

1 Mr. Segal, you may proceed.

2 MR. SEGAL: Thank you, your Honor.

3 Closing Argument by Mr. Segal

4 Denny Kline: I would submit to you that in almost
5 every case that I have investigated, whether it be a terrorist
6 group or an individual bombing, when we have reconstructed the
7 bomb, whether it be an attempted bombing or an actual bombing,
8 and we have identified in the rest of the subject, and
9 conducted searches in connection with that bombing
10 investigation, in every case that I have personally been
11 involved in, physical evidence was collected and identified
12 and helped us to establish that that individual was in fact
13 the bomb maker of those bombings.

14 Mr. Libby: Mr. Kline, I've asked you to make some
15 assumptions.

16 Mr. Kline, assuming my assumption is you should have
17 found something, my assumption is you should have found
18 something.

19 Al Trenkler is an innocent man, ladies and
20 gentlemen. I said that in the opening a month ago, and I
21 submit to you nothing in this last month has changed that.

22 There's no physical evidence, ladies and gentlemen,
23 in this case that connects him in any way to this horrible
24 crime.

25 This is a case, as I said in the opening, about guilt

1 by association. He's gay. He knows Tom Shay, Jr. His name
2 was in Shay's address book. He was involved in the '86
3 incident. And he happened to be working on a legitimate
4 project across the Street from the Radio Shack on Mass. Ave.

5 As I said in the opening, physical evidence doesn't
6 lie. You will have with you in the jury room, Exhibits 26 to
7 64. Those are just some of the evidence. They are all here,
8 taken from the six or seven searches of Mr. Trenkler's
9 apartment, Whitelawn Ave., ARCOM.

10 Ladies and gentlemen, it is uncontradicted not one of
11 those pieces of evidence matched the debris in '91.

12 I want to spend some time in this closing talking
13 with you about the attempts by the government to fill in the
14 huge gap caused by the lack of physical evidence in this case.

15 Let me deal with four or five attempts, the so-called
16 1991 diagram, Agent Leahy's interviews, Mr. Lindholm,
17 Mr. Waskom's attempt to make a signature identification
18 comparing '86 and '91 and the EXIS computer.

19 Let's start with the so-called 1991 diagram. I would
20 submit to you, ladies and gentlemen of this jury, that that's
21 sort of like the 13th stroke on those grandfather clocks, it
22 casts some doubt on the other 12 before it. Why do I say
23 that?

24 November 5, Mr. Trenkler's a prime suspect. They've
25 got the '86 Quincy report. They've got Shay's address book,

1 showing his name in it. They know they are both gay.

2 We have two experienced ATF agents, 34 years
3 collective experience, interviewing Mr. Trenkler that night at
4 ARCOM. He's fully cooperative. He takes them over there.
5 They are going to ask you to believe he drew a so-called 1991
6 diagram with two blasting caps. Yet they didn't arrest him
7 that night. They never even took the piece of paper. They
8 never asked him to sign it, date it and initial it. And yet
9 this man was being fully cooperative, according to their own
10 testimony.

11 Fifty pages of reports were written by ATF agents.
12 You heard Agent D'Ambrosio's testimony. Between November 7th
13 and January 17th, 1992, not one report even mentioned the
14 alleged 1991 diagram.

15 Agent Leahy testified, significant investigation,
16 important event we always write a report contemporaneously.
17 Seventy days, is that contemporaneously?

18 Six or eight other officers in the room that night at
19 ARCOM, those early morning hours. Detective McCarthy from the
20 Boston PD, he wrote a report about the significant events.
21 It's undisputed there's is nothing in that report about the
22 alleged 1991 diagram, because it wasn't drawn, it never
23 happened.

24 Detective O'Malley, Supervisor Palaza, plenty of
25 people in that room.

1 Agent Leahy testified, ladies and gentlemen, that he
2 sat at the same desk with the diagram, the alleged diagram,
3 and he made out a receipt for 15 items, that they were taking
4 from Mr. Trenkler, wire cutters, glue sticks, and yet he
5 didn't take that alleged diagram, or he didn't even take an
6 imprint of it, the page underneath it.

7 He didn't take it, I submit, ladies and gentlemen,
8 even though he took these wire cutters and 14 other things
9 like glue sticks, because it was ancient history, it wasn't
10 drawn. All that was drawn by Mr. Trenkler was the '86
11 diagram.

12 The next day, they would have you believe they
13 realized they had made a mistake. What did they do? They
14 didn't go out and get a search warrant. They didn't call
15 Mr. Trenkler. They didn't go over to ARCOM. They didn't do
16 anything, because it didn't happen.

17 November 20th, Agent D'Ambrosio calls Mr. Brown.
18 Mr. Brown says, Mr. Trenkler didn't seem concerned about
19 having drawn a diagram. No reason to be concerned, because
20 all he drew was the '86 diagram.

