



UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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

DEFENDANT'S MOTION TO STRIKE
SIGNATURE TESTIMONY OF THOMAS WASKOM

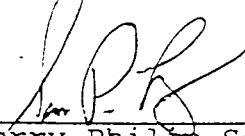
Now comes defendant, Alfred W. Trenkler, and moves this Court to strike the signature testimony of Thomas Waskom.

In support of this motion, defendant states, as more particularly set forth in Section B (subpart 2) of defendant's memorandum in opposition to the government's motion *in limine* to admit evidence of 1986 bombing, which subpart is attached hereto as Exhibit A, there was a clear lack of chain of custody and/or foundation for admission of this evidence. Specifically, there has been no evidence which establishes that the debris the late Leo Voght delivered to the State Lab some six weeks after the Quincy incident were in fact the materials he personally removed from the scene on or about September 1, 1986. The only person who can attest to this chain of custody is deceased. This is not a situation where the chain of custody is broken, or weak; rather, this is a situation where no chain of custody has been established in the first instance. Compare United States v. Abreu, 952 F.2d 1458 (1st Cir. 1992) (witness able to identify shotgun as the same one he seized by identifying the evidence tag which he placed on

the gun at the time of its seizure and by his signature which appeared on the tag); United States v. Ladd, 885 F.2d 954 (1st Cir. 1989) (parties stipulated that certain blood samples were drawn from corpse and delivered to state lab). Since no chain of custody has been established in the first instance, there is an inadequate foundation for admission of this evidence.

WHEREFORE, defendant respectfully requests this Court to strike Thomas Waskom's signature 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,

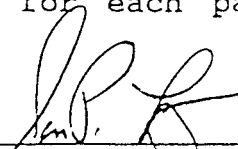


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Dated: November 14, 1993

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 14, 1993.



Scott P. Lopez

In connection with its 1986 proffer, the government (see pp. 5-6 of the government memorandum) also relies on the testimony of Todd Leach, then 11 or 12 years old, who will, according to the government's memorandum (at p. 6) testify:

Trenkler drove this same individual (Todd Leach) to a nearby Radio Shack store and handed him a piece of paper containing a hand-written list of items which the individual was to purchase; Trenkler ultimately joined this individual inside the store, picked out certain electronic items, paid for them, and left.

In his grand jury testimony (Exhibit I), Mr. Leach also indicates he went with Al and Bob to the Radio Shack to buy parts for the 1986 device (pg. 17).

Donna Shea, however, testified at the grand jury (Exhibit J), that she was with defendant when he bought the components for the '86 device at the Radio Shack (pp. 16-19). Bob Craig, the "Bob" Todd Leach referred to, testified at the grand jury (Exhibit H) that he was not even present when Al purchased the parts for the '86 device, and has no idea whether Al Trenkler relied upon anybody else to help him obtain the parts (pp. 22-23).

2. Since the 1986 device was destroyed 7 years ago, and Leo Voght is dead, there is an inadequate foundation and/or chain of custody to allow comparison of the two devices.

The 1986 explosion occurred on September 1, 1986. According to the Quincy Police Department report (Exhibit G), of the first officer on the scene:

Capt. Powell was on scene along with Leo Voit (sic) from the State Police. Mr. Voit (the state bomb technician) took all the remains of the bomb with him. Mr. Voit states that the explosion was an artillery

simulator, often used by the National Guard, he does not know what the batteries and other articles were used for since the simulator has a pin like a grenade, no need for wires or batteries has a 5-10 second delay once pulled.

According to the Massachusetts Department of Public Safety lab report (Exhibit K), it was not until 6 weeks after September 1, 1986, that the state explosives technician, the late Leo Voght, delivered to the lab "a sample of debris which had been removed from the scene of the above explosion." Interestingly, Mr. Voght, who saw the '86 device, indicated, contrary to the government's opinion, that the '86 device was an artillery simulator, often used by the National Guard, and was designed to be initiated by non-electric means. Thus, defendant submits there is an inadequate foundation and/or chain of custody to allow a comparison of the two devices.

3. Admission of the 1986 modus operandi could result in a mistrial if the government cannot prove defendant was at or near the Radio Shack, at 2:30 pm on October 18, 1991.

As is clear from its 404(b) memorandum and its demand for notice of alibi by defendant (Exhibit L), unless the prosecution can put Alfred Trenkler in the immediate vicinity of the Radio Shack at 197 Massachusetts Avenue in Boston on October 18, 1991, at 2:30 pm, admission of the 1986 incident *modus operandi* could result in a mistrial.

To admit the 1986 evidence, and then not be able to place defendant at the Radio Shack on October 18, 1991, at 2:30 pm, creates the same type of prejudice the First Circuit said in

NARRATIVE

CASE REPORT | ARREST REPORT

CASE #



VICTIMS NAME (LAST, FIRST, MIDDLE)
OR FIRM NAME IF A BUSINESS JAMES

LOCATION OF INCIDENT
HOUSE NO., ST. NAME

Wojtasinski

295 WILLARD ST

9-1-86

BLOCK NO.

INDICATE BLOCK NO. IN LEFT MARGIN FROM INVESTIGATIVE CASE REPORT

On the Above date At

Approximately 2:06 AM while assigned to the
A-1 CAR, officer Barnes + I received a
call to go to the above address on a
call of an explosion. Officers Gibbons
+ Dowling were at a call at 7-11
Copelands stated that the explosion
caused the building to shake.

Upon arrival we observed
what appeared to be the remains of
a bomb which had gone off under
a truck owned by the above named
victim MASS Reg # 60494

1983 Ford F350 - (Box Truck)
(Capway Fish Mkt written on sides)

No visible damage to truck.

* Identifiable objects from Bomb - 2 AA
BATTERIES - 1 small toggle switch -

small gage wire, piece of heavy steel
covered with duct tape believed to of
been the cover (steel cap found out to be magnet)

The victim states that he
has been having trouble with a

John + Donna Shea from 427 Lake
st Weymouth A little over a

week ago the victims tires on

REPORTING OFFICER(S)

BADGES # (S)

SUPERVISOR

Peter Lencowski

#133

CASE # 9-1-86

QUINCY POLICE DEPARTMENT NARRATIVE REPORT

NARRATIVE

CASE REPORT
ARREