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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CR 92-10369-Z

ZOBEL, D. J.

UNITED STATES OF AMERICA

v.

ALFRED TRENKLER

Seventeenth Day of Hearing

APPEARANCES:

For the Government:

Paul V. Kelly, Esq., and Frank A. Libby, Jr., Esq.,
Assistant United States Attorneys, Federal Courthouse,
Boston MA 02109.

For the Defendant:

Terry R. Segal Esq., Scott P. Lopez, Esq., and
Brenda Ruel Sharton, Esq., SEGAL & FEINBERG,
210 Commercial Street, Boston, MA. 02109.

Courtroom 3
Federal Courthouse
Boston, Massachusetts

November 22, 1993

Computer-Aided Transcription

1 recall it to you, interpret it for you. And all of that is
2 entirely proper and appropriate.

3 Understand, however, that when you're in the jury
4 room deliberating on your verdict, you must base your verdict
5 on your interpretation and your recollection of the evidence.

6 So if you agree with counsel, fine, but if you do not
7 agree with them, pay heed to your own recollection and your
8 own interpretation of the evidence that you have heard.

9 So we will now hear first from, I think Mr. Libby,
10 whom I can't see, on behalf of the government.

11 You may proceed.

12 Closing Argument by Mr. Libby

13 May it please the Court, counsel, and may it please
14 you, ladies and gentlemen of the jury.

15 Good morning.

16 I'd like to start my remarks, ladies and gentlemen,
17 by taking us back one final time to Eastbourne Street in
18 Roslindale, that Monday in October 1991. You recall the
19 scene, it is a quiet, dead end street, an elementary school a
20 few houses down the block.

21 We see a Jeep Wagoneer bearing official Boston Police
22 bomb squad markings drive up, pull up to the mouth of the
23 driveway at 39 Eastbourne Street. Driving the Wagoneer is
24 Officer Jeremiah Hurley, his partner Francis Foley is sitting
25 shotgun, both veteran police officers and highly skilled bomb

1 And recall Mr. Carrion's testimony about the violent
2 outbursts from Shay, Jr. That's this day. Hours later, Shay,
3 Jr., appears at Carrion's door.

4 D R A up in the corner, the clerk's initials. Dwayne
5 Armbrister. He came before you. You recall he's a fairly
6 tall black fellow. He recalls this sale. He recalls that the
7 store was relatively quiet that day; that a tall six-foot-five
8 customer came in, he was fidgety, he was walking around
9 picking out items from the list. And he had seen this fellow
10 before, he had seen this fellow two or three times before. He
11 had also seen this individual, several times, as you recall.

12 Now, finally, ladies and gentlemen, if there remains
13 any question at all about what took place here, and this
14 transaction represented by the Radio Shack receipt, let's hear
15 what Mr. Trenkler's co-defendant himself has to say. It takes
16 about a minute.

17 (Videotape being played to the jury.)

18 MR. LIBBY: And what did this defendant, ladies and
19 gentlemen, have to say about all of this, the purchase of
20 these components from that store on that date, so close to his
21 place of work? He called it regrettable.

22 Do you recall the testimony of David Lindholm who
23 shared the orientation unit with the defendant down at the
24 Plymouth House of Correction during the weekend of
25 Mr. Trenkler's first incarceration?

1 Do you recall the scene Mr. Lindholm, the light hair,
2 slightly build fellow, the marijuana smuggler, the lights were
3 on 24 hours a day, there was an unbearable din all the time,
4 the place is packed with people that neither Lindholm or
5 Trenkler have anything to do with. They find each other, they
6 learned that they've got some incredible coincidences between
7 them; that he both grew up in Milton. They had Milton and
8 Thayer Academy in common. Mr. Trenkler attended places,
9 Mr. Lindholm's father went there. In fact they lived on
10 Whitelawn Avenue together for a brief time. They spoke away
11 from the others with lowered voices.