21 You remember, ladies and gentlemen, the government
22 didn't put this exhibit into evidence. We waited and we asked
23 them to bring it up. We put it into evidence. This is what
24 two agents say in May of 1993: They sat down and re-drew in
25 their best collective judgment, and they say it's a wire

1 schematic drawn by Mr. Trenkler of 1991.

2 I submit it's a septic system, it never happened. He
3 never drew the 1991 diagram.

4 They would have arrested him. They would have taken
5 that piece of paper. But that paper was ancient history. All
6 it contained was 1986. And that's why they never took it that
7 particular night.

8 Let's look at other attempts to fill in the gaps of
9 physical evidence.

10 Agent Leahy's interviews. January 31, the search at
11 Whitelawn Avenue. Mr. Libby has told you, Agent Leahy said,
12 Al Trenkler was fully cooperative, he signed the consent form
13 to search the car, he talked with Agent Leahy. Agent Leahy
14 says, I felt a layperson would not know what shunts and
15 blasting caps are.

16 Well, the evidence is clear, ladies and gentlemen,
17 Mr. Trenkler is not a, quote, ordinary layperson. He's an
18 electronics engineer who works with shunts, whose part of his
19 business was selling two-way radios and putting up microwave
20 towers. The evidence is clear. We had Mr. Waskom testify.
21 Agent Leahy. Radio transmission waves from two-way radios are
22 dangerous near blasting sites. They can cause a blast to go
23 off. It's not unusual, Mr. Trenkler, in that business, the
24 two-way radio business with microwaves, would know things
25 about blasting caps and shunts. Particularly somebody who

1 built microwave towers that you have to go into the ground.

2 That's not significant.

3 Let's go to February 4th. Now, let's put
4 February 4th into context. This is two weeks after Agent
5 Leahy finally writes the report about the alleged diagram that
6 wasn't drawn and didn't exist. It's several days after
7 there's an extensive search of Mr. Trenkler's home, his
8 apartment, they had the sniffer there, they didn't produce any
9 evidence, they have no physical evidence in this case.

10 There's intense pressure to solve this case to secure
11 an arrest. One officer has been killed and one has been
12 tragically maimed.

13 On February 3rd, Mr. Trenkler, who is not an
14 unintelligent person, I think the evidence is clear on that,
15 calls up and says, I'd like to come over and get my records
16 that you took the other day, I need them to operate the
17 projects I'm working on at MIT, at the Christian Science
18 Church.

19 They are on notice at ATF that's he's going to come
20 in the next day. They have plenty of opportunity. This isn't
21 out on the Street now. They can videotape him, they can put
22 in a hidden camera, they can wear a wire, they can tape record
23 those conversations, because Mr. Trenkler was there for two
24 and a half hours, ladies and gentlemen.

25 Being cooperative to the point, as Agent Leahy said,

1 I had to show him the door. A guilty person, have to show him
2 the door?

3 But let's go to the those conversations that
4 Mr. Libby dwells on. I submit to you they didn't quite happen
5 that way. And the reason was obvious. They had to fill in
6 the gap.

7 And I submit to you, ladies and gentlemen, they don't
8 show a great consciousness of guilt, what the conversations
9 show on that day are consciousness of innocence, the ones I'm
10 referring to.

11 You heard my questioning of Agent Leahy, this is
12 February 4th, I said to him, didn't Mr. Trenkler offer to wear
13 a wire to talk to Mr. Shay for you? And he said, yes, in
14 substance, that's right.

15 Well, think about that, ladies and gentlemen. An
16 innocent man or a guilty man? Somebody who is guilty going in
17 offering to wear a wire, I'll put on a wire, I'll go in and
18 talk to Tom Shay for you, I know him. He goes in and talks to
19 Tom Shay, Shay says, well, you and I built this device. It is
20 all there on the tape recorder, it's all been picked up.
21 What's the risk of that if you are innocent?

22 And if you are guilty, I submit to you, it shows a
23 consciousness of innocence, offering to wear that wire,
24 offering to talk to Mr. Shay for the government.

25 Let's also look at the other attempt to fill in the

1 gap of no physical evidence. Enter Mr. Lindholm. I submit to
2 you, ladies and gentlemen, his testimony is inherently
3 unreliable and not worthy of belief.

4 Why do I say that?

5 Twenty years smuggling drugs, twenty years defrauding
6 the IRS, no talks, returns. But it gets better. He admitted
7 very candidly, ten times he gave lending institutions phony
8 tax returns, returns he had never filed, so he could secure a
9 bank loan secured by phony documents.

10 And why did he do it? To complete the package.

11 Let's look at the package, because in August 1991, he
12 was sentenced to 97 months in jail. He went down to the jail
13 at Big Spring, Texas. He had a court appointed lawyer for his
14 appeal. That means he didn't have to pay for the lawyer.

15 Now let's look at the very interesting sequence with
16 Mr. Lindholm in 1992, over a year after he's been sentenced,
17 and a year becomes very significant.

18 December 1992, December 15th, he's no longer in jail
19 in Big Spring, Texas, he's up in Northampton, Massachusetts.
20 And what does he do, he drops his appeal with his court
21 appointed lawyer, and now let's see what happens.

