



UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
) Criminal No.:
) 92-10369-Z
vs.)
)
ALFRED W. TRENKLER)

DEFENDANT'S MOTION TO STRIKE
TESTIMONY OF MICHAEL COADY

Now comes defendant, Alfred W. Trenkler, and moves this Court to strike the testimony of Michael Coady.

In support of this motion, defendant states that this Court previously excluded the government's proffered 404(b) evidence regarding defendant's alleged "solicitation of teenage males as companions and sexual partners, including his willingness to provide them with money, drugs, other material goods, and the performance of personal favors to induce and/or maintain the relationship." See Transcript, pp. 5-135, line 18, through 5-136, line 12 (Exhibit A).

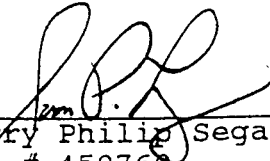
Thereafter, defendant filed a "Motion *In Limine* To Exclude Any Testimony By Michael Coady Which Relates To The 404(b) Evidence Previously Excluded By This Court". This Court ruled that no ruling was necessary because the "gov't agrees not to question in the objected areas." See Court's Ruling (Exhibit B). The objected areas included defendant's "willingness to provide [teenage males] with money, other material goods, and the performance of personal favors to induce and/or maintain the relationship."

The sum and substance of Mr. Coady's testimony was that the defendant provided him with money, other material goods, and the performance of personal favors (i.e. paying for a vacation in California) when Mr. Coady was a teenager. Mr. Coady further testified that he lived with defendant when he was only fifteen and one-half years old. The clear inference that can be drawn from this evidence is the same inference that this Court prohibited when this evidence was proffered by the Government under Rule 404(b). That is, defendant had young teenage male companions who he was willing to provide with money and other material goods to induce or maintain the relationship.

Given this Court's previous ruling on this evidence under Rule 404(b), defendant's objection to Mr. Coady's testimony *in limine*, the government's representation that it would not question in the prohibited areas, the clear purpose of Mr. Coady's testimony, and the inference that will be drawn by the government therefrom (i.e. defendant's motive with Shay, Jr.), defendant requests Mr. Coady's testimony be stricken.

WHEREFORE, defendant respectfully requests this Court to strike Michael Coady's testimony in its entirety, and to instruct the jury to disregard it during their deliberations.

Respectfully submitted,
For the Defendant,
ALFRED W. TRENKLER,
By his attorneys,

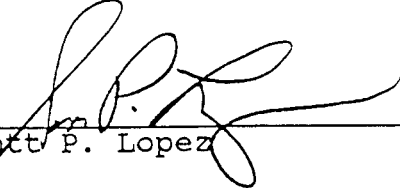


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Dated: November 12, 1993

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each party by hand on November 12, 1993.



Scott P. Lopez

1 that.

2 MR. SEGAL: That's what it was in the first trial and
3 that's the purpose.

4 MR. LIBBY: It wasn't used in the trial for any
5 evidentiary value. Your Honor, I had it marked for
6 identification because counsel was waving it in front of the
7 jury. Now, for any meeting here I understand he may be able
8 to establish this foundation for Mr. Waskom. You know simply
9 it's out in there in the public somehow.

10 THE COURT: Hold it. You will have the weekend.
11 Mr. Waskom will have the weekend to look at it so he can then
12 examine about it. But in the future, Mr. Segal please don't
13 show the jury something until we have decided whether the jury
14 can or cannot see it. That takes care of that.

15 There are some other motions. You can be seated if
16 you wish.

17 MR. SEGAL: Thank you.

18 THE COURT: One of them is the defendant's motion in
19 limine to exclude certain other 404(b) evidence. It is in
20 several parts. One of them has to do with evidence of the
21 alleged solicitation by the defendant of teenage males. I
22 allowed that motion in limine with respect to that because
23 unlike the cases cited by the Government, in this case the
24 defendant's homosexuality is not a central issue in the case,
25 and the evidence -- apart from the fact of not being

1 particularly probative -- is unfairly prejudicial.

2 The second item there was the defendant's alleged use
3 of drugs, I think for the same purpose apparently,, I find
4 that irrelevant as well, and certainly prejudicial in today's
5 environment. With respect to the third element, the alleged
6 electronic eavesdropping on the roommate and the hot wiring of
7 the garage door, that is, without question, relevant on the
8 issue of the defendant's knowledge and expertise with respect
9 to electronics in general. As I understand it, the
10 Government's ample evidence of such knowledge that doesn't
11 carry the same baggage of prejudice, and is in any event
12 closer to the mark. There is for example -- oh, do sit down.

13 MR. LOPEZ: Your Honor, I wanted to note in the
14 Government's brief, C D and E have been waived. The only
15 question is with respect to B and instead of putting findings
16 they've already waived. I thought I would bring that to the
17 Court's attention.

18 THE COURT: There remains also the Government's
19 motion to reconsider the allowance of Mr. Shay's motion to
20 quash the subpoena. I have reviewed the Government's
21 submission and read the cases that were cited, and I am
22 persuaded that I was in error about the effect of the immunity
23 order, that is the order does protect Mr. Shay against the use
24 of any testimony that he will give here in both any possible
25 subsequent state prosecutions as well as any federal

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FILED IN OPEN COURT

DATE: 11-8-93

CA

Deputy Clerk

UNITED STATES OF AMERICA)

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ALFRED W. TRENKLER)

Criminal No.:
92-10369-Z



DEFENDANT'S MOTION IN LIMINE TO EXCLUDE
ANY TESTIMONY BY MICHAEL COADY WHICH
RELATES TO THE 404(b) EVIDENCE
PREVIOUSLY EXCLUDED BY THIS COURT

Now comes defendant, Alfred W. Trenkler, and moves this Court to exclude any and all testimony by Michael Coady which relates to the 404(b) evidence previously excluded by this Court.

In support of this motion, defendant states that this Court previously excluded the government's proffered 404(b) evidence regarding defendant's alleged "solicitation of teenage males as companions and sexual partners, including his willingness to provide them with money, drugs, other material goods, and the performance of personal favors to induce and/or maintain the relationship." See Transcript, pp. 5-135, line 18, through 5-136, line 12 (Exhibit A). As is clear from Agent Leahy's interview of Mr. Coady attached hereto as Exhibit B, Mr. Coady's expected testimony relates almost entirely to the issue this Court has previously deemed unfairly prejudicial (i.e. alleged solicitation of teenage males by defendant), or the 404(b) issues the government previously waived.

No ruling necessary; gov't agrees not to question in the objected to areas
R. W. Zobel

11/7/11