

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
) CRIMINAL NO. 92-10369-Z
)
THOMAS A. SHAY)

**GOVERNMENT'S REPLY TO DEFENDANT'S
RESPONSE TO DEMAND FOR NOTICE OF ALIBI**

Defendant Thomas A. Shay ("Shay Jr.") has responded to the government's demand for notice of alibi pursuant to Fed. R. Crim. P. 12.1(a) by stating, in effect, that he had not yet determined whether he will offer an alibi defense, and if and when he does to offer such evidence, he will respond. The government replies only to alert the Court to the government's concern that Rule 12.1(b) calls for disclosure of alibi information by the defendant, upon demand, "within ten days thereafter, but in no event less than ten days before trial, unless the Court otherwise directs." Given that the trial of this matter is scheduled to commence on June 28, 1993, the government would request that the Court direct the defendant to respond to the pending demand for alibi no later than June 18, 1993 (ten days before trial) or risk

exclusion of any alibi evidence.

Respectfully submitted,

A. JOHN PAPPALARDO
United States Attorney

By:

Paul Kelly, sab
PAUL V. KELLY
Assistant U.S. Attorney

Frank Libby, sab
FRANK A. LIBBY, JR.
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

Suffolk, ss.

Boston, Massachusetts
June 7, 1993

I, Paul V. Kelly, Assistant U.S. Attorney, do hereby certify that I have served the copy of the foregoing by first-class mail to Nancy Gertner, Esquire, Dwyer, Collora & Gertner, 400 Atlantic Avenue, Boston, Massachusetts 02110 and Jefferson Boone, Boone & Henkoff, Esquire, 138 Brighton Avenue, Suite 212, Allston, Massachusetts 02134.

Paul Kelly, sab
PAUL V. KELLY
Assistant U.S. Attorney