

1 A Yeah.

2 Q And I ask if that refreshes your recollection?

3 A Yes, I remember it as that, now.

4 Q With your recollection refreshed, what is Al Trenkler's
5 number employees?

6 A 553-0078.

7 MR. LIBBY: Nothing further, your Honor.

8 THE COURT: Anything else?

9 MS. GERTNER: Just one second. That's all.

10 THE COURT: Thank you, Mr. Brown. You're excused.

11 Who is next?

12 MR. KELLY: If I may have a minute.

13 (Counsel confer.)

14 THE COURT: Who is next?

15 MR. LIBBY: Your Honor, the United States calls Nancy
16 Shay.

17 Nancy Shay, sworn

18 Direct Examination by Mr. Libby

19 Q Good afternoon, ma'am.

20 A Good afternoon.

21 Q Would you speak up, please, pull the microphone up,
22 please, so everyone can hear you.

23 Would you state your name spelling your last name for
24 the reporter, please?

25 A Nancy E Shay, S H A Y.

1 THE COURT: Lindsay.

2 THE WITNESS: Nancy.

3 THE COURT: Nancy.

4 THE WITNESS: Sorry.

5 Q Where do you reside?

6 A 200 Falls Boulevard.

7 Q That's in Quincy?

8 A Yes.

9 Q How long have you lived there?

10 A Almost three years.

11 Q At one point, ma'am, you were married to a gentleman by
12 the name of Thomas L. Shay?

13 A Yes.

14 Q And he has for some time resided at 39 Eastbourne Street
15 in Roslindale, correct?

16 A Yes.

17 Q You are no longer married?

18 A No.

19 Q You were married between what years, ma'am?

20 A 1967 to I think '81, 16 years I was married to him,
21 legally I was married 22 years, but I only lived with him 16.

22 Q You were separated for a period of time?

23 A Right.

24 Q Now, you are the Defendant Thomas Shay, Jr.'s mother?

25 A Yes.

1 Q You have been attending this trial almost frequently,
2 almost daily?

3 A Yes, I have.

4 Q Ma'am, you also appeared on a local television show some
5 years back called people are talking, right?

6 A Yes, I did.

7 Q You appeared in silhouette fashion, right?

8 A Right.

9 MS. GERTNER: Objection, your Honor.

10 THE COURT: Why do we need to get into that?

11 MR. LIBBY: Just simply wanted to establish with
12 other evidence in the case.

13 THE COURT: The jury has seen it.

14 MR. LIBBY: Thank you, your Honor.

15 Q Now, Tom Shay, Jr.'s father is Thomas L. Shay, correct?

16 A Yes.

17 Q And you've had two other children with Thomas L. Shay,
18 right?

19 A Yes.

20 Q Two other daughters?

21 A Yes.

22 Q Two elder daughters, Nancy and Paula?

23 A They're my two younger daughters.

24 Q They're older than Tommy, however?

25 A Yes.

1 Q Now, you've testified, you've appeared in the grand jury,
2 is that correct?

3 A Yes, I have.

4 Q You've given testimony under oath, correct?

5 A Correct.

6 Q And during those occasions either Mr. Kelly or myself
7 have asked questions, many of which have to do with your
8 private life, correct?

9 A Correct.

10 Q And which have been, you prefer perhaps not to have dealt
11 with, but you did so, you've provided answers to the best of
12 your recollection and ability, correct?

13 A Yes, I did.

14 Q Now, Mrs. Shay, again some unhappy areas. Your marriage
15 overall to Thomas Shay was not a happy one, was it?

16 A No, it wasn't.

17 Q And in fact, throughout that marriage, ma'am, you
18 suffered significant abuse at the hands of your husband, then
19 husband Thomas Shay?

20 A Yes, I did.

21 Q And that abuse included many beatings; is that right?

22 A Yes, many over the period of 16 years, right up --

23 Q I'm sorry, please continue.

24 A Almost right up to the end of our relationship.

25 Q Those beatings you would characterize as fairly severe?

1 MS. GERTNER: Objection, your Honor.

2 THE COURT: Well, I don't know why we need to get
3 into this detail.

4 MR. LIBBY: I'll get to it in a moment, your Honor.

5 THE COURT: Let's go to the next question.

6 MR. LIBBY: You're sustaining the objection, your
7 Honor?

8 THE COURT: Yes.

9 Q During the time -- I'm sorry, the answer to your last
10 question that the beatings continued throughout the period of
11 your 16 years living together?

12 MS. GERTNER: Objection, your Honor.

13 THE COURT: Until the end.

14 MR. LIBBY: Thank you.

15 Q And it's true, Mrs. Shay, that your son Tom, Jr.
16 witnessed many of those beatings; is that correct?

17 MS. GERTNER: Objection, your Honor.

18 THE COURT: I will allow that.

19 A No, he wasn't always there. He lived in boys' homes for
20 many years.

21 Q I understand that. During the time he was home, he did
22 have occasion time and again to witness your beatings at the
23 hands of your then Tom Shay?

24 MS. GERTNER: Objection, your Honor.

25 THE COURT: The objection is overruled.

1 A A lot --

2 THE COURT: You may answer that.

3 A He witnessed more as a young child than he did when he
4 got older, because he wasn't living with us for many years.

5 Q For a period of time, Mrs. Shay -- I understand this is
6 difficult -- for a period of time that Tom, Jr. was in fact
7 living with you and your then husband Thomas Shay, he did
8 witness several repeated instances of physical abuse that you
9 suffered then in the hands of your then husband, Thomas Shay,
10 true?

11 A He witnessed it more when he was younger than when he was
12 older.

13 Q The answer to my question ma'am, it is true that Tom, Jr.
14 did, in fact, witness several of those beatings, correct?

15 MS. GERTNER: I think she's been asked and answered.

16 MR. LIBBY: It's been asked two or three times. I
17 don't think I've got the answer, if I may.

18 MS. GERTNER: She's answered with qualifiers.

19 THE COURT: Could you answer yes or no? Did he
20 witness beatings?

21 A I don't believe he witnessed a lot of them. Because for
22 years and years he was in different places, placements.

23 Q I understand that, ma'am.

24 With respect to the time that Tom, Jr. was in fact
25 living with you and your then husband, Tom Shay, Sr., we'll

1 call them Shay, Jr. and Shay, Jr., during the time he was
2 living with you and Shay, Sr., did Shay, Sr. engage in a
3 variety of father/son activities with him, like take him to
4 ball games and play sports with him?

5 A I did most of those things.

6 Q In fact, you did all of those things, true?

7 A His father would take him out sometimes.

8 Q Virtually all of that type of activity, Mrs. Shay, was
9 done by you and not Shay, Sr., true?

10 A I was a Cub Scout leader with Tommy and Shay was more
11 involved in his work, and he wasn't really involved in
12 activities like that. But he did take Tommy on weekends down
13 to the tavern where he hung out.

14 Q That was later, correct, after he had left the house for
15 a while and he came back?

16 A He did that over the years.

17 Q So far as actual father/son activities like baseball
18 sports, activities, things of that nature?

19 A Shay himself wasn't into any sports.

20 Q I understand that. Please let me finish the question.
21 You picked up the load on that, did you not?

22 A Can you repeat that?

23 Q You, Mrs. Shay, rather than your then husband Thomas Shay
24 saw to it that any sports activities or natural father/son
25 activities, you would take care of that rather than Shay, Sr.,

1 correct?

2 A Yes, I would take care of it because Shay didn't play
3 sports or do anything of those types of things that most
4 fathers do.

5 Q Now, Mrs. Shay, at some point you became aware that Shay,
6 Sr. brought a lawsuit against a couple of owners of the Dedham
7 Service Center, correct?

8 A Correct.

9 Q And that stemmed from an incident where something blew up
10 and Shay, Sr. was claiming damages as a result of that
11 incident, right?

