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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CR 92-10369-Z

ZOBEL, D. J.

UNITED STATES OF AMERICA

v.

THOMAS A. SHAY

Verdict

Twenty-first Day of Trial

APPEARANCES:

For the Government:

Paul V. Kelly, Esq., and Frank A. Libby, Jr., Esq.,
Assistant United States Attorneys.

For the Defendant:

Nancy Gertner, Esq., and Ann Baron-Evans, Esq.,
Dwyer Collora & Gertner, 400 Atlantic Avenue, Boston,
MA 02110, and
Jefferson W. Boone, Esq., Boone & Henkoff,
138 Brighton Avenue, Allston, MA 02134.

Courtroom 3
Federal Courthouse
Boston, Massachusetts

July ~~26~~²⁷, 1993

Computer-Aided Transcription

P R O C E E D I N G S

1
2 THE COURT: We have another request from the jury, it
3 wishes to have an audiotape player,.

4 MR. KELLY: No problem, I'll have one sent up to
5 Mr. Dello Russo.

6 MR. BOONE: No problem.

7 THE COURT: Let's bring them down.

8 THE COURT: Is Ms. Gertner coming over this morning,
9 or not?

10 MR. BOONE: I'm told she would be, but she told me
11 also last night if she was late and there was nothing
12 particularly unusual, to go forward without her if she were
13 late.

14 [Whereupon, the jury entered the courtroom at
15 9:06 a.m.]

16 THE COURT: Good morning, please be seated.

17 You look much better than you did last night.

18 Members of the jury, will you please assure me that
19 none of you have read or listened or watched any media
20 accounts of this trial?

21 Thank you.

22 You have asked for an audiotape player, and we will
23 supply that as soon as we retrieve it from wherever it may be
24 in the building; we will ship it up to you. I think it is a
25 simple enough device, so that you probably don't need

1 instructions from any one.

2 You are now charged to continue your deliberations.
3 And again, if you have a question or when you have a verdict,
4 let us know and we will act accordingly.

5 Thank you.

6 [Whereupon, the jury retired 9:07 a.m., to continue
7 its deliberations.]

8 THE COURT: May I see counsel; otherwise, Court is in
9 recess.

10 I don't need the record for this.

11 [Recess.]

12 [Whereupon, the jury entered the courtroom at 12:26
13 p.m.]

14

15

V E R D I C T

16 THE COURT: Please be seated, except for your
17 foreperson, who should kindly remain standing for the moment.

18 THE CLERK: Madam Foreperson, has the jury agreed
19 upon a unanimous verdict?

20 THE FOREPERSON: We have.

21 THE COURT: Please be seated.

22 THE CLERK: Madam Foreperson, Members of the Jury,
23 harken to your verdict as the Court shall now record it:

24 We the jury find the Defendant Thomas A. Shay, as to
25 Count 1, guilty; as to Count 2, not guilty; as to

1 Count 3, guilty.

2 So say you, Madam Foreperson?

3 THE FOREPERSON: Yes.

4 THE CLERK: So say you, Members the jury?

5 THE JURORS: Yes.

6 THE COURT: Do you want them polled?

7 MS. GERTNER: Yes, please.

8 THE CLERK: As I call your name, please answer if you
9 agree or disagree with the verdict as it has been recorded:
10 Arthur Landers?

11 JUROR LANDERS: Agreed.

12 THE CLERK: Normand LaPointe?

13 JUROR LaPOINTE: Agreed.

14 THE CLERK: Roger Howell?

15 JUROR HOWELL: Agreed.

16 THE CLERK: Wane Linehan?

17 JUROR LINEHAN: Agreed.

18 THE CLERK: Nancy Goodwin?

19 JUROR GOODWIN: Agreed.

20 THE CLERK: Susan Hawkesworth?

21 JUROR HAWKESWORTH: Agreed.

22 THE CLERK: Danielle Arenda?

23 JUROR ARENDA: Agreed.

24 THE CLERK: Seri Neault?

25 JUROR NEAULT: Agreed.

1 THE CLERK: Elaine Pifalo?

2 JUROR PIFALO: Agreed.

3 THE CLERK: Ronald Lord?

4 JUROR LORD: Agreed.

5 THE CLERK: Amelia Caporale?

6 JUROR CAPORALE: Agreed.

7 THE CLERK: Karen Hodgkins?

8 KAREN HODGKINS: Agreed.

9 THE CLERK: Thank you.

10 THE COURT: Members of the jury, I want to thank you
11 very much on behalf of not only myself but my colleagues. You
12 have done an extraordinary job, having sat here for four weeks
13 and sorted through what has been a very difficult case,
14 difficult because the evidence was not all that clear,
15 difficult because it was a highly emotional case, as well. I
16 thank you for that.

17 But I want you also to know that you have been very,
18 very privileged to have watched an extraordinarily well-tried
19 case. The Government has been very, very professional, and
20 the defendant has done an outstanding job on behalf of her
21 client. I cannot think of a trial that was as well tried as
22 this, in recent memory. So, you have been very privileged to
23 have watched this extraordinarily professional and highly
24 polished performance by both of them.

25 And I want personally to thank all counsel for what

1 they have done in this case.

2 You are now free to talk about this case, if you
3 choose to do so. I would urge you not to. Your deliberations
4 are advisedly secret, and it is appropriate that they should
5 remain so. I'm not prohibiting you from talking with anyone
6 who wishes to talk about this, but I'm urging you not to talk
7 about the case.

8 I would ask that you please wait for a moment in the
9 jury room, so that I may thank you individually before you
10 depart. You are now excused.

11 [Whereupon, the jury was excused.]

12 THE COURT: Please be seated.

13 MS. GERTNER: At the conclusion of the evidence, we
14 moved for a judgment -- we renewed our motion for judgment of
15 directed verdict. This verdict, I want an opportunity to
16 think about it somewhat. This verdict is very perplexing,
17 your Honor, given the evidence. It is a verdict which to some
18 extent, I believe, doesn't match the evidence, doesn't match
19 the Government's argument. Counts 2 and 3 were not
20 distinguishable factually; yet, they found not guilty on
21 Count 2 and guilty on count 3.

22 I must determine what the Court's feeling on this,
23 and I would like an opportunity to brief the question of the
24 relationship of this to the evidence, since I think that there
25 is a lack of correlation between the --

1 THE COURT: I think at the moment, all we need do is
2 set a date for disposition. And I assume that you will file
3 motions which we will, of course, deal with in due course.

4 MS. GERTNER: Okay.

5 THE COURT: October 6 at 2 o'clock, the disposition,
6 and the order of detention is continued.

7 Thank you again, all of you.

8 [Whereupon, the jury trial was concluded
9 at 12:31 p.m].

10
11 CERTIFICATE

12 We certify that the foregoing is a correct
13 transcription of our computer-aided stenographic notes of the
14 proceedings in the above-entitled matter.

15 _____
16 James E. McLaughlin

17 _____
18 Laura K. S. Walker