

MOTION UNDER 28 USC § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE BY A PERSON IN FEDERAL CUSTODY

<b>United States District Court</b>		District
Name of Movant <u>ALFRED W. TRENKLER</u>	Prisoner No.	Case No.
Place of Confinement <u>P.O. BOX 3000, U.S.P. ALLENWOOD, WHITE DEER, PA. 17887</u>		
UNITED STATES OF AMERICA		v. <u>ALFRED W. TRENKLER</u> (name under which convicted)
<b>MOTION</b>		
1. Name and location of court which entered the judgment of conviction under attack		<u>MASSACHUSETTS, BOSTON</u>
2. Date of judgment of conviction		<u>NOVEMBER 29, 1993</u>
3. Length of sentence		<u>LIFE</u>
4. Nature of offense involved (all counts)		<u>COUNT 1, CONSPIRACY, (18 U.S.C. 371);</u> <u>COUNT 2, RECEIPT OF EXPLOSIVE MATERIAL, (18 U.S.C. 844(d));</u> <u>ATTEMPTED MALICIOUS DESTRUCTION OF PROPERTY WITH</u> <u>EXPLOSIVES, (18 U.S.C. 844(l)).</u>
5. What was your plea? (Check one)		
(a) Not guilty <input checked="" type="checkbox"/>		
(b) Guilty <input type="checkbox"/>		
(c) Nolo contendere <input type="checkbox"/>		
If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:		
<hr/> <hr/> <hr/>		
6. If you pleaded not guilty, what kind of trial did you have? (Check one)		
(a) Jury <input checked="" type="checkbox"/>		
(b) Judge only <input type="checkbox"/>		
7. Did you testify at the trial?		
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
8. Did you appeal from the judgment of conviction?		
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		

FILED  
 IN CLERKS OFFICE  
 2008 OCT 18 PM 2:16  
 U.S. DISTRICT COURT  
 DISTRICT OF MASS.

9. If you did appeal, answer the following:

- (a) Name of court U.S. COURT OF APPEALS FOR THE FIRST CIRCUIT
- (b) Result AFFIRMED
- (c) Date of result SEPTEMBER 1995

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any federal court?  
 Yes  No

11. If your answer to 10 was "yes," give the following information:

- (a) (1) Name of court U.S. DISTRICT COURT, DISTRICT OF MASSACHUSETTS
- (2) Nature of proceeding 28 U.S.C. 2255

(3) Grounds raised PETITIONER'S CONSTITUTIONAL RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WAS DENIED HIM BY THE ACTIONS OF HIS TRIAL COUNSEL.

(4) Did you receive an evidentiary hearing on your petition, application or motion?  
 Yes  No

(5) Result DENIED

(6) Date of result APRIL 18, 2000

(b) As to any second petition, application or motion give the same information:

(1) Name of court U.S. DISTRICT COURT, MIDDLE DISTRICT OF PA.

(2) Nature of proceeding 28 U.S.C. 2241

(3) Grounds raised SUPREME COURT RULING UNDER JONES RENDERED DEFENDANT'S CRIME OUTSIDE OF FEDERAL JURISDICTION.



- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impanelled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: SEE GROUNDS, SUPPORTING FACTS AND  
EXHIBITS ATTACHED

Supporting FACTS (state *briefly* without citing cases or law)

---

---

---

---

---

---

B. Ground two:

Supporting FACTS (state *briefly* without citing cases or law):

---

---

---

---

---

---

C. Ground three:

Supporting FACTS (state *briefly* without citing cases or law):

---

---

---

---

---

---

D. Ground four: \_\_\_\_\_

Supporting FACTS (state *briefly* without citing cases or law): \_\_\_\_\_

13. If any of the grounds listed in 12A, B, C, and D were not previously presented, state briefly what grounds were not so presented, and give your reasons for not presenting them: \_\_\_\_\_

