

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

No. 93-2141

UNITED STATES

v.

THOMAS A. SHAY

No. 94-1301

UNITED STATES

v.

ALFRED W. TRENKLER

**APPELLEE'S MOTION TO SCHEDULE
ORAL ARGUMENTS ON SAME DATE
BEFORE SAME PANEL**

The United States of America, Appellee, hereby moves the Court to schedule the above-captioned cases for argument on the same date before the same appellate panel. The Appellee understands that the Court is currently scheduling cases for oral argument during the weeks of October 3 and November 7. The Appellee has no preference and is willing to argue both cases on the date the Court deems appropriate.

In support of this motion, Appellee states as follows:

1. The above-captioned appeals arise out of the same district court case: Unites States v. Thomas Shay and Alfred Trenkler, Criminal No. 92-10369-Z. Shay and Trenkler were indicted together for their role in the October 28, 1991 explosion of a sophisticated bomb in a driveway in Roslindale

which killed a Boston Police Bomb Squad Officer.

2. The case was severed for trial on Trenkler's motion due to the existence of various Bruton problems. Shay was tried and convicted in June and July, 1991. Trenkler was tried and convicted in October and November, 1991. The underlying facts of the explosion and the events surrounding it, and thus the foundational evidence in both trials was the same.

3. The Shay case, Appeal No. 93-2141, is briefed and ready for argument. The Trenkler case, Appeal No. 94-1301, will have all briefing completed by September 29, 1994 (Appellee's brief will be filed on September 19, 1994; any reply brief would have to be filed ten (10) days later).

4. It would make good sense and would conserve judicial resources to have these companion cases argued at the same time before the same panel. While each appeal raises distinct legal issues, both cases arise out of the same underlying facts and are based upon extensive common evidence.


WHEREFORE, Appellee respectfully requests that both of the

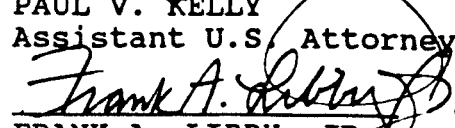
above-captioned appeals be scheduled for argument on the same date before the same panel.

Respectfully submitted,

DONALD K. STERN
United States Attorney

By:



PAUL V. KELLY
Assistant U.S. Attorney


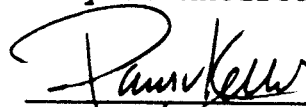
FRANK A. LIBBY, JR. *FLK*
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

Suffolk, ss.

Boston, Massachusetts
August 30, 1994

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 Kathy B. Weinman, Esquire, and Amy Barron-Evans, Esquire, and to Morris M. Goldings, Esquire, and Amy J. Axelrod, Esquire.



PAUL V. KELLY
Assistant U.S. Attorney