager to get information on anyone they could so they could get a better deal from the government. It was almost a game to see how excited they could get over my made-up stories. Unfortunately, some people took them very seriously, and I ended up with 15 years 8 months, later 12 years, to pay for my lies and games. If I knew who built it, he'd be in prison and Al and I would be free.

Q Robert Evans testified that you said your mother lived in a \$125,000 condo, and you told others that your mother owned several such condos and was selling them. Were those stories true? Why did you tell them?
A My mother did live in an expensive condo, but I don't remember the conversations.

Witnesses - Russell Bonanno

Q Russ Bonanno testified that you didn't admit or brag about any role in the Roslindale Bomb to him. Why not?

A Russ was a special friend, and counselor-like, and he understood me more than almost everyone else. Because I trusted him and didn't want to lose his friendship, I didn't tell him lies - at least as few times as I could. I didn't tell him anything about my role in the bombing because I didn't have any. Russ was like a father to me. I visited him in the hospital because I cared for him.

Witnesses - Christopher Henry

Q Christopher Henry testified that you bragged about your role with the Roslindale Bomb. Same story?

A Yup. Same shit, different day, different guy.

Witnesses - John Cates

Q John Cates said he had met you at the Blue Hill Reservation in 1988 or 1989. Was that true?

A Yes, but I'm not sure of the dates. I knew that he wasn't interested in me. It saddens me to hear that he has died. Life is so precious.

Q The next time he testified that he saw you was in July 1991 when he was in Al Trenkler's car on Boylston and they saw you, and you saw them, and they gave you a ride to the Copley Square area. Was that true.

A Yes. I knew they were in a relationship, because Al had told me that first time I met him, because John didn't want anyone staying overnight at his apartment while he was away. I was grateful to Al for letting me stay for those few hours that morning.

Witnesses - Larry Plant

Q You probably didn't hear Judge Zobel's comment when the prosecution sought to have Larry Plant testify. She said, "*So this is another witness who is going to tell us about Shay's statements?*" You probably felt that way, too?

A Yeah. It was getting kind of boring. Larry Plant was another plant. A pun of sorts.

Witnesses - Richard Brown

Q Richard Brown testified that he first met you on a Friday of a weekend in 1990 when Al was living in a room at his employer's, ATEL, in South Boston and then on the Sunday of the same weekend, when he gave you a ride somewhere, perhaps to the T. Was that you at Al's that weekend?

A Nope. I didn't know Al before June 1991, and had never met Richard Brown either, until that morning when Al gave me a ride to his apartment and a chance to get out of the rain. Rich Brown came to Al's later that morning and together they drove me to Richmond Street in Dorchester. Court records will show my arrests in Seattle, Washington and Pompano Beach Florida. I was out of state most of 1989-91. I lived in Washington State with Mark Greenblatt.

Witnesses - Nancy Shay

Q Your mother said to the grand jury that two men from Milton had picked you up at her house on Belvoir Road and she thought one of them was shorter and balding, which led the prosecution to think that one of them was Alfred Trenkler. Was there anything to that?

A No. Al had never been to our house in Milton. I met Al sometime in 1991, most likely July. And Al certainly didn't drive a Mercedes! The two men who picked me up in Milton were Randy Stoller and Ralph Pace. Both are pretty short.

Q The prosecution thought that your mother had seen Al Trenkler at her apartment one morning on the couch before she asked him to leave. At your trial she said that you had told her, much later, that the man was Al Trenkler. At Al's trial she said that she had never seen Al Trenkler before. Can you make sense of this?

A Right. I told her that the person was Al Trenkler, just so we could get on to another subject. I mean, why try to explain to my poor mother about one more guy, right? That wasn't Al who my mother saw. Instead, she saw Edward Carrion. In the summer of 1991, it was my sister Paula who asked Al to leave.

Witnesses - Dennis Leahy

Q Dennis Leahy was the first witness to describe the 18 October Radio Shack receipt, as I asked you about earlier. You said that wasn't you who purchased those six items, right?

A Right. That's correct. But I did recognize the receipt as it was on the floor of my father's car.

Witnesses - Dwayne Armbrister

Q Nancy Gertner seemed to concede that you had been in that 197 Mass. Ave Radio Shack store a few times, even if you were not the person who made the 18 October purchase. Was that how Armbrister recognized you?

A Yeah, I had been there a few times, maybe with Ed Carrion, whose roommate, George Nightingale, was the store boss. Maybe Armbrister recognized me from his coming to Ed's apartment. Who knows? I just wasn't an electronics whiz and Radio Shack wasn't my place to shop. I really don't know. But I had slept with the store manager's boyfriend. The boyfriend, George Nightingale and Ed Carrion all lived together at Massachusetts Ave. and Beacon St.

Witnesses - Frederick Burke

Q When the ATF and Boston police interviewed you in the San Francisco jail, was that the first time that you had heard that the police might think that Al Trenkler was involved in the Roslindale Bomb?

A Yes, it was.

Q That was quite a press release that you dictated to Fred Burke. Do you know if any of the media picked up the story?

A No, I don't. Somehow I had this sense that anyone who sent anything to the media would make news. It doesn't work that way.

Witnesses - Jeff Kerr (No questions arose from his testimony as nothing

was said that related to Tom Shay in a way that Tom's testimony could clarify.)

Witnesses - Alan Pransky

Q Did you have that conversation with Alan Pransky about what would happen to your father's lawsuit if he died, and what would happen to the money if he won and he was dead?

A Yeah. Here's another time where I'll say something just to be a little outrageous and it comes back to bite me. I sometimes would throw screwy thoughts into a conversation just to make it interesting. Remember, I had told Ed Carrion once, and others, too, that my father was dying of cancer. Pransky just tried to put that piece of the puzzle into place and it didn't fit. It was like my saying I could buy tanks and bombers, plus my father told me he was worried about Louis Giammarco and Jeff Berry hurting him.

Witnesses - Donald Hansen (No questions arose from his testimony as nothing was said that related to Tom Shay in a way that Tom's testimony could clarify.)

Witnesses - The 30 minutes of excerpts of the 17 October 1991 TV interview of Tom Shay by Karen Marinella

Q Now we come to the most famous and most important collection of your statements about Al Trenkler, the videotaped interview with Karen Marinella. But maybe this can be short. Al Trenkler has written a document, most of which is in Chapter 3 of the book, which denies every statement that you made which was possibly incriminating about your relationship to him and your activities together. For example, he denies going shopping with you and denies giving you \$50 and \$100 bills and having you keep the change. Have you read Al's response about the interview? If so, what do you think?

A Yes, I've read it, and agree with what he said. I made that stuff up, and am very sorry about the harm it has caused Al. Period. Now, if I could turn back the clocks of time, THAT's something that I'd like to take back. That Marinella interview. Karen promised that my interview would go out live, but she lied, and I wanted so much to grab and smash that tape.

Witnesses - Francis Foley (No questions arose from his testimony as nothing was said that related to Tom Shay in a way that Tom's testimony could clarify.)

Witnesses - Francis Armstrong (No questions arose from his testimony as nothing was said that related to Tom Shay in a way that Tom's testimony could clarify.)

Witnesses - Josephine Wallace

Q Was her testimony at your trial the first time you had ever seen Al's mother?

A Yes. I felt badly about what she has gone through. Just as I didn't tell Al anything about my parents, he didn't tell me much about his. He's lucky to have her. I wish for her and Jack and Al that I had never talked about Al, making up lies that I really didn't think would hurt him.

Witnesses - Roy Kaplan (No questions arose from his testimony as nothing

was said that related to Tom Shay in a way that Tom's testimony could clarify.)

Witnesses - Scott Critcher

Q Was Scott Critcher's testimony accurate about how you met him on the weekend of 25-27 October 1991?

A Yeah. I wish I had known him sooner. Good man. I don't know why I didn't know about his parties earlier. I wish Nancy Gertner had spent more time with witnesses for my defense. Also, if I could have testified, I could have accounted for all my time on those few days before the bomb explosion. I certainly wasn't in the 39 Eastbourne St. neighborhood because Mary Flanagan was quite adamant that I not come near that house, and my father saw me on the sly.

Q It was interesting that Scott Critcher said that you said nothing about the Roslindale Bomb over that weekend of the 25-27th of October.

A Right. While I add a lot of spin, the new word for it, to stories, I don't usually make things up entirely. I obviously knew nothing about the bomb at my father's. If I had known, I would have been hard pressed to keep it a secret. That was a point that Nancy Gertner made at the trial, that I couldn't keep my mouth shut, and she was right. One of my sisters, also named Nancy, said that, too.

Witnesses - Greg Calver

Q It was helpful for Greg Calver to give an alibi for even a few hours on that weekend of the 25-27th. Did Nancy Gertner consider setting up a large board with your weekend activities hour by hour? There were a lot of other such exhibits at the trial, so-called exemplars.

A Yeah. It would have helped.

Witnesses - Gary Starkey

Q Gary Starkey must have been one of many who saw you at Scott Critcher's party. Weren't there others?

A Yeah, but some didn't want to testify, and Nancy thought that one was enough.

Witnesses - William McPhee

Q We talked earlier about how you incorporated recently available information into a new story from Tom. One question at the trial, and the subject of a long bench conference was whether you actually received a copy of the 18 October Radio Shack receipt when Attorney McPhee send materials to you in early May 1992. Did you receive the receipt then, and later discuss it with Bill McPhee.