22 December 17th, he's here in the U.S. Attorney's
23 Office for a debriefing on, quote, old drug activities.
24 Mr. Lindholm is a very intelligent man. He told you, and he
25 knew the only way to get his sentence reduced, after you serve

1 more than one year of it, is to provide new information. And
2 if there's any doubt about that, it's your recollection that
3 governs, ladies and gentlemen, but let me read you my question
4 to Mr. Lindholm.

5 Question: You understood that after one year goes
6 with by in that sentence, the only way your sentence could be
7 reduced is if you supplied new information to the government;
8 is that correct?

9 Mr. Lindholm: Yes.

10 Now, let's see what happens, with Mr. Lindholm on
11 December 17th.

12 Lo and behold, where does he end up, in the lockup
13 here at the Federal Courthouse. Who is he with? Of all
14 people, Thomas Shay, Jr.

15 Mr. Lindholm would have you believe he never spoke to
16 Mr. Shay. But yet he tells us he told Mr. Trenkler Shay
17 didn't have the capacity to put batteries in a flashlight.
18 He's either psychic or he used the EXIS computer, ladies and
19 gentlemen. But let's go to the rest of the events of December
20 17th and that weekend.

21 He doesn't end up back in Northampton, he's now down
22 in Plymouth. But he's a three-day wonder, he's gone by
23 Monday. But in the meantime, let's see what happens.

24 He tells us about bonding. About how he read one
25 newspaper article that told about where Mr. Trenkler lived in

1 Milton. He says he didn't read the massive publicity over
2 that week about this case and Mr. Trenkler being arrested.
3 Why? Maybe there are too many details in those stories that
4 fit the situation. He didn't want to be confused by that,
5 might ruin his story. Because let's hear the story.

6 See C4 explosive, failing to wear protective gear.

7 Does it sound familiar? It should. Because that's
8 the story Shay, Jr., told Mr. Plant. Mr. Lindholm, I submit,
9 is no fool. He realized somebody like Shay's probably talking
10 to the whole world, Plant and four inmates who were up there,
11 too. That doesn't help him provide new information. That's
12 old stuff. He has to come up with new information to complete
13 the package. So he attributes that statement to Mr. Trenkler.

14 Contrast Mr. Lindholm with Mr. Plant. There I submit
15 to you, is a person who was truly rehabilitated, short
16 sentence, genuine person, believable person.

17 Ask yourself about Mr. Lindholm, because he told
18 us he was rehabilitated in December 1992 having serve about 16
19 months. He only had about 83 to go, but he was
20 rehabilitated.

21 I suggest to you, ladies and gentlemen, Mr. Lindholm
22 in December 1992, conceived of a way to sort of nudge or help
23 that rehabilitation along. To come up with a story from
24 whatever source, whether it was Shay, Jr., the newspapers,
25 inmates or whatever, to provide, quote, new information in the

1 hope of reducing his sentence. He's told he's got no deal
2 with the government.

3 Imagine if you're Mr. Kelly, though, sitting at your
4 office one day soon, you get a phone call, this is
5 Mr. Lindholm, do you remember me? I'm the fellow that was
6 rehabilitated after about a year, I provided some new
7 information, I want you now to reduce that sentence.

8 Ask yourselves, ladies and gentlemen, how believable
9 this man is? There for three days, my client was arrested
10 December 16th. Al Trenkler's put in jail. It's undisputed he
11 wasn't released until he was permitted to go home in August,
12 eight months later. They don't produce anybody else from that
13 jail, just this one three-day wonder, who's instantly been
14 rehabilitated.

15 I submit to you, Mr. Lindholm has spent 20 years
16 defrauding drug authorities, 20 years defrauding the IRS, and
17 spent ten times defrauding banks, and that he's here now
18 attempting to defraud you, your intelligence, and your common
19 sense. Don't permit it.

20 Let's talk about the lack of physical evidence and
21 the government's expert, Thomas Waskom. Retired Sergeant
22 specialized in rendering safe explosives, three years with
23 ATF. He testified very honestly that he never has testified
24 on the key issue in this case, signature, identification
25 between two devices.

1 He said, I was involved in one case where signature
2 was an issue, though. I wasn't formally requested to make an
3 opinion, but I was involved. The Judge Vance bombing, five
4 pipe bombs, '72, and then four in 1989, I was in the military
5 then, but I came in and helped reconstruct the device in '92.

6 You remember him testifying. Five pipe bombs, not
7 just two here, as here, a typewritten extortion note in each
8 bomb an anti open switch in each one and the same initiators,
9 very distinctive unique features, singular unique, that's what
10 a signature is.