SEE ATTACHED

14. Do you have any petition or appeal now pending in any court as to the judgment under attack?  
Yes  No

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing TERRY PHILIP SEGAL, 210 COMMERCIAL STREET,  
BOSTON

(b) At arraignment and plea TERRY PHILIP SEGAL

(c) At trial TERRY PHILIP SEGAL

(d) At sentencing TERRY PHILIP SEGAL

(e) On appeal MORRIS GOLDINGS

(f) In any post-conviction proceeding MORRIS GOLDINGS, RANKIN AND SULTAN,  
ONE COMMERCIAL WARE NORTH, BOSTON MA. 02110

(g) On appeal from any adverse ruling in a post-conviction proceeding RANKIN AND SULTAN,  
DANA CURHAN

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at approximately the same time?  
Yes  No

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?  
Yes  No

(a) If so, give name and location of court which imposed sentence to be served in the future: \_\_\_\_\_

\_\_\_\_\_ N/A \_\_\_\_\_

(b) Give date and length of the above sentence: \_\_\_\_\_ N/A \_\_\_\_\_

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?  
Yes  No

Wherefore, movant prays that the Court grant him all relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

14 OCTOBER 2007  
(date)

Alfred Wankler  
Signature of Movant

## STATEMENT OF FACTS

GROUND ONE: DEFENSE EXPERT OBSERVED FINGERPRINT ON BOMB REMAINS COLLECTED BY THE A.T.F.

SUPPORTING FACTS: IN 1993 DEFENSE BOMB EXPERT DENNY L. KLINE, WHILE VIEWING THE ROSLINDALE BOMB REMAINS, OBSERVED A FINGERPRINT ON BLACK ELECTRICAL TAPE USED TO CONSTRUCT THE BOMB. MR KLINE HAD TOLD THE A.T.F. AGENTS PRESENT OF WHAT HE HAD OBSERVED. MR KLINE SUBSEQUENTLY RETURNED TO VIEW THE TAPE AND OTHER EVIDENCE BUT WAS NOT GIVEN ACCESS TO THE TAPE AGAIN.

THE FINGERPRINT OBSERVED BY DENNY L. KLINE BELONGS TO THE BUILDER OF THE ROSLINDALE BOMB OR A PERSON WITH A DIRECT RELATION TO THE BOMB BUILDER. THIS EVIDENCE WOULD BE PROOF POSITIVE OF TRENKLER'S ACTUAL, FACTUAL INNOCENCE.

WHY WAS THIS CLAIM NOT PREVIOUSLY PRESENTED:

THE DISCOVERY BY DENNY L. KLINE OF THIS EVIDENCE WAS NEVER REDUCED TO ANY WRITTEN DOCUMENT OR MOTION AND NEVER RELAYED TO DEFENDANT TRENKLER.

UNTIL JULY OF 2007 DEFENDANT TRENKLER HAD NEVER BEEN MADE AWARE OF THIS IMPORTANT EVIDENCE.

THIS IS NEW EVIDENCE. IF THE TAPE IS EXAMINED THE FINGERPRINT THEREON WILL PROVE WHO THE BUILDER OF THE ROSLINDALE BOMB

GROUND TWO: THE GOVERNMENT POSSESSES EXCULPATORY, ACTUAL INNOCENCE EVIDENCE FAVORABLE TO THE DEFENDANT

SUPPORTING FACTS: THE ATF IS IN POSSESSION OF BLACK ELECTRICAL TAPE THAT THE ATF HAD BEEN TOLD HAS A FINGERPRINT ON IT THAT WOULD PROVE WHO THE BOMB BUILDER IS, PROVING DEFENDANT TRANKLER'S INNOCENCE. RECOVERED FROM THE UNDERCARRIAGE OF TOM L. SHAY'S BLACK BUICK CENTURY, THE ALLEGED 'TARGET' VEHICLE, IN THE SAME UNDER SEAT LOCATION AS WHERE THE BOMB WAS ALLEGEDLY PLACED, WERE 5 SETS OF FINGERPRINTS. DEFENDANT-PETITIONER, DESPITE REQUESTING THESE PRINTS PRIOR TO TRIAL AND IN A SUBSEQUENT 2006 MOTION, HAS NEVER BEEN GIVEN ACCESS TO THE TEST RESULTS OF THESE FINGERPRINTS THAT CONTINUE TO BE IN POSSESSION OF THE GOVERNMENT.