A Yes, I did. I was surprised by it, and told Mr. McPhee that it was a bogus receipt as I didn't purchase those items. However, McPhee thought I was lying, again, so I don't think he did anything about it. He stopped being my attorney shortly thereafter. In addition to Bill sending me a copy, Paul Kelly sent me one, too, before I even talked about it. It was during the handwriting exam when I saw it in his office.

Witnesses - David Shilalis

Q David Shilalis helped with your alibi for a good part of the weekend of 25-27 October, and the prosecutors did not try to cross-examine him. Couldn't he have done more?

A Yes. He knew me quite well, and could have been asked about my alleged interest in electronics which didn't exist. He could have testified about my comings and goings in the Summer of 1991. Nancy Gertner did not seem to think that I was in Boston that Summer, but I was. I met Alfred in June or July. Dave gave me the ride to Scott Critcher's house.

Opening statement by Paul Kelly: issues not already covered in response to witness testimony

Q One example of your ability to incorporate new details into a Tom Shay story, was that you told the press on the early morning of 29 October, according to Paul Kelly in his opening statement, that your father, quote, "...*didn't have the capacity to build a remote control bomb.*" Thus, reasoned Kelly to the jury, you must have been a person who knew what the public didn't already know: that the bomb was a remote control device. What did you think of that statement?

A Well, we all remember what we want to remember and forget what we want to forget. The cops wanted to make people think that they didn't tell me that the bomb was probably a remote control device. I didn't make it up, and I certainly didn't know from my own knowledge. Unfortunately, I don't remember which cop mentioned that information to me. I could have addressed this issue if I had testified. On the night of October 28 at the Homicide Unit, the Police asked me about remote controls, and if my father knew about these. I put two and two together and assumed it was a remote controlled bomb, like in movies I had seen.

Bench conference statements by prosecutors not already covered in response to witness testimony

Q Paul Kelly said on the second day of the trial, without the jury, that the defense "*intends to present testimony of an expert psychiatrist who will in fact say that you can't believe anything that Tom Shay says for whatever reason,*" and he objected to that. Oddly, he knew that was true, right?

A Yeah. I told him a lot of lies, which was weird because I could have negotiated a shorter prison sentence if I had just been consistent. But Kelly was so eager to hear stories. I told him that the leftover bomb parts had been dumped in the Quincy quarries and then I told him they were in the Atlantic Ocean - and the Government looked in both places, and took me along with them. It was like giving candy to a kid; but it got me into trouble, and Al Trenkler, too. One problem was that I was trying to make up a story that would make it look like I could help them solve the crime, without my actually incriminating me or Al, but I went over the line. I got the idea of the Quincy Quarries off of a TV program about stone cutters and the Quincy Quarries. It was on Channel 4, 5 or 7.

Bench conference statements by Nancy Gertner not already covered in response to witness testimony

Q Nancy Gertner said to the judge and prosecutors during Dennis Leahy's testimony that *"...the state of the evidence so far is that Trenkler and Shay may have hung around together. Given the Government's due, they may have hung around together once or twice in October, and that was it. And that's all that will ever be."* It doesn't sound like she had a clear idea of the exact dates of your contact with Al either. Why was that?

A There was only so much time that I could talk with her to get this whole story right. It was wrong to say that we *"hung around together"* because we didn't. Al gave me some rides, period.

Q Did you know that your defense team was preparing an insanity defense for you?

A Well, whatever. It's hard to figure out the legal system. I wasn't insane, as I knew the difference between right and wrong. I just said stupid things to people in my own creative way. At the time, I didn't care what reactions my statements created, whether Good or Bad.

Bench conference statements by Judge Zobel not already covered in response to witness testimony

Q When considering the question of whether an insanity defense was appropriate Judge Zobel said to the lawyers, *"No insanity in the sense of not understanding right from wrong, but whackiness, in the sense, that this guy, not understanding what's good for him, and therefore talking all over the lot, to the press, to the marshals, to the prisoners."* Is that a fair description of who you were then?

A It's a good slice, yes. Unfortunately, the court and the legal system didn't know how to deal with me. I had a lot of mental illnesses at the time and had four feet of psychiatric evaluations. My whole life was a tall fantasy, period.

I, Thomas Arthur Shay, affirm that all of the answers stated above in this Appendix B, of the book, *Perfectly Innocent* are mine and are true, to the best of my knowledge and belief.



 September 2008

Thomas A. Shay, #19193-038
FCI MEMPHIS, Unit D - B
P.O. BOX 34550
MEMPHIS, TN 38134-7690