11 Mr. Waskom spent painstaking detail reconstructing
12 the '91 device, ladies and gentlemen.

13 You didn't see him build the '86 device. Ask
14 yourselves why. Because these are two entirely different
15 devices.

16 Let me spend a minute on his chart. Forensic
17 similarities, wires, twisted, soldered and taped.

18 Mr. Kline, that's not uncommon. That's fairly usual.

19 Duct tape. That's not unusual. Very common.

20 Undercarriage, devices affixed to the undercarriage.

21 Mr. Kline, that's the normal place you put a device.

22 Think now about the government's expert,
23 Dr. Shapley, a very distinguished English gentleman. Recall
24 his testimony now, because it's very important on the next
25 item, round magnets which Mr. Waskom placed such great

1 significance on.

2 Dr. Shapley testified the 1991 bomb maker first used
3 button magnets. Those couldn't hold the device, from the
4 government's own expert. He then used round magnets as an
5 afterthought. This highly distinctive thing that Mr. Waskom
6 pointed to. '86 is one large round magnet. Mr. Waskom, the
7 bomb maker repeats himself.

8 I submit to you, ladies and gentlemen, if Al Trenkler
9 made the 1991 device, he would have used round magnets first.
10 He wouldn't have had to experiment.

11 I submit to you, Dr. Shapley's own testimony shows Al
12 Trenkler didn't make the '91 device and round magnets are very
13 common.

14 Toggle switch used in each firing system. Another
15 item he relied on. You heard the testimony from Mr. Kline,
16 the toggle switches were different types, one's a double throw
17 microswitch in '86, the '91 one was a single throw from the
18 Radio Shack.

19 More importantly, a different purpose. In '86 it was
20 a safety to arm the firing system, in '91 was it was a trigger
21 to fire the device, activated by remote control.

22 Small lamps were used to test the circuitry. Another
23 forensic similarity according to Mr. Waskom.

24 I submit to you, ladies and gentlemen, that is pure
25 speculation. There's no evidence in this case, and I

1 challenge Mr. Kelly, who will have the last word here because
2 the government has the burden of proof, to come up and show
3 you what evidence there is that there was a small lamp found
4 in the debris of 1991. There wasn't.

5 It's a huge leap, I submit to you, from here to
6 Cambridge, to say because a small lamp was purchased on
7 October 18th, it somehow was used to test the system. There
8 is no evidence of that.

9 Device built with remote control. Mr. Kline, that's
10 not uncommon.

11 Now, Mr. Waskom relies on circumstantial
12 similarities. Mr. Kline says, no, no, I rely strictly on
13 forensic.

14 But let's look at a couple of circumstantial
15 similarities that Mr. Waskom relies on.

16 Each device was the product of a conspiracy. Let's
17 look at '86. Just remember, we don't have the debris, we
18 don't even have photos of '86. It's clear that that device
19 went off on September 1st, the debris, if it was the debris,
20 didn't even get to the lab until October 17. The person who
21 brought it there has passed away, Mr. Voight.

22 Any problems making a signature? Oh, no.

23 Mr. Waskom, I have a report here, that's good enough
24 for me. I can compare a report with the debris in '91.
25 Mr. Kline, the best comparison is when you have two unexploded

1 devices. I think it's very difficult to make a signature when
2 you don't even have the debris on one device, you haven't even
3 seen it.

4 Government in its opening, Mr. Kelly said there was
5 damage to the vehicle in '86. You look at those photos,
6 please, ladies and gentlemen, remember Officer Turowska's
7 report, there was no damage to that vehicle.

8 There was testimony from Mr. Craig about '86. Donna
9 Shea intimidated Al Trenkler to build this device. Donna Shea
10 or a friend of hers supplied the M21. This isn't something
11 Mr. Trenkler went around and picked up. It was supplied to
12 him.

13 Contrast that with Mr. Waskom's statement that
14 Mr. Trenkler must have had access to the National Guard.
15 Somebody gave him that device.

16 I submit to you, ladies and gentlemen, there's no
17 evidence, and I emphasize the word no evidence, that in 1991
18 Mr. Shay intimidated or requested or asked Mr. Trenkler to
19 build anything for him.

20 Mr. Kelly talked in his opening about a motive, and
21 he said, well, friendship, sexual friendship and financial
22 motive. I submit there's no evidence of either, there's no
23 evidence of any motive for Mr. Trenkler to be involved
24 building this device.

25 One of the other circumstantial similarities is the

1 builder utilized another to purchase, according to Mr. Waskom.

2 I submit to you there's absolutely no evidence that
3 Mr. Trenkler had Mr. Shay purchase anything on October 18th.

4 THE COURT: Mr. Segal, would you mind putting it
5 back?

6 MR. SEGAL: Let me spend a minute with you on
7 computers and the EXIS compute system, if I might. Another
8 attempt to fill in the huge gap caused by the lack of physical
9 evidence.

10 When we look at statistics, I think of Mark Twain,
11 that great philosopher, he talked about statistics, and he
12 said, there are three things, lies, damn lies and statistics.

13 Why do I say that's applicable here? The purpose of
14 the EXIS system is to develop investigatory leads, you heard
15 Mr. Scheid. It wasn't used for that purpose here, ladies and
16 gentlemen, it was used to reach a conclusion already made by
17 investigators, that Mr. Trenkler was involved in. Why do I
18 say that?

19 Well, the 1986 Quincy incident, that wasn't reported
20 to EXIS in 1986 by Officer Turowski or anybody. The evidence
21 is clear from Mr. Scheid, that was put into the system after
22 October 28th, 1991, after the Roslindale bombing, where the
23 investigators wanted to obtain a specific result, matching
24 Quincy and Roslindale, not for a lead.

25 Now why do I say this was manipulated?

1 Mr. Libby told us about 14,252, and, to use his
2 famous phrase, they marry up to two.

3 Look at the second query in this, to get down to
4 2504.

5 They put in cars and trucks. You have to put in
6 trucks, otherwise you don't get the Quincy incident. You
7 don't get a match.

8 But, now, we even get down more, we go from 2504 to
9 428, they put in under vehicles -- this one is fascinating,
10 ladies and gentlemen. Mr. Scheid testified, the only report
11 that he relied on to put information into this system about
12 '86, was Mr. Hankard's report. You remember that nice
13 gentleman who testified, the chemist, Exhibit 39. You will
14 have that report. You'll have all the exhibits. There is no
15 mention in that report where the device was placed.

16 And I asked Mr. Hankard, is there any mention? No.
17 There isn't.

18 I submit to you, that Mr. Scheid must have been
19 psychic, he must have been clairvoyant or he wanted to get a
20 certain match, so he said, put it under the vehicle, otherwise
21 we don't get the right match.

22 Now, we're down to 428. And they put in remote
23 control, ladies and gentlemen, come up with 19. That tries to
24 show that remote control and the use of remote control is
25 highly uncommon. But look at the whole system, ladies and

1 gentlemen. Is that 19 out of 14,252? No, that's after you've
2 had three or four queries. It's out of 428. It's about 5
3 percent. If you put in remote control up here at 4,252, you
4 would come up with 700 under the same numbers. Not unusual.
5 Mr. Kline said that's a normal way you detonate these devices.

6 But they don't do it that way because they want to
7 get a match and make it look like remote control is so
8 unique.

9 Now we go down from 19 to 7. We add the famous words
10 magnets. And we have 7 cases with magnets. You'd think this
11 was rare. 7 out of 19? That's almost
12 50 percent. If you queried magnets before you made these
13 4 queries and brought this thing down, you'd have about 7,000
14 cases out of 14,252. That's not unusual. Magnets aren't
15 unusual, Mr. Kline testified.

16 I submit to you the reason Mr. Waskom didn't rely on
17 the EXIS for his signature analysis is clear, it's not
18 reliable for this purpose. You don't see EXIS on his chart.

19 Let me talk a little bit about two other incidents
20 that relate to EXIS.

21 You'll recall Mr. Kline's testimony, I investigated
22 these two cases, New York and Florida bombings. The Cuban
23 Ambassador, it's Exhibit 41A in the EXIS materials that you'll
24 have with you. It's in the system. It's incomplete though.

25 Mr. Kline said, you put his testimony with

1 Mr. Scheid's, there's 21 matches between the New York Cuban
2 Ambassador's bombing, attempted bombing, and Roslindale.
3 Twice as many as between Quincy and Roslindale.

4 Hialeah, Florida, I investigated that. That was
5 another attempted bombing. You recall he said, when you want
6 to do a signature, the best time is have two nondetonated
7 bombs. But we had two here, New York and Florida.

8 Hialeah, not even produced by the search in that
9 great EXIS system. Yet, ladies and gentlemen, when you take
10 Mr. Kline's testimony with Mr. Scheid's, 17 matches with
11 Roslindale.

12 You look at Exhibits 41C and G, which are in
13 evidence, the EXIS for Quincy and Roslindale. The government
14 tells you about the matches, there are
15 18 differences between those two incidents, ladies and
16 gentlemen. That's why I say, lies, damn lies, and statistics
17 in this case.

18 Let me spend a minute on the Shay family, if I might.

19 Thomas Shay, Sr., heavy gambler, nasty lawsuit, half
20 a stick thrown in a barrel by Giamarco and Berry. Prime
21 suspects, Giamarco, Berry, Shay, Sr. He denies it. Three
22 police officers testified he threw the device against the
23 house. He claims to have discovered the device Sunday
24 morning.

25 Mr. Kline tested the batteries, saying they were run

1 out after 22 hours. Now the government brought in an expert,
2 their battery expert, Mr. Gleason, said that wasn't a valid
3 test because you run down the batteries when you test every
4 two hours.

5 The government's theory in the case is that this
6 device was put on the automobile on Saturday night, 40 hours
7 before it detonated. Do you honestly think those batteries
8 lasted 40 hours?

9 His story, Shay, Sr.'s, doesn't add up. It's
10 untruthful. It shows an incomplete investigation and a rush
11 to judgment here.

