

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERK'S OFFICE
AUG 3 4 45 PM '93

UNITED STATES OF AMERICA)

v.)

THOMAS A. SHAY)

CRIMINAL NO. 92-10369-Z

MOTION FOR NEW TRIAL

DOCKETED

The defendant Thomas A. Shay ("Shay Jr.") hereby moves, pursuant to Rule 33 of the Federal Rules of Criminal Procedure, that this Court grant him a new trial. As grounds therefor, Shay Jr. states as follows:

I. SHAY JR.'S EFFORTS TO SHOW THE UNRELIABILITY OF HIS ADMISSIONS WERE IMPROPERLY LIMITED OR DENIED.

1. We as a society disapprove of conviction on the basis of the defendant's statements alone. A defendant's statements must therefore be scrutinized with great care and caution. As this Court recognized, the government would have had no case against Shay Jr. absent Shay Jr.'s admissions. (T.p. 14-106) There were no eyewitnesses to any act with which he was charged, and no physical evidence was tied to him. Indeed, the physical and testimonial evidence was inconsistent with Shay Jr.'s statements.

2. Shay Jr.'s primary defense was to show the unreliability of his admissions. He sought to do so by introducing other statements he had made, and expert testimony bearing directly on the reliability of his statements. The Court limited his ability to present other statements and denied the expert testimony. Shay Jr.'s right to present a defense was

Denied
R. W. Zobel, Jr. 9/28/93

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