

M E M O R A N D U M

TO: Judges Torruella, Selya, Coffin, Stahl
United States Court of Appeals
for the First Circuit
Judges Tauro & Zobel, U.S. District Court
Kevin McGrath, Assistant U.S. Attorney
Morris Goldings, Esq. and David Beck, Esq.
Alfred Trenkler

FROM: *ju* Jack Wallace, Alfred Trenkler's Stepfather

RE: United States v. Alfred W. Trenkler
Docket No. 97-1239

DATE: November 20, 1997

I am writing this memorandum as a follow-up to attending the hearing on Wednesday, November 5, 1997, for oral argument on the above-referenced docket.

On the subject of Dr. Thomas Phillips' testimony, it is a fact that Thomas Shay Jr. is a pathological liar whether or not Alfred's trial attorney brought the matter up at Alfred's trial.

How would anybody like to be serving a life sentence based on the statements or testimony of the following individuals who are all prison inmates at the time.

Thomas Shay, Jr. - called a pathological liar by Dr. Thomas Phillips, who said Shay suffered from a mental condition called "factitious disorder" which causes him to make false and grandiose boasts. Called a chronic liar by Dr. Martin Kelly, the government's psychiatrist. The court observed that even according to the government's psychiatrist's testimony "this witness (Shay) is absolutely and totally incredible."

David Lindholm - an unreliable and convicted felon whose nickname in prison is "Little Stories." He was released from federal prison after serving only 3 1/2 years of an approximately 8-year prison term for conspiracy to distribute marijuana (22 1/2 tons into Massachusetts in the 1980's) and tax evasion. The government transferred Mr. Lindholm to Boston from a prison in Texas to use him to testify against Alfred. They used him to bolster their weak case. Being at the mercy of the government, Mr. Lindholm had every reason to testify as the government wanted, which he did and which we submit was perjured testimony.

Lawrence Plant - a fellow inmate of Thomas Shay Jr. The Court did not credit as the truth Shay Jr.'s statements to Plant and after hearing Dr. Phillip's testimony at the sentencing hearing, the court concluded that it did not believe Shay Jr.'s statements to the witnesses in their entirety.

Or, how would anybody like to be serving a life sentence in lieu of the following facts:

EXIS - The ATF computer data base of explosive incidents was improperly admitted in Alfred's trial whether it was harmless or not. The district court abused its discretion in admitting this evidence to prove the identity of the builder of the Roslindale bomb.

The 1986 Incident

This incident in 1986 was recognized as merely a prank; a noisy fire-cracker device, which neither harmed nor injured anyone and caused no destruction of property. This 1986 complaint when properly investigated and examined, was dismissed, as it should have been, on the Commonwealth's own motion.

The admission of this evidence was extremely prejudicial to Alfred's defense and violated his right to a fair trial.

To substantiate our opinion is the statement of one of the juror's which was quoted in the Boston Globe on the day they reached their guilty verdict. In discussing the jury deliberations, the juror said that the 1986 incident was "very decisive in the jury's finding."

Alfred was in essence convicted for a crime in 1993 based on evidence of a prior unrelated incident in 1986 which had been dismissed; it should not have been allowed into evidence.

Lindholm's testimony, in combination with the admission of the 1986 incident was essentially the Government's entire case.

Enclosed please find our Case for Reasonable Doubt in Support of Alfred's Complete Innocence.

JW/tp
Enclosure