12 Let's talk about Shay, Jr., because I suggest
13 Mr. Libby in his closing did an excellent job implicating
14 Shay, Jr., and a terrible job implicating my client.

15 Her Honor told you at the initial part of this case
16 the evidence against Shay, Jr., in his trial is different than
17 the evidence against my client, and that's the way it should
18 be considered.

19 Shay, Jr., told people he made the bomb. He told
20 people like Mr. Plant, I know how to make a bomb. He was over
21 there begging Mr. Carrion to tell him about remote controls,
22 and how to work those. And where did Mr. Carrion send him?
23 To the Radio Shack. He was over there, as Mr. Libby says,
24 October 18th, he goes to Carrion's apartment after being at
25 the Radio Shack.

1 Did he do it on his own? You've seen those diagrams
2 that are in the press from Paladin Press, readily available.

3 Did he have help? That's a good question. But if he
4 did, ladies and gentlemen, I submit to you, and this is the
5 key point, there is no evidence that Al Trenkler helped him in
6 any way. It's one thing to know another person, it's another
7 to go around building a bomb for another person.

8 Mr. Kelly talked in his opening about the motive,
9 sexual friendship and business. I submit to you there was no
10 motive for Al Trenkler to do this for Thomas Shay.

11 The government's evidence shows Al Trenkler knew Tom
12 Shay, Jr. before June 1991. I submit to you the evidence is
13 also clear that as of October 1990, Al Trenkler had a stable
14 relationship with John Cates.

15 Mr. Kelly said in his opening, we'll show evidence 30
16 days before, Mr. Shay was with Mr. Trenkler. It's your memory
17 that governs, but I don't recall that evidence.

18 Look at the address book. There are stars next to
19 certain names of real good friends. See if Mr. Trenkler has a
20 star in that book.

21 Nancy Shay, the government's own witness. I swear to
22 god I never saw Al Trenkler, this person, before this day.
23 Mr. Libby said, well, you testified differently before. Yes,
24 but all I saw was photographs.

25 I asked her, did Al Trenkler ever call? You had a

1 party, your son had a party with a number of gay friends, was
2 he there? I don't -- I never met him. He wasn't there. He
3 never called.

4 Let me talk a little about the defense case.

5 The defense, we had no burden to put on any
6 evidence. The government has the burden to prove this case
7 beyond a reasonable doubt.

8 And that's why you'll hear from Mr. Kelly when I
9 finish. He and Mr. Libby are excellent lawyers. But just
10 remember, they have to work with evidence, and there's no
11 physical evidence here in this case.

12 Denny Kline testified for the defense, leading bomb
13 expert in this country. Investigated Pan Am Flight 103 that
14 exploded over Lockerbie, Scotland. Numerous other key
15 investigations. 20 years with the Federal Bureau of
16 Investigation. Only the second time he's ever testified for
17 the defense. Still works for the government. Lectures the
18 CIA. Works for law enforcement. Was over in Greece in April
19 testifying for the prosecution in a bomb case.

20 Mr. Waskom's never made a signature comparison before
21 this case. Never testified. Mr. Kline, I've testified 15
22 times before on the signature issue.

23 Mr. Libby said, well, he's involved in terrorism,
24 he's not a specialist in this. I submit to you, a bomb is a
25 bomb, ladies and gentlemen.

1 Mr. Kline has examined 350 for signature, for
2 comparison purposes. And he doesn't deal just with
3 terrorists. He told you, individuals, organized crime,
4 motorcycle groups. The more bombs you see, the better you are
5 at comparison.

6 Mr. Kline made this mock-up. You recall this sort of
7 Rube Goldberg device. He took Mr. Lanergan's and
8 Mr. Hankard's report. No one's challenged this mock-up. You
9 didn't see the government make one. It's obvious why, because
10 it's so different than the 1991 device.

11 Mr. Libby, Mr. Kline, well, you didn't talk to
12 Mr. Trenkler about it. Mr. Kline said, no, I didn't.
13 Mr. Segal told me not to.

14 Imagine what the government would have said if
15 Mr. Kline had talked to Mr. Trenkler before building this. He
16 would have said, oh, obviously, it's so different, Trenkler
17 told him to make it differently.

18 Mr. Kline did it the right way, he took the reports,
19 he relied on forensic reports of Mr. Hankard to build this
20 device. And I submit to you it's an accurate building and
21 it's totally different than the 1991 device.

22 Mr. Kline compared the two devices. He testified
23 extensively. I'm not going to go through each item and cover
24 them all. I just want to tell you, there are
25 13 differences that he pointed out, ladies and gentlemen. The

1 main charge, initiator, fusing system, power source, battery
2 connections' toggle switch, toggle switch's purpose, wires,
3 wire connections, container, magnet, tape and adhesive.