WHY WAS THIS CLAIM NOT PREVIOUSLY PRESENTED:

THE FINGERPRINT ON THE TAPE EVIDENCE WAS NOT KNOWN BY PETITIONER UNTIL JULY OF 2007. THE FINGERPRINTS ON THE UNDERCARRIAGE OF SHAY'S AUTOMOBILE HAVE NEVER BEEN PROVIDED TO DEFENDANT-PETITIONER, DESPITE MOTIONS TO PRODUCE.



GROUND THREE: BOMB SWITCH CONTACTS DO NOT MATCH RADIO SHACK TOGGLE SWITCH AND MATCH COMPETITOR'S SWITCH.

SUPPORTING FACTS: COMPARISON OF ATF PHOTOGRAPHS OF TOGGLE SWITCH CONTACTS RECOVERED FROM BOMB SCENE TO THE RADIO SHACK MODEL NUMBER 275-602 DO NOT MATCH. HOWEVER, IN COMPARING THE ATF PHOTOGRAPHS TO A COMPETITOR'S SWITCH, IDENTICAL IN EXTERNAL APPEARANCE TO THE RADIO SHACK SWITCH, A PHILMORR MODEL NUMBER 30-219 TOGGLE SWITCH HAD CONTACTS THAT WERE IDENTICAL TO THE CONTACTS RECOVERED BY THE ATF.

CYNTHIA WALLACE, A FORENSIC CHEMIST OF THE ATF, HAD STATED THAT THESE CONTACTS VARED SWITCH TO SWITCH AS WELL AS IN THE SAME SWITCH. IF THERE IS A POSSIBLE HIT OR MISS ON CONTACTS WITHIN THE SAME MODEL SWITCH ONE CANNOT SAY WITH ANY ACCURACY IF A SPECIFIC SWITCH WAS USED IN A GIVEN DEVICE.

CONSPICUOUSLY MISSING FROM DEFENDANT-PETITIONER'S TRIAL WAS ANY OF THE ATF PHOTOGRAPHS OF THE TOGGLE SWITCH CONTACT REMAINS AND A COMPARISON TO THE 275-602 RADIO SHACK TOGGLE SWITCH'S CONTACTS.

ATF CHEMIST CYNTHIA WALLACE, BASED ON COMMON THREAD AND NUT SIZES, MADE HER MATCH ONLY ON EXTERNAL ATTRIBUTES OF TOGGLE SWITCHES AND GLUE IMPRESSIONS WITHIN THE BOMB.

WHY WAS THIS CLAIM NOT PREVIOUSLY PRESENTED:

THIS SWITCH EVIDENCE CAME TO DEFENDANT IN A SURREPTITIOUS MANNER. FIRST, A WITNESS OF QUESTIONABLE CHARACTER CONTACTED DEFENDANT'S FAMILY WITH A STORY OF HOW A CONVERSATION WAS OVERHEARD OUTSIDE DEFENDANT'S TRIAL COURTROOM BETWEEN GOVERNMENT OFFICIALS DISCUSSING THE POSSIBLE PROBLEMS WITH THE FACT THAT THE BOMB'S SWITCH CONTACTS DID NOT MATCH THE RADIO SHACK TOGGLE SWITCH SAID TO BE PURCHASED BY CODEPENDANT SHAY. THIS WAS TAKEN WITH A GRAIN OF SALT.