12 And during this period of great tension for
13 defendant, Mr. Trenkler called upon Mr. Lindholm for his
14 opinion and advice with respect to federal court criminal
15 trials. After all, Mr. Lindholm had been there, he had had a
16 full blown jury trial of his own in his marijuana smuggling.
17 He told him about the importance of picking counsel and things
18 of that nature, assisting in his own defense.

19 The defendant, at that time, ladies and gentlemen,
20 very vulnerable, as I'm sure you can understand, he was like a
21 moth to the flame, repeatedly approaching Mr. Linholm and
22 commenting, including on other things, of his great dislike
23 for Mr. Kelly, if you'll remember.

24 Now recall that that contact began on a Thursday
25 night, by midday, Sunday the 20th, Mr. Trenkler concluded that

1 he simply could not contain his innermost thoughts. He craved
2 reassurance from one who had been there before. And, finally,
3 as Mr. Lindholm came before you under oath and testified, this
4 defendant admitted his own involvement in the '91 bombing.

5 You recall that he told Mr. Lindholm, well, even if I
6 did build the bomb, I did not place it on the car. And he
7 paused for a moment and said, so I built the bomb. I built
8 the bomb. I don't deserve to die or spend the rest of my life
9 in prison for building this device.

10 Later, during the same conversation, Mr. Lindholm
11 testifies again before you, that the defendant stated that the
12 two bomb squad officers were foolish and negligent for not
13 wearing body armor at the time that they were examining this
14 device and, in essence, that it served them right for what had
15 happened to them. It wasn't his fault. It wasn't his fault.

16 Now a few comments about the charges, a final remark
17 or two, ladies and gentlemen, and then I will sit down. The
18 Court will explain in detail for you the counts of the
19 indictment. Very briefly, it's in three counts, Counts 2 and
20 3 are the so-called substantive counts.

21 And let me just make a comment or two about federal
22 jurisdiction for each of the two counts.

23 Count 2 has to do with receipt of explosives in
24 interstate commerce, that's the federal hook here, interstate
25 commerce.

1 What that deals with is this: The explosive device,
2 as the statute defines it, are these blasting caps. What do
3 we know about the blasting caps? Manufactured in Austria.

4 You remember Mr. Steven Adams came down from Austin
5 Powder of New Hampshire, told you, manufactured in Austria,
6 shipped to Ohio, assembled. And then where do these show up?
7 One of them is sticking out the side of 35 Eastbourne. You
8 remember that photograph Mr. Boeh pointed to. So clearly,
9 interstate here.

10 Count 3, attempted destruction of property in an
11 activity effecting interstate commerce. That is the auto body
12 business. Shay, Sr., told you how he used the
13 '86 Buick as a loaner to others who were free to go out of
14 state; used the car to pick up products which were
15 manufactured from out of state and brought into Massachusetts,
16 and so forth.

17 So the focus in Count 2 it is on the blasting cap,
18 Count 3 is on the car.

19 The conspiracy count is Count 1, ladies and
20 gentlemen. And basically, as the Court will tell you, the
21 gist of conspiracy is unlawful agreement, with an overt act.
22 The overt acts which are pleaded to the indictment are a
23 number, a couple of which are affixing the device and the
24 purchase of the explosive materials.

25 Now, Congress recognizes greater potential for crime

1 when two or more people are involved in it, so they've
2 outlawed conspiracy. And when you deliberate this count,
3 ladies and gentlemen, in the jury room, please bear in mind
4 the following: Does a toggle switch in the hands of this man
5 present any potential of any harm to anyone under any
6 circumstances? Absolutely not.

7 You heard the testimony of his parents. He had no
8 special skills, no engineering skills.

9 You heard Mr. Lindholm, conversation with the
10 defendant, he couldn't put the batteries in the flashlight.
11 And the defendant agreed.

12 So do you believe for moment that this man purchased
13 this toggle switch alone and for himself? Not for a moment,
14 ladies and gentlemen.

15 Because this toggle switch, purchased by Shay, Jr.,
16 at the direction of that man, ladies and gentlemen, results
17 unquestionably in this case, in this. This is that toggle
18 switch after the explosion which took Officer Hurley's life
19 and maimed Officer Foley. That, ladies and gentlemen, is the
20 essence of conspiracy.

