

MORRISON M. BONPASSE
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15 November 2009

RE: Transfer of Alfred W. Trenkler
from Devens FMC to Tucson, Arizona

Hon Sandra Lynch, Chief Judge
Court of Appeals for the First Circuit

Hon. Mark Wolf, Chief Judge
U.S. District Court for Massachusetts

✓ Hon. Rya Zobel, District Court Judge

John J. Moakley Courthouse
One Courthouse Way
Boston, MA 02210

Dear Judge Lynch, Judge Wolf and Judge Zobel:

Enclosed is a copy of the letter/email I sent today to the Department of Justice about the transfer this past Friday of Alfred W. Trenkler from Devens FMC to the Brooklyn MDC. Alfred, and his stepfather, Jack Wallace, have been told that Alfred will be sent to a Federal prison in Arizona.

This transfer comes 15 days before the Government's brief is due to be submitted to the Court of Appeals in Case 09-1559. His reply brief will be due one month after that. However, all of his papers about the Roslindale Bomb case are presently in a large box, awaiting further shipping, and he has no access to those papers.

An officer at the Devens FMC told Alfred's stepfather, Jack Wallace, that the transfer was made because of the restoration of Alfred's sentence back to a life sentence. However, that was ordered by Judge Zobel more than a year ago, on 30 October 2008. Also, Alfred believes that there are other prisoners at Devens who are subject to life sentences, including those in the "J" pod, the high security pod at Devens.

Alfred has been advised at the Brooklyn facility that his transfer is a "medical transfer," but he was already in a Federal Medical Facility, and there are no FMC's in Arizona.

Given the absence of credible reasons for the transfer of Alfred Trenkler away from Massachusetts, and the appearance of retaliation as a motive, please consider asking the Government for a full explanation for the transfer. If the responses are not reasonable or satisfactory, please consider ordering that Alfred Trenkler be returned to Devens FMC.

Thank you for your consideration of this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thurman Boyassa". The signature is written in a cursive, flowing style.

CC: Alfred W. Trenkler, 19377-038, MDC Brooklyn, P.O. Box 329002, Brooklyn, NY 11232

Arizona, even if not officially classified as an FMC. Even if there is, why would he be transferred from one medical facility to another? Why would a medical category "Critical Care 3" prisoner be transferred from a Federal Medical Center near his home and his ailing stepfather and near the Court of Appeals considering his case to an FMC, or otherwise labeled medical prison, farther away? Alfred understands that all federal prisoners with pacemakers are medically classified as "Critical Care 3" prisoners.

Alfred is currently at the Brooklyn MDC awaiting transfer to the Tucson USP, which transfer, incidentally, would cost the taxpayers several thousand dollars. Returning him to Devens FMC would minimize the cost of his future imprisonment until he is exonerated.

Despite this most recent decision, I continue to have faith that the Department of Justice will do what's right and re-investigate Alfred Trenkler's case as has been requested in previous letters and Emails to Attorney General Holder, Assistant Attorney General Breuer, and the incoming and previous U.S. Attorneys for Massachusetts. Such a re-investigation will quickly show what five of Alfred Trenkler's jurors (out of the first five contacted) have already understood, which is that Alfred Trenkler is actually innocent.

The widow of the slain Boston Bomb Squad officer, Jeremiah Hurley, Jr., has told her nephew, a Massachusetts State Trooper, that she wants the truth to be revealed. At other times she has said that she and her family want closure to the terrible tragedy of her husband's death. What then is stopping the Federal Government from working with the Boston Police Department and from initiating a preliminary re-investigation into the case? A few hours of such a re-investigation will quickly reveal that Alfred Trenkler is "perfectly innocent" of any involvement with the Roslindale Bomb. Through such a re-investigation, the long-desired closure can be obtained.

On the same day of Alfred Trenkler's transfer, 13 November, Attorney General Holder spoke of justice at two separate events and those statements are consistent with re-investigating the Alfred Trenkler case and in returning him to Devens.

At the installation of Thomas Perez as Assistant Attorney General, you stated, *"The quest for justice must be an impatient thing – for we all know what happens when justice is delayed. So I am an impatient Attorney General "* Such impatience is a welcome virtue and I hope you apply it to this case. Alfred Trenkler has been wrongfully imprisoned since 1992 and for him, justice has been long denied.