SUBSEQUENTLY, DURING A THOROUGH SEARCH OF 40 BOXES OF LEGAL DOCUMENTS, DEFENDANT'S STEP FATHER DISCOVERED A MEMO FROM TERRY SEGAL, TRENKLER'S DEFENSE ATTORNEY, TO NANCY GERTNER, SHAY'S DEFENSE ATTORNEY, POINTING OUT THE FACT THAT TRENKLER'S BOMB EXPERT, DENNY KLINE, HAD DISASSEMBLED A RADIO SHACK SWITCH AND FOUND IT DID NOT MATCH THE SWITCH REMAINS HELD BY THE ATF.

SUBSEQUENT TO THAT, A CALL WAS MADE TO SHAY'S FORMER LAW FIRM TO VIEW ANY EVIDENCE NOT SEEN BY DEFENDANT TRENKLER WHICH REVEALED THE INCLUDED SWITCH CONTACT PHOTOGRAPHS TAKEN BY THE ATF.

WHY THESE WERE NEVER GIVEN TO DEFENDANT TRENKLER IS UNKNOWN.

SUBSEQUENT TO THAT WAS THE PURCHASE OF VARIOUS TOGGLE SWITCHES WHICH RESULTED IN THIS INCLUDED PHOTOGRAPHIC EVIDENCE.

AT NO TIME DID TRENKLER'S ATTORNEY EVER SHARE THIS IMPORTANT PIECE OF INFORMATION WITH TRENKLER.

AT NO TIME DID THE GOVERNMENT MENTION, DISCUSS OR OFFER THE ATF PHOTOGRAPHIC EVIDENCE TO DEFENDANT TRENKLER OR HIS ATTORNEYS.

GROUND FOUR: FUTABA REMOTE CONTROL RECEIVER COULD NOT OPERATE AFTER BEING ARMED FOR THE TIME PERIOD CLAIMED BY THE GOVERNMENT.

SUPPORTING FACTS: BASED ON THE TECHNICAL SPECIFICATIONS OF THE FUTABA REMOTE CONTROL RECEIVER RECEIVED FROM HOBIBILO CORPORATION, THE MANUFACTURER, AND THE ATF REPORT THAT THE POWER SLIDE SWITCH WAS AN OLDER MODEL COMBINED WITH THE STORAGE CAPACITY OF A DURACELL BATTERY WITH A JULY 1994 DATE CODE, IF THE BOMB WAS ATTACHED TO SHAY'S CAR 40 HOURS PRIOR TO 12 NOON, OCTOBER 28, 1991, AND ARMED, IT WOULD NOT BE ABLE TO DETONATE 40 HOURS LATER. IN FACT, THE BOMB WOULD HAVE BEEN UNABLE TO WORK AT THE TIME SHAY ALLEGED HE FOUND IT. IF, ON THE OTHER HAND, SHAY'S HANDLING OF THE BOMB CAUSED IT TO BECOME ARMED IF IT HAD NOT BEEN, UNLIKELY IF SOMEONE WENT TO THIS TROUBLE, THE BOMB WOULD NOT HAVE BEEN ABLE TO FUNCTION SOME 25 HOURS LATER. THIS LEADS TO ONE OF TWO POSSIBILITIES: 1.) A WOULD BE HIT MAN ARMED THE BOMB SOMETIME AFTER SHAY HID IT IN HIS DRIVEWAY AFTER SEARCHING FOR IT; 2.) SHAY SR ARMED THE DEVICE WITHIN THE BATTERY OPERATING RANGE, A MORE PLAUSIBLE EXPLANATION

FOLLOWING OCKHAM'S RAZOR. AFTER ALL, THREE WITNESSES TOLD POLICE, TWO OF WHOM TESTIFIED AT SHAY SR'S TRIAL, THAT THEY OBSERVED MR SHAY IN HIS DRIVEWAY WITH A DARK COLORED BOX IN HIS HANDS WITH 12 X 6 X 2 INCH DIMENSIONS WITHIN MINUTES OF THE NOONTIME EXPLOSION IN THE SAME DRIVEWAY. THE BOX, AS DESCRIBED BY SHAY SR AND RECONSTRUCTED BY ATF BOMB TECHNICIAN THOMAS WASKOM, WAS BLACK AND MEASURED 12 X 10 X 2 OR 3 INCHES THICK.