21 Two final points. The job before you is a very
22 serious one, no question about it. No one envies your job.
23 But no group, no cross-section of the community, could better
24 perform this task, you having sat through the four weeks of
25 evidence in this trial. You bring to this court the wealth of

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 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 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.

1 with them into the courtroom. Whether they have an interest
2 in the outcome of the lawsuit? Whether they've received
3 anything in exchange for their testimony. You look at their
4 demeanor on the stand, how they appeared to you while they
5 were testifying. You look at whether there's corroboration,
6 support for what they are telling you, from other evidence in
7 the case.

8 And when you are looking at the testimony of experts,
9 you also look at their background, their experience, the
10 specific areas of their expertise. And you look at whether or
11 not their opinions are logical and whether their opinions are
12 based on the factual evidence in the case.

13 Now, Mr. Segal would have you believe that on the one
14 hand, Mr. Lindholm's testimony should be ignored and
15 completely disregarded. And at the same time, he offers
16 Mr. Denny Kline as the guru of bomb experts, whom you should
17 accept entirely simply because at one point in time he worked
18 for the FBI.

19 Now let me start with Mr. Lindholm. The United
20 States didn't pick Mr. David Lindholm. It was the defendant
21 who chose to speak with that gentleman one night in
22 December 1992 at the Plymouth County House of Correction.

23 And what was Mr. Lindholm's demeanor as he appeared
24 before you, ladies and gentlemen? Did he look comfortable?
25 Did he look like he really wanted to be here, that he was

1 anxious to tell his story? This is a guy that goes back to
2 prison for another six years, remember? You know, testifying
3 against somebody else and going back to prison carries with it
4 certain weight. Did he look real comfortable about being
5 here?

6 Ask yourselves about that. Was there any incentive
7 for this fellow to falsify anything he told you?

8 The answer is no.

9 You heard him testify. He's received no promises, no
10 rewards, no inducements for coming forward, and he will not
11 ask for any in the future.

12 And, finally, as you consider his testimony, ladies
13 and gentlemen, take note of the fact that there is
14 corroboration for what he told you from other evidence in the
15 case.

16 For example, he told you about Mr. Trenkler's
17 background, how Trenkler told him he went to Milton Academy
18 and the Park School and Wentworth Institute. Did he know that
19 of his own volition? No, he did not, he learned it from the
20 defendant. You heard it from the mother.

21 He told you about Mr. Shay, how he used to hang
22 around a certain part of the Boston. Did he know that out of
23 thin air? No, he heard it from the defendant. You heard it
24 from other witnesses.

25 He told you about what he knew about the 1986 bomb,

1 about what it involved and things like that. Did he just
2 happen to know, did it just kind of enter his head? No, he
3 heard it from the defendant.

4 He repeated it to you, and you know from other
5 evidence in the case that he did it pretty accurately.

6 In short, ladies and gentlemen, you are not being
7 asked to accept the testimony of this Mr. David Lindholm in a
8 vacuum. The reliability of Mr. Lindholm's statements to you
9 may be considered in light of other corroborative evidence in
10 the case, evidence that strongly suggests that he was
11 attempting to accurately restate what had been told to him by
12 that defendant, including the comment, I made the bomb. I
13 made the bomb, but I don't deserve to die or spend the rest of
14 my life in prison for that.

15 And now you have Denny Kline, a man who was trained
16 and acquired his experience at the expense of the United
17 States taxpayers' while on the government payroll at the FBI
18 for 20 years, who despite this 20 years of public service, and
19 contrary to various government regulations, demonstrated a
20 willingness to disseminate official FBI records while serving
21 as a private consultant, a man whose experience is not in
22 homemade bombs, bombs made by the occasional bomber, the
23 loaner, but rather with terrorist bombings.

24 And notwithstanding Mr. Segal's comment, a bomb is a
25 bomb is a bomb, you know that's not the case. With terrorist