When announcing the next step for 10 Guantanamo detainees, you stated, *"For over two hundred years, our nation has relied on a faithful adherence to the rule of law to bring criminals to justice and provide accountability to victims. Once again we will ask our legal system, in two venues, to rise to that challenge. I am confident it will answer the call with fairness and justice."*

I am confident that you will respond to these requests and to the actual innocence of Alfred Trenkler with fairness and justice.

I will close with an exhortation, from President Obama's statement at Buchenwald in June 2009, *"And it is now up to us, the living, in our work, wherever we are, to resist injustice and intolerance and indifference in whatever forms they may take..."*

Very truly yours,

Morrison

Morrison Bonpasse
P.O. Box 390
Newcastle, ME 04553
207-586-6078

CC by hard copy:

Hon. Sandra Lynch, Chief Judge, Court of Appeals for the First Circuit
Hon. Mark Wolf, Chief U.S. District Court Judge, Boston
Hon. Rya Zobel, U.S. District Court Judge, Boston

Alfred W. Trenkler, 19377-038, MDC Brooklyn, P.O. Box 329002, Brooklyn, NY 11232

----- Original Message -----

From: Morrison Bonpasse
To: Executive Assistant at FMC Devens
Sent: Thursday, November 12, 2009 5:10 PM
Subject: Mistake in Register number for Alfred Trenkler, it's 19377-038. Fw: Possible Transfer of Alfred W. Trenkler, 19193-038 to another prison

Dear Executive Assistant at FMC Devens,

I mistakenly input the Register number of Alfred's co-defendant.

Alfred Trenkler's BOP Register number is 19377-038.

Sincerely yours,

Morrison

Morrison Bonpasse
Vice-President
Alfred Trenkler Innocent Committee
P.O. Box 390
Newcastle, ME 04553
207-586-6078

----- Original Message -----

From: Morrison Bonpasse
To: Executive Assistant at FMC Devens
Cc: Morrison Bonpasse
Sent: Thursday, November 12, 2009 4:55 PM
Subject: Possible Transfer of Alfred W. Trenkler, 19193-038 to another prison

Dear Executive Assistant at FMC Devens,

I was out of the office today and received the two CorrLinks emails this afternoon from Alfred Trenkler, 19193-038, where he stated that he was being prepared for a transfer to another prison.

I am not his attorney, but am a long time supporter and advocate for Alfred. His actual innocence is not your concern, I understand, but please know that he IS actually innocent. See [redacted], and the online manuscript for the book about his case, "Perfectly Innocent".

To transfer Alfred at this time to another prison would be a terrible mistake for the reasons below:

1. He has a pacemaker, whose monitoring at FMC Devens is important to his health and life.
2. He has a pending appeal before the First Circuit Court of Appeals. The Government's brief is due on 1 December and Alfred's response is due a few weeks after that. If he is moved, his ability to respond to the Government's brief will be impaired.

3. His family and friends and the media interested in his case are in Massachusetts, and it's vital that he remain here. When he was in Allenwood, in Pennsylvania, he had one visit a year from his elderly parents and one visit a year from his brother.

4. Alfred's 85 year old stepfather is in poor health and is barely able to visit Alfred at Devens, which is 90 minutes away from his home in Milton. If Alfred is moved to another prison, it's likely that Alfred will never see his stepfather again.

5. I have been communicating with U.S. Attorney General Eric Holder and Assistant Attorney General Lanny Breuer and Acting U.S. Attorney Michael Loucks and incoming U.S. Attorney Carmen Ortiz about this case and respectfully request that no transfer of Alfred Trenkler occur without the specific approval of the Office of the U.S. Attorney or Attorney General Eric Holder. Attached is my 1 November email to Attorney General Holder, Assistant Attorney General Breuer, Acting U.S. Attorney Michael Loucks, and Assistant U.S. Attorney Randall Kromm, who are copied on this email (except that Ms. Ortiz is copied, instead of Mr. Loucks.)

I talked a few minutes ago with Alfred's Unit Manager, Mr. Calabrio, about Alfred's understanding of an impending transfer. Mr. Calabrio said he was unaware of such a plan, and said that he would check it out, and check with Alfred.

It may be that this preparation for a transfer was a mistake at some point in the chain of command. I can only respond at this time to the two emails I received from Alfred, the most recent of which was sent at 11:22. I talked a few minutes ago with Alfred's stepfather, Jack Wallace, and he has not heard from Alfred since last night.