WHY WAS THIS CLAIM NOT PREVIOUSLY PRESENTED:

DEFENDANT'S TRIAL COUNSEL MADE NO EFFORT TO INQUIRE WITH FUTABA ON THE OPERATING TIME OF THE RECEIVER USED IN THE 91 BOMBING. AS A RESULT OF COUNTLESS HOURS SEARCHING OVER 40 BOXES OF LEGAL MATERIALS, DEFENDANT'S STEP FATHER CAME ACROSS THE LOCAL FUTABA DISTRIBUTOR THAT HAD ORIGINALLY BEEN CONTACTED BY THE ATF. THIS PARTY STATED THAT THE PARTICULAR RECEIVER USED IN THE BOMB UTILIZED AN OLD POWER SLIDE SWITCH THAT WOULD HAVE GIVEN THE RECEIVER A 2 HOUR WINDOW OF OPERATION, HOWEVER, THE HEAD OFFICE WOULD HAVE TO BE CONTACTED TO GIVE AN OFFICIAL STATEMENT.

THIS RESULTED WITH THE CONTACT AT HOBIBICO THAT GAVE DEFENDANT THE SPECIFICATIONS TO DETERMINE THE APPROXIMATE OPERATING TIME.

GROUND FIVE: CODEFENDANT SHAY STATES THAT TRENKLER IS INNOCENT AND THAT OTHERS ARE RESPONSIBLE FOR BOMB.

SUPPORTING FACTS: ON 10 SEPTEMBER 2007 SHAY MOTIONED TO SET ASIDE HIS 1998 CONVICTION ACHIEVED THROUGH INVOLUNTARY GUILTY PLEA. IN IT HE STATES HE WAS COERCED INTO PLEADING GUILTY AND "ADVISING ME THAT BY PLEADING GUILTY, I WOULD IN NO WAY IMPLICATE ALFRED TRENKLER, WHO IS INNOCENT."

IN 2006 SHAY GAVE AN INTERVIEW TO THE PATRIOT LEDGER WHERE HE GAVE HIS REASONS FOR HIS GUILTY PLEA AND STATED THAT DEPENDANT TRENKLER WAS INNOCENT. HE ALSO BLAMED OTHERS FOR BUILDING THE BOMB TO BOLSTER AN ONGOING LAWSUIT WORTH \$400,000.00 DOLLARS.

SHAY WROTE THIS COURT ON 3 SEPTEMBER 2007 PROCLAIMING TRENKLER'S INNOCENCE.

SHAY WROTE A LETTER TO THE US ATTORNEY'S OFFICE STATING "I CANNOT STAND BY WHILE ALFRED TRENKLER HANGS IN THE WIND, HE IS INNOCENT"

SHAY IS PREPARED TO TAKE A POLYGRAPH TEST TO VERIFY HIS STATEMENTS.

SHAY NOW STATES HE NEVER MADE ANY PURCHASE AT THE 197 MASS AVE RADIO SHACK.

WHY WAS THIS CLAIM NOT PREVIOUSLY PRESENTED:

SHAY'S MOTION IS AN OBVIOUS RECENT TORN OF EVENTS. THE REST OF THESE STATEMENTS ALL OCCURRED IN THE LAST FEW MONTHS. THE NEWSPAPER ARTICLE WAS IN 2006.

GROUND SIX: A WITNESS IN THE TRENKLER TRIAL STATED TO TWO WITNESSES THAT SIGNIFICANT PORTIONS OF HIS TESTIMONY ARE UNTRUE.

