

Memorandum



Subject Meeting with Tom Shay, Jr.	Date January 5, 1993
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To
File

From
Paul V. Kelly *PVK*
Assistant U.S. Attorney

On Tuesday afternoon, December 15, 1992, I was working in my office when I received a telephone call at approximately 3:00 p.m. from Attorney Frank O'Rourke requesting that I come up to the U.S. Marshal's lock-up to speak with his client, Tom Shay ("Shay Jr."). Knowing that I was about to indict Shay Jr. the following day (which I did not disclose), I declined to go upstairs. About twenty (20) minutes later Attorney O'Rourke called again to tell me that Shay Jr. was insisting to speak with me and that it might be "worth [my] while" to come to the lock-up. I agreed to go upstairs for a few minutes.

Upon my arrival at the U.S. Marshal's office I spoke with Attorney O'Rourke who asked whether any discussion with Shay Jr. could be covered by our earlier written proffer agreement. I agreed. Upon entering the cell area I observed Shay Jr., who appeared to me to be in a somber and serious mood. His manner, demeanor and comments to me reflected fear and apprehension. Throughout the approximately thirty (30) minutes that I spent with Shay Jr. (with O'Rourke present the entire time), he was logical and very lucid, without the mood swings exhibited during some of my previous visits with him.

Shay Jr. asked me "If I tell you the entire truth and agree to cooperate and testify, how much time am I looking at?" I explained to him that would be up to the judge, but that "I would expect a sentence of around twenty (20) years." With that, Shay Jr. proclaimed "I can't do twenty (20) years; I can't be in prison until I'm 40." I then told him that while such a sentence sounded harsh, it was certainly preferable to a non-parolable life sentence (which appears to be mandated by the federal sentencing guidelines).

Shay Jr. later asked me, "What's your theory?" When I asked what he meant, he said, "What's your theory about why we did it?" I told him that I would not discuss the government's evidence or its theory with him. Shay Jr. then stated, "Well, if your theory is that we did it for the insurance money, your right. Trenkler

was promised one-half of my share, which would have been at least \$100,000." Shay Jr. continued, "it made no difference to me that it was my father, I still haven't even thought about that that much. In fact, if someone came to me right now and offered me that kind of money to kill my father, I'd do it again."

I then asked Attorney O'Rourke if I could ask Shay Jr. some questions. He said, "that's up to him, he's the one who wanted to speak with you." Shay Jr. said it was okay to ask him a few questions.

I asked "Where'd you get the dynamite and blasting caps?" He responded, "That was all Trenkler, I had nothing to do with that." He proclaimed not to know how or where Trenkler had obtained the explosives.

I asked, "Where was the bomb built?" Shay Jr. said "in a shed adjacent to a radio tower somewhere in the Quincy or South Shore area." He insisted that he has been truthful about this point all along.

I asked, "Where and when was the bomb attached to his father's car?" He said, "A couple of days before the explosion while the Buick was parked in the vicinity of the Waltham Tavern in the South End of Boston." Shay Jr. said that Trenkler attached the device, not him, and that he never got out of the car. He mentioned that he saw the bomb when Trenkler had it inside the trunk of his car (his description of the same was pretty accurate), and that he thought Trenkler stuck it on the gas tank or muffler (although he wasn't really sure).

At this point, I had a meeting to attend downstairs and had to leave. Rather than leave Shay Jr. feeling as if he'd been double-crossed, I told him very bluntly that he would be indicted very soon (although I did not say that it would happen the next day, since I did not want to read my comments in the morning papers). He asked what the charges would be. Attorney O'Rourke interjected and reminded Shay Jr. that they had already talked about that. Shay Jr. asked me whether we would seek the death penalty? I told him that issue had not been decided, although I thought it was unlikely. Finally, I told Shay Jr. that if and when an indictment was returned, that would not mean that he and I would not be able to talk further. On the contrary, I told him that, after speaking with his attorneys, he may well want to speak to me again -- so long as he was prepared to be completely candid and truthful.

The foregoing is prepared from memory nearly three (3) weeks after the fact. It is not intended to be a verbatim recital, but I believe it captures the essence of what was discussed.