4 I won't go through the individual details, but you
5 recall his testimony, 13 differences between these two
6 devices.

7 He said when he looked at these two devices, when he
8 rebuilt from the reports, because you didn't have photos, you
9 didn't have debris in 1986, when he rebuilt this Rube Goldberg
10 device and compared it with this 1991 reconstruction by
11 Mr. Waskom, he said, there was no signature. There was an
12 absence of unique similarities and a preponderance of
13 differences. There was nothing singularly unique about these
14 two devices when he compared them.

15 That's key testimony in this case, ladies and
16 gentlemen. And I ask you to weigh it carefully.

17 We put on some other witnesses. October 17th to the
18 19th, we put on witnesses to show Mr. Trenkler had a project
19 putting up the dishes at the Christian Science Church on the
20 17th and then taking them down on the 19th. You see logs from
21 the Christian Science.

22 What's the point of all that?

23 Simply to show, you don't see Mr. Shay in any of
24 those logs. Mr. Trenkler is there working on a project, a
25 legitimate project.

1 Then October 18th is the day in between. Now, the
2 government would sort of like suggest to you, well, he was
3 around the area. He had to be around to give Shay this note.
4 They asked you to believe he was probably in the vicinity of
5 the Radio Shack on the 18th, because he, in '86, sent somebody
6 into the Radio Shack to get a list of parts.

7 There is no evidence, ladies and gentlemen,
8 Mr. Trenkler was anywhere near the Radio Shack on
9 October 18th, the day Mr. Shay purchased that toggle switch.

10 And I defy the government to show you one bit of physical
11 evidence.

12 We had Mr. Rambolli, an accountant, a precise fellow,
13 I just blew up Exhibit 123, his diary. He said, well, I left
14 at 2, quarter of 2, 2:15.

15 You'll have this exhibit in the jury room.
16 Accountants are very precise. When you look at this exhibit,
17 it shows he leaves at 2:30. And when you look at his bill,
18 that's consistent. Whether it's is 2:15 or 2:30, 2 clock, it
19 doesn't matter. Mr. Trenkler was not at the Radio Shack.

20 Nurden Cagdis, the saute chef: I was working all day
21 at ARCOM with Mr. Trenkler. We went out and cashed a check in
22 the afternoon.

23 Mr. Kelly said, well, do you remember the
24 accountant? Yes, I remember some accountant coming there that
25 day. Physical evidence. Mr. Cagdis's check,

1 Exhibit 133, he cashed it in Quincy at All Town Checking, with
2 Mr. Trenkler at the end of the day. And it says, and you'll
3 have it in evidence, N D R A, Nurdan, a hundred eight, David,
4 David Flaherty, 35, R, Rich Brown, 50, Al Trenkler, 50.

5 No evidence, ladies and gentlemen, putting him
6 anywhere near the Radio Shack. Any doubt about that?

7 Recall Mr. Armbrister's testimony. He says, Mr. Shay
8 came in, spent five minutes before he even spoke to him. Then
9 he said, it was another 15 minutes before he came back to the
10 counter with a number of items. That was my question.

11 Answer: Right.

12 And how long did it take at the counter? How long
13 did the transaction take when he came to the counter and
14 purchased the items?

15 Four minutes.

16 Fifteen, four, and five. When you subtract that from
17 2:36, it's 2:12, so all this stuff. And maybe I fell into the
18 morass, too, how long does it take you, Agent D'Ambrosio to
19 get from ARCOM to Radio Shack. Well, under a good wind, 18
20 minutes if you take Mass. Ave.

21 Mr. Kennedy: Well, I took the earlier exit, I went
22 off Southampton, took 27.

23 18, 27, 25, it doesn't matter. There's no
24 evidence that Mr. Trenkler was near the Radio Shack that day,
25 gave this note to Shay, or had anything to do with

1 that October 18th purchase, ladies and gentlemen.

2 We put on evidence about October 26th. The
3 government's theory, one of their theories, well, that's when
4 the device was affixed. Mr. Cates and Mr. Miller, we were at
5 a Halloween dinner.

6 I submit to you, ladies and gentlemen, there's no
7 evidence, and ask the government what evidence is there that
8 puts Mr. Trenkler in the South End on October 27th? Mr. Shay
9 said he was double parked down there on a busy street. Or
10 puts him near Eastbourne Street on October 26th, Saturday
11 night?

12 We put on evidence about October 28th. Why? Guilt
13 by association again.

14 Mr. McKernon testifies for the government: I was
15 walking down the Street on October 26th, I noticed something
16 unusual, a small car parked in the intersection at Eastbourne
17 and Beach Street. I made a note of that because it wasn't
18 during school hours, I thought it was unusual.

19 11:40 in the morning. Mr. Trenkler has a small car.
20 We put on -- and Mr. McKernon was very straightforward, it
21 wasn't a white car, it didn't have that distinctive decal that
22 Mr. Trenkler had on his car, and you'll see photos in
23 evidence. It wasn't rusty. It didn't have the antenna. It
24 was a different color.