If Alfred is being transferred, can you please tell me the reasons? I understand that as I am not Alfred's attorney, you would need a release from Alfred to send me that information. Please obtain that release.

Thank you for your consideration of this request that any such transfer be postponed or canceled.

Very truly yours,

Morrison

Morrison Bonpasse
Vice-President
Alfred Trenkler Innocent Committee
P.O. Box 390
Newcastle, ME 04553
207-586-6078

----- Original Message -----

From:

To:

Cc:

Sent: Sunday, November 01, 2009 7:24 AM

Subject: Truth and Justice in the Roslindale Bomb case and the necessary future role for the Department of Justice and Office of U.S. Attorney

Dear Attorney General Holder (by hard copy with enclosures), Assistant Attorney General Breuer, Assistant U.S. Attorney Kromm and Acting U.S. Attorney Loucks,

Since writing the attached letter to Attorney General Holder and several emails, attached, to Assistant Attorney General Breuer in April and May 2009 about the Roslindale Bomb case, I was advised on 30 September by the office of my Congressperson, Chellie Pingree, that a Dept. of Justice response was drafted but was "under review." I look forward to receiving that response, and to this letter and email as well. Since last Spring, I wrote several emails, the most recent of which is attached, to Acting U.S. Attorney Loucks about the need to pursue truth and justice in this case. Most recently, upon his assignment to present the Government's response to Alfred Trenkler's appeal in case 09-1559, I sent a long email, which is attached, to Asst. U.S. Attorney Kromm, followed by four forwarded copies of other communications in this case.

All these letters and emails were about one issue: the need for the Department of Justice, the term used here to include the Office of the U.S. Attorney for Massachusetts, to seek truth and justice in the Roslindale Bomb cases. Not to seek a victory of a legal game in court, but to seek truth and justice.

Mr. Kromm responded with his letter of 28 October, a copy of which is pasted below and attached. I thank you Mr. Kromm, for that courteous response, as one the best ways to seek truth is through communication with those who have other views. I look forward to further exchanges with you or any other person from the Department of Justice about any aspect of this tragic case.

However, Mr. Kromm didn't acknowledge a key message in my email which was to ask him, and the Dept. of Justice to look at this case anew and NOT to restrict yourselves to what can be considered by the Court of Appeals for the First Circuit. He wrote, "*The information you have presented - unless it duplicates information already in the record - cannot be considered by the Court of Appeals and therefore does not bear on the resolution of this appeal.*"

What Mr. Kromm didn't say is what is troubling.

He didn't say that he would read any of the materials sent to him.

He didn't say that he was concerned about truth or justice in this case.

He didn't say that a wrongful conviction is a prosecutor's worst nightmare.

He didn't say that he would not want to argue to uphold a wrongful conviction to the First Circuit Court of Appeals.

He didn't say that the Dept. of Justice would re-investigate any part of this case, even the easy parts to investigate, e.g.

Did Michael Coady actually ever have and register two cars allegedly given to him by Alfred Trenkler or not?

Echoing Mr. Holder's statement last Spring, you have an obligation as prosecutors to look at the entire case to ensure justice, and not just to respond to the most recent filing by an imprisoned *pro se* defendant, the length and content of which is restricted by rules of criminal and appellate procedure.

Four of Alfred Trenkler's jurors, out of the first four I could contact, read the manuscript of my book, *Perfectly Innocent*, and every one wrote to Judge Zobel to disavow their 1993 verdict and ask for a new trial. Yes, a judge can say that s/he is not bound by law to consider what jurors say after verdicts, but I submit to you that the Department of Justice should consider what the jurors did, and what's in that book that they read. A fifth juror also wrote to Judge Zobel after reading in the *Boston Globe* about the letters from the first three jurors. He told me that the truth was sufficiently apparent to him that he didn't need to read the manuscript. Judge Zobel wrote me to thank me for the offer of the manuscript, but that she could not read it. However, the Department of Justice CAN read it.