12 A Yes.

13 Q And that, could you keep your voice up, please, thank
14 you.

15 A Sorry.

16 Q That incident and the lawsuit took place at a time after
17 the two of you had separated, right?

18 A Much after.

19 Q And you understand that your son Tom, Jr. was a witness
20 to that incident, correct?

21 A Yes, I found that out from Mr. Shay himself.

22 Q And in fact, to your knowledge, Shay, Jr. was Shay, Sr.'s
23 only friendly witness in that case, correct?

24 A Well, I believe that he was one of his witnesses. His
25 brother might have been another one.

1 Q Do you recall that Shay, Jr. was called in connection
2 with that lawsuit to give testimony, right?

3 A Yes, Mrs. Shay was very persistent in getting Tommy back
4 from New York from that lawsuit.

5 Q Now, we're talking about the time frame where Shay, Jr.
6 had left Massachusetts for a period of time, after this
7 incident down at the Dedham Service Center, correct?

8 THE COURT: What's the question?

9 Q The question is -- your Honor, thank you -- the incident
10 took place, sometime thereafter Tom Shay, Jr. left to go to
11 New York?

12 A What incident are you talking about?

13 Q The Dedham Service Center, the explosion?

14 A I don't really know when that happened. I think I
15 overheard that the case -- he waited like three years before
16 he decided to sue or something.

17 Q At one point, however, Shay, Sr. expressed to you great
18 interest in having Tommy come back to New York and appear to
19 give testimony at a deposition, right?

20 A Yes, I hadn't seen Mr. Shay that much and he was very
21 persistent in getting Tommy back.

22 Q In fact, he called you repeatedly, right?

23 A Yes, he called me, my daughters.

24 Q And he would say when he called, Where's Tommy, can you
25 get ahold of Tommy, can you get Tommy in from New York to

1 appear at this deposition?

2 A Yes.

3 Q And he did that time and again, right?

4 A Yes. He also drove up to New Hampshire to get Tommy, and
5 brought him back home and Tommy was supposed go with him the
6 next morning to the deposition and Tommy took off.

7 Q On that occasion that was the first time where there was
8 a so-called deposition set up for Tom, Jr. to appear and
9 testify, right?

10 A Right.

11 Q And he didn't appear, did he, Shay, Jr. did not appear
12 for that deposition, right?

13 A No, he really wasn't interested in going.

14 Q He didn't go, true?

15 A He didn't go that time. Mr. Shay was very mad.

16 Q He was very mad, and in fact Shay, Sr. made it plain to
17 you that Tom, Jr. had inconvenienced a good number of people
18 that day by not appearing, true, the attorneys, the reporter,
19 the other people who might be appearing for that deposition,
20 they were all inconvenienced because the son did not attend
21 the deposition for the father's civil lawsuit, true?

22 A I didn't know who else was involved in that except for
23 his lawyer, but Mr. Shay was very upset.

24 Q He was very upset because that wasn't very helpful to Mr.
25 Shay, Sr.'s lawsuit?

1 MS. GERTNER: Objection.

2 THE COURT: Objection sustained.

3 Q Now, when he came back from New York, this was in the
4 September of 1991 time frame, Mr. Shay?

5 A Right.

6 Q And he came back from New York to appear at this
7 deposition, right, and that was his primary purpose for coming
8 back, right?

9 A Yeah, because --

10 Q You made great efforts to bring him back from New York,
11 and there he is --

12 A It took two or three months to get him to leave New
13 York. He didn't want to leave New York.

14 Q He came back and stayed with you in Quincy?

15 A Yes.

16 Q And your condo is a one bedroom condo?

17 A One bedroom townhouse. It's two floors.

18 Q Did -- strike that. Tom, Jr., the second time, did in
19 fact testify at a deposition in connection with that lawsuit,
20 right?

21 A I don't think it was the second time, because he came
22 another time, Mr. Shay, we hadn't seen him in a long time, and
23 twice my daughter and I, and Paula, went out to dinner with
24 him, because after Tommy wasn't there a second time, he took
25 us out twice to eat. So Tom missed another time also.

1 Q This was after sometime you hadn't heard from Shay, Sr.
2 at all, true?

3 A I hadn't heard from him, but I went to some different
4 things at his home over the last couple of years.

5 Q Now, this particular repeated contact with Shay, Sr. has
6 primarily to do with Shay, Jr. coming to deposition, right,
7 primarily?

8 A Tommy had talked to his father and seen his father a
9 couple of years ago, a few different times. He would sneak
10 and see Tommy, so Mary would know.