25 There's no evidence Mr. Trenkler was there on that

1 We put on Brian O'Leary, you'll have the photographs
2 of the Christian Science project where they took those dishes
3 up on the roof. All those boxes were made by Brian O'Leary.
4 You heard his testimony, whenever Al Trenkler needed
5 carpentry, he did it. There is no evidence that Mr. Trenkler
6 was a patient woodworker or a woodworker.

7 But the government needs some sort of inference on
8 that or association, because Mr. Waskom said, this was well
9 constructed, took a lot of effort by somebody who had real
10 skill with woodworking. Ask yourselves: What evidence Al
11 Trenkler had any skill with woodworking?

12 Motive. Mr. Kelly in the opening, failing
13 businesses. We put on evidence Mr. McNamara, Scott Davis from
14 the Christian Science Church, Al Trenkler in September and
15 October was working on a \$38,000 project at the Christian
16 Science Church. He had other projects with Bill McNamara on
17 the drawing board. A five meter dish, a satellite link hook
18 up with Channel 2 between the Christian Science broadcasting,
19 and a ten meter dish. Those projects had a potential of
20 \$100,000. Financial motive to get involved with somebody like
21 Tom Shay?

22 Rich Brown testified, hard-working, we didn't fail
23 because of Al Trenkler, we failed because of the
24 investigation.

25 Ed Elviro, Channel 25, testified, ladies and

1 gentlemen, Mr. Trenkler came down to discuss moving a dish.

2 Mr. Libby, you never saw him on the grounds before
3 October 1991?

4 Oh, yes, he was there for the Boston Catholic
5 Archdiocese TV station, he'd come down and put up the wires so
6 that they could broadcast mass.

7 Is that the type of person who would build a bomb for
8 Tom Shay? Ask yourselves, ladies and gentlemen.

9 Frank Kavalo, Videocom: Al Trenkler was involved in
10 every major project. We were a satellite communications
11 company. He was involved in the start-up company, it started
12 in February '91. He was working hard. Do you honestly think
13 he'd risk all that to get involved in something like this?

14 Ladies and gentlemen, the government has the burden
15 of proof. They must prove this beyond a reasonable doubt, not
16 beyond a reasonable suspicion, a reasonable speculation, a
17 reasonable association, because I submit that's what this case
18 is about, guilt by association.

19 He knew Shay, he was gay, he was involved in '86, he
20 worked near the Radio Shack, he had a small car, he knew this
21 fellow Coady ten years ago.

22 There's no physical evidence in this case, ladies and
23 gentlemen. Mr. Kline said it best, every time we investigate
24 and arrest a bombing suspect, we find physical evidence.
25 There is none in this case.

1 Consider some of the alleged statements in the light
2 of the pressure, the intense pressure to solve this case.
3 October 28th was a horrible day, it was a horrible crime. I
4 agree with Mr. Libby, it was a grievous loss, it wasn't the
5 officers' fault. That's not the issue. Two brave officers
6 were struck down in the line of duty. Please don't, however,
7 let sympathy or concern for them or their families decide this
8 case. Decide it on the testimony and exhibits presented.

9 The jury system, ladies and gentlemen, really is a
10 higher form of democracy. It's what distinguishes this
11 country from a dictatorship. It's derived from England. And
12 in fact, if you go to England and go to the Old Bailey
13 Courthouse in London, which is probably the oldest courthouse
14 in England, if not the Western World, there is a very simple
15 plaque that's on the wall at Old Bailey that I'd like to read
16 to you, the wording of the plaque is simple and it's is to the
17 point.

18 It says: Near this site, William Penn and William
19 Meade were tried in 1670 for preaching to an unlawful assembly
20 in Grace Church Street. This tablet commemorates the courage
21 and endurance of the jury. Thomas Via, Edward Bushel and ten
22 others who refused to give a verdict against them, although
23 they were locked up without food for two nights, and were
24 fined for their final verdict of not guilty. The case of
25 these jurymen was reviewed on a writ of habeas corpus. And

1 Chief Justice Vaughn delivered the opinion of the Court, which
2 established the right of jurors to give their verdict according
3 to their convictions.

4 This case, ladies and gentlemen, isn't U.S. versus
5 Thomas Shay, it's United States versus Alfred Trenkler.

6 I just want to leave you with one final thought.
7 There's a saying, in inscription on a building in this country
8 that's very important to the administration of justice. It's
9 the Justice Department building in Washington, D.C.

10 As you come into that building, over the archway
11 there's an inscription and it says, ladies and gentlemen of
12 the Jury: The United States always wins when justice is done
13 to its citizens.

14 I respectfully submit, ladies and gentlemen, when you
15 return a verdict of not guilty in this case, you will be doing
16 justice.

17 Thank you.

18 THE COURT: Let us stretch for a moment and then we
19 will hear the rebuttal.

20 Rebuttal Argument by Mr. Kelly

21 Counsel, ladies and gentlemen, I now have a brief
22 opportunity to respond to certain of the points made by
23 Mr. Segal on behalf of the defense. And my compliments to Mr.
24 Segal, he has complimented us a couple of times, and I
25 compliment him, as well, he's a fine lawyer.