Two years ago, ATF Agent Jeff Kerr told me that he had reviewed the website, and that it was "fair". He also said, "If you knew what I know about Alfred Trenkler, you wouldn't be doing this." When I responded to him, "What do you know about Alfred Trenkler?" Mr. Kerr demurred and said he could not say. Boston Captain Frank Armstrong, who was the officer who arrested Alfred Trenkler in 1992 pursuant to a Federal Warrant, first read the manuscript two years ago. He read it initially out of curiosity and concern, and hoped to find something that would conflict with the presumed thesis of the title, *Perfectly Innocent*. Finding nothing, he read all 727 pages again, and has asked me many questions since then, but he has found no substantial error in the book; and he is concerned about justice in this case. The only change of substance made in the manuscript since September 2007 was made on my own initiative, to one of the claims made about the Radio Shack switch, and that change was made for Version 9; and most readers of Version 8 were advised of the change.

As I reminded Attorney General Holder in my 29 April letter to him, he said last Spring to newly sworn Assistant U.S. Attorneys that *they must respond to negative perceptions of federal prosecutors by doing "the right thing."*

"Your job as assistant US attorneys is not to convict people," Holder said. "Your job is not to win cases. Your job is to do justice. Your job is in every case, every decision that you make, to do the right thing. Anybody who asks you to do something other than that is to be ignored. Any policy that is at tension with that is to be questioned and brought to my attention. And I mean that."

Respectfully to Mr. Holder, I state that delegating to Mr. Kromm the task of defending, without reinvestigating, the wrongful conviction of an actually innocent man is surely at tension with your statement, and by this letter and email, and by my 29 April 2009 letter, I bring this matter to your attention.

During the two years since printing 100 copies of Version 8, and revising it to Version 9, and circulating many copies of that version by email and posting it on the website, I've received no confirmation that anyone from the U.S. Dept. of Justice has read the manuscript. I've sent several copies directly to the Dept. of Justice and to the two Assistant U.S. Attorneys who prosecuted the two Roslindale Bomb cases, Frank Libby and Paul Kelly, but no one has responded with a single comment or a single question, and, more importantly, no one has responded with a correction.

Respectfully, I fail to see how the Dept. of Justice, trying to do "the right thing" and trying "to do justice", and consistent with an oath as an attorney and with the Professional Rules of Conduct for lawyers and prosecutors, can submit to the First Circuit Court of Appeals any argument to support Alfred Trenkler's wrongful conviction without reading that manuscript and considering every statement and argument which supports his innocence. Further, any attorney arguing against Mr. Trenkler should consider the truth contained in documents uncovered since the writing of that manuscript, including those which were not included in Mr. Trenkler's brief to the First Circuit, but which I emailed to Mr. Loucks on 11 August 2009, and which email is attached here. Again, the judges of the First Circuit involved in this case may not be able to read the manuscript, nor most of the documents uncovered through a FOIA request at the Boston Police Dept; but the Department of Justice can and should read the manuscript and all of the FOIA documents.

As has been stated in detail in other emails and letters to you, the Dept. of Justice in 1994 did not advise the defense of its active support of a reduction of the sentence of its inmate informant, W. David Lindholm. Not only did Mr. Lindholm deny that his testimony was part of a "deal" with the Government, but he made the credibility-enhancing statement that he would not seek any benefit from his testimony; and the jury relied upon his credibility-enhancing promise. Because the defense was not advised after Trenkler's sentencing of the prosecutors' efforts, the First Circuit judges knew nothing of the prosecutors' active support of a sentence reduction, and knew nothing of Lindholm's actual release from prison BEFORE the December 1994 oral hearing at the First Circuit of Mr. Trenkler's direct appeal. Whether the failure to advise the defense constituted prosecutorial misconduct is now being considered by two justices of the Mass. Supreme Judicial Court, and the question will be brought to Chief U.S. District Court Judge Mark Wolf's attention when the Massachusetts consideration is completed.

In 2009, the First Circuit Court of Appeals must not be misled again by a presentation from the Department of Justice that is contrary to the facts of the case.

Similarly, I respectfully suggest that the Department of Justice cannot try to dismiss or avoid new evidence on procedural grounds without taking the time to inquire into the truth of that evidence. For example, Alfred Trenkler's current appeal includes an affidavit by former FBI Agent Denny Kline and the facts claimed in that affidavit were verified by former ATF agent James Karolides, who was Trenkler's private investigator in 1993. An appellate Dept of Justice prosecutor could try to argue to the First Circuit that it should ignore the affidavit because of some procedural rule. However, before that prosecutor makes that argument s/he should inquire into the truth of the claim in the affidavit. As I asked Acting U.S. Attorney Loucks in the attached 26 October 2009 email,

*Questions: What happened afterwards to those layers of electrical tape?
Was the fingerprint examined?*

If not answered otherwise, what was the Government's response to Mr. Kline's observations?