11 Q Mrs. Shay, please, if you would listen to my question.
12 My question is at times when Shay, Sr. is reaching out to you,
13 talking to you and your daughters, that period of time Tommy
14 was in New York, keep that in mind, please. His purpose for
15 doing that is primarily connected with the son coming to the
16 father's deposition, true?

17 A It's not totally true.

18 Q Now, at some point after your son Tom, Jr. comes back to
19 Quincy from New York and he's in the midst of preparing to
20 testify at this deposition or perhaps he's already testified
21 at the deposition, he told you first that he expected to get
22 nothing from the lawsuit, right?

23 A No, he didn't expect to get anything at all.

24 Q In fact, his father told him he wasn't going to get
25 anything from the lawsuit, true?

1 A I don't think him and his father discussed money, getting
2 any money.

3 Q Well, it's true, is it not, Mrs. Shay, that the father
4 had told Tom, Jr. that he would give him \$50?

5 A Yeah, he said he would give him some money for going,
6 \$50.

7 Q After Shay, Jr. came back from the New York area, he had
8 been gone for how long. He'd been out of the Massachusetts
9 area, up to that point from September 1991, how long had he
10 been out of Massachusetts?

11 A He wasn't, Tommy would go for like three or four months,
12 then come back, he was always, like, traveling.

13 Q And he was traveling to your knowledge all over the
14 country during the year and a half two years before he came
15 back in September of 1991, right?

16 A Well, not all over the country, but he went to --

17 Q Florida?

18 A Florida, California, Canada.

19 Q He's traveling during this time?

20 A He has friends in all these places.

21 Q Now, after he returned to the Boston area for that
22 deposition he stayed in the Boston area after that deposition,
23 true, he stayed with you?

24 A He's stayed with me off and on.

25 Q Now, the two or three months that you mentioned that it

1 took to get Tommy back, Shay, Sr.'s calling you, he's calling
2 your daughters, and the three or four of you are making some
3 efforts to get Tommy back to Boston, that two or three period
4 is the period immediately before he, in fact, showed up in
5 September of '91, true?

6 A True.

7 Q Now, how long have you lived at your condominium in
8 Quincy, ma'am?

9 A Almost three years.

10 Q When did you move in, spring of '91; is that about right?

11 A Let me see. In November, I believe.

12 Q November of '90?

13 A '91, maybe, knowing that I couldn't have, it must be '90.

14 Q And before that you had a rental apartment for about a
15 year?

16 A Yes.

17 Q And before that rental apartment for a much longer period
18 of time, for about 12 years, you lived in Milton, right?

19 A Yes, I did.

20 Q On Belvoir Road, B E L V O I R?

21 A Yes.

22 Q And is that a single-family home or duplex?

23 A It's a two-family house.

24 Q Did it look directly out on to the street?

25 A Yes, not on to the Main Street, it was off --

1 Q I'm sorry, go ahead.

2 A It was off of Main Street. It was off of Blue Hill
3 Parkway.

4 Q But there was a street up from the house that you could
5 see cars pulling up in front of the house, right?

6 A Right.

7 Q Now, at some point, Mrs. Shay, you became familiar with a
8 man later known to you as Alfred Trenkler; is that true?

9 A I've never become familiar with this man.

10 Q I understand that. But you know who he is, right?

11 A I know about him from this case.

12 Q All right. And you also knew about Mr. Trenkler before
13 the case, right, whether at the time that you laid eyes on
14 this gentleman, whether you knew his name at that time, you
15 later learned at some point, before this case began, that his
16 name was Alfred Trenkler, true?

17 MS. GERTNER: Object to the form of the question,
18 your Honor.

19 THE COURT: I'm sorry, I really didn't understand the
20 question.

21 MR. LIBBY: Your Honor, I'll try again.

22 Q At some point, ma'am, are you familiar with a gentleman
23 who on occasion appeared in front of your house in Milton,
24 directing your attention to the 1988 time frame, the gentleman
25 who appeared in front your house in a car to pick up Tommy,

1 correct?

2 A I didn't know who this person was.

3 Q If you could answer my question, ma'am. You're familiar
4 with those circumstances generally that a man driving a car
5 would show up in front of your home at Belvoir Road in Milton
6 to pick up Tommy, yes or no?

7 A Tommy knew two people who lived in Milton, two men.

8 Q Could you answer the question, then, about the
9 circumstances --

10 THE COURT: Are you asking her whether she had
11 observed a man in a car coming to pick up Mr. Shay, Jr.?

12 MR. LIBBY: That's right.

13 THE COURT: That's the question.

14 THE WITNESS: Yes, there was some man that picked
15 Tommy up in a dark car, like a Mercedes, I happened to look
16 out the window.

17 Q And did you later learn that this man lived in Milton,
18 right?

19 A The man lived in Milton and he was a real estate broker.

20 Q Whether it was that man or another, Mrs. Shay, at some
21 point your son told you that a man, one of the men, perhaps,
22 appearing in front of your home in Milton or, I beg your
23 pardon, appearing in front of your Belvoir Road home came from
24 Milton and his name was Al Trenkler, true?

25 A You're talking about a different time now.

1 Q Okay.

2 A All I seen is looking out my window that some man came
3 and picked up Tommy, didn't know his name. Tommy told me he
4 was a real estate broker and he had a dark car, an expensive
5 car. I think I said that in the grand jury.

6 MR. LIBBY: May I approach the witness, your Honor?

7 MS. GERTNER: With what?

8 MR. LIBBY: This is grand jury April 23, 1992, page
9 2, please, line 12.

10 Q If you would, please, ma'am, follow along with me, line
11 12. Question: -- First of all, strike is that.

12 Do you recall appearing before the grand jury in this
13 matter in April of 1992, Mrs. Shay?

14 A Yes.

15 Q Page 2, line 12.

16 "Question: Did Tom tell you who the individual was
17 who came to pick him up?

18 "Answer: No, he didn't. Later on he told me he had
19 a friend he was seeing who came from Milton.

20 "Question: And did he give you his name, did Tom, Jr.
21 Tell you the name of this fellow was Al Trenkler?

22 "Answer: Yes.

23 "Question: At about the same time he told you this
24 fellow that came to pick me up was Al Trenkler?

25 "Answer: Uh-huh.

1 "Question: Is that right.

2 "Answer: Right."

3 MS. GERTNER: Objection, your Honor.

4 Q Did I read that correctly?

5 A Yes.

6 THE COURT: What's the objection?

7 MS. GERTNER: I can't tell from the context whether
8 this whether or not this is referring to a time in '88 in
9 Milton or whether it's referring to --

10 THE COURT: Let me explain to you, members of the
11 jury, one of the judgments that you will have to make in the
12 course of your deliberations on your verdict is whether you
13 believe what each and every one of the witnesses has told you,
14 the extent to which you believe the witnesses have told you.
15 In other words, you have to make a judgment as to the
16 believability of every single witness and then decide what you
17 will give credence to, and whatnot.

18 One of the things that you may take no account in
19 judging whether you believe a person, is whether the person
20 has given inconsistent answers in the course of the testimony
21 whether the person has given answers here that may be
22 different from answers that the person gave, that the witness
23 gave on an earlier occasion.

24 When the lawyers ask the witness or confront the
25 witness with what they perceive to be or think is, or say it

1 is an inconsistent earlier statement, the first thing you have
2 to decide is whether it is, in fact, inconsistent. And then
3 if you determine that the witness said one thing here and the
4 witness said something else there or earlier, then you have to
5 decide does that affect your judgment of the believability of
6 the person and how much.

7 So No. 1, is what the witness said earlier really
8 different from what the witness is saying here, and if so how
9 does it affect your judgment of the believability of that
10 person?

11 MS. GERTNER: If your Honor please, can that
12 instruction be made clear to the jury that that instruction
13 applies to prior witnesses?

14 THE COURT: I just said every witness who has
15 appeared in the case, every witness who will appear in the
16 case.

17 MR. LIBBY: If your Honor please, it might appear
18 that this would be an appropriate time to break I have
19 something --

20 THE COURT: Are you finished with the witness?

21 MR. LIBBY: I have not. We have substantial further
22 questioning, and we have some matters for the Court at side
23 bar as well.

24 THE COURT: I love the way the lawyers run this
25 trial. We will suspend until 9 o'clock tomorrow morning.