SUPPORTING FACTS: DEFENDANT'S STEP FATHER, JACK WALLACE, AND HALF BROTHER, DAVID WALLACE, HAD MULTIPLE SETS OF CONVERSATIONS WITH A WITNESS IN DEFENDANT TRENKLER'S TRIAL BY THE NAME OF MICHAEL COADY. IN THESE CONVERSATIONS COADY STATED THAT HIS TRIAL TESTIMONY WAS SUBSTANTIALLY FALSE, THAT HE HAD LIED AT DEFENDANT TRENKLER'S TRIAL BECAUSE HE WAS "MAD AT ALFRED [TRENKLER]". COADY STATED THAT WHAT HE SAW WERE WASHERS, NOT MAGNETS IN THE BACK OF TRENKLER'S CAR THAT HE NEVER SAW A TOY [REMOTE CONTROL JEEP] CAR IN THE BACK OF "ALFRED'S CAR" AND THAT THERE WAS NEVER ANY EXPLOSION IN THE BLUE HILLS.

THE GOVERNMENT USED THE MAGNET STORY TO SHOW DEFENDANT'S ALLEGED FAMILIARITY WITH ROUND MAGNETS, THE REMOTE CONTROL TOY CAR TO SHOW AN ALLEGED "LONG STANDING INTEREST IN REMOTE CONTROL" AND THIS COURT USED COADY'S EXPLOSION IN THE BLUE HILLS STORY IN ITS SENTENCING BY STATING ["] AS THE EVIDENCE SHOWED [THIS WAS] NOT THE FIRST, NOT THE SECOND, BUT THE THIRD BOMB."

MICHAEL COADY STATED TO DAVID WALLACE THAT IF HE COULD BE GIVEN IMMUNITY FROM PROSECUTION FOR PERJURY HE WOULD TELL THE TRUTH ABOUT HIS ACQUAINTANCE WITH DEFENDANT TRENKLER.

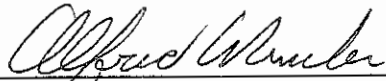
WHY WAS THIS CLAIM NOT PREVIOUSLY PRESENTED?

COADY'S STATEMENTS CANNOT BE MORE FULLY EXPLORED UNLESS IMMUNITY FROM PROSECUTION FOR PERJURY CAN BE GIVEN TO COADY.

AT THIS TIME COADY'S STATEMENTS CAN ONLY BE REFLECTED UPON BASED ON THE TWO INCLUDED AFFIDAVITS.

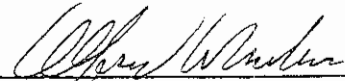
FINALLY, PETITIONER PRAYS THAT THIS COURT WILL GRANT HIS PETITION AND FIND THAT THE NEW EVIDENCE PRESENTED WARRANTS A VACATION OF THE CONVICTION IN THIS CASE AND GRANT HIM A NEW TRIAL, OR, IN THE ALTERNATIVE, TO ORDER THE PRODUCTION OF PHYSICAL EVIDENCE HELD BY THE UNITED STATES IN ORDER TO FORENSICALLY IDENTIFY THE OWNER OF FINGERPRINTS AND OR ANY DNA IN ORDER TO PROVE PETITIONER'S ACTUAL INNOCENCE.

RESPECTFULLY SUBMITTED

  
ALFRED W. TRENKLER, PRO SE

CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY THAT I HAVE CAUSED THE MAILING OF THIS PETITION TO THE UNITED STATES DISTRICT COURT, OFFICE OF THE CLERK FOR THE DISTRICT OF MASSACHUSETTS, JOHN JOSEPH MOARLET COURTHOUSE, 1 COURT HOUSE WAY, SUITE 2300, BOSTON MASSACHUSETTS, 02210 ON THIS 14 TH DAY OF OCTOBER, 2007.

  
ALFRED W. TREMKLER

---

CASE MANAGER

**K. McMahan, Case Manager**  
Authorized by the Act of July 7,  
1955, as amended to administer  
oaths (18 USC 4004).

*LM*  
10/14/07