The Department of Justice's Appellee response brief is due at the First Circuit on 1 December, so time is running short for the reinvestigation that has long been requested in this case, per the attached 9 November 2008 email to former U.S. Attorney Michael Sullivan. To my knowledge, no Federal investigator has contacted

Mr. Trenkler, who knows more about this case than anyone, except perhaps the actual perpetrator(s) of the Roslindale Bomb and who has offered to meet, without an attorney present, with any investigator, or

Mr. John Bowden, who swore by affidavit that Mr. Lindholm told him BEFORE Alfred Trenkler's trial that he, Lindholm was going to lie, or

Mr. Todd Leach, whose false testimony of his actions as a nine-year old were contradicted by his aunt's grand jury testimony, and by his mother's statements, and by Alfred Trenkler, or

Mr. Michael Coady, whose false testimony of gifts of two cars and trips to California and Florida with Mr. Trenkler was so ludicrous that Trenkler's defense attorney failed to cross-examine on those points; but such failure must not prevent the Dept. of Justice now from inquiring into the truth of that testimony, given the evidence of wrongful conviction, or

Mr. W. David Lindholm, who perhaps could tell an investigator who made the decisions to transport him from Texas to Alfred Trenkler's orientation unit in Plymouth, and the truth about his testimony at Alfred Trenkler's trial, or

Mr. Jeff Kerr, about what he said he knows about Alfred Trenkler, or

The ATF author of the March 1992 ATF "Updated Investigation Plan" about why s/he identified Mr. Thomas L. Shay as the third primary suspect, and why Mr. Shay's story was viewed as "inconsistent" and "largely unbelievable", or

Mr. Frank Libby or Mr. Paul Kelly to ask them about Mr. Lindholm's transportation noted above, or whether they informed the defense of their Motion to Judge Woodlock for a sentence reduction for W. David Lindholm, or

The many other people with knowledge about the important facts in this case as referenced in *Perfectly Innocent*.

A Boston policeman, Jeremiah Hurley, Jr. was killed in 1991 and his Boston Bomb Squad partner, Francis Foley, was maimed and disabled from further police work. The family of Jeremiah Hurley and Mr. Foley and his family, and the honor of the Boston Police Department deserve truth and justice and closure in this case.

Please examine all the facts in this case, and when you do so, you will be compelled to withdraw the indictment and prosecution of Alfred Trenkler and then work with the Boston Police Department to apprehend and prosecute the actual perpetrator(s) of the Roslindale Bomb.

Very truly yours,

Morrison

Morrison Bonpasse
Vice-President, Alfred Trenkler Innocent Committee
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001-207-586-6078

U.S. Department of Justice

Michael K. Loucks
Acting United States Attorney
District of Massachusetts

October 28, 2009

Mr. Morrison Bonpasse
Vice-President
Alfred Trenkler Innocent Committee
P.O. Box 390
Newcastle, ME 04553

Re: Alfred Trenkler Appeal No. 09-1559

Dear Mr. Bonpasse:

I write in response to your telephone calls and e-mail messages, which reference and forward copies of messages and documents regarding Mr. Trenkler's case. I understand that much or all of this information was previously sent to others in this office and that you have forwarded it to me as the attorney representing the government in the above-referenced appeal.

In this appeal, Mr. Trenkler seeks review of the district court's March 16, 2009 decision denying his *pro se* petition requesting that his conviction be vacated based on what Mr. Trenkler alleged was newly discovered evidence. As I assume you know, review of the district court's decision in the Court of Appeals for the First Circuit will be based on the evidence introduced in the district court and the arguments presented in Mr. Trenkler's appeal brief. The information you have sent - unless it duplicates information already in the record - cannot be considered by the Court of Appeals and therefore does not bear on the resolution of this appeal.

Although the information you sent appears to have been submitted already, I have forwarded a copy of the e-mails and attachments to Acting United States Attorney Michael Loucks.

Sincerely,

Michael K. Loucks,
Acting United States Attorney

By: Randall E Kromm /s/
Randall E. Kromm
Assistant U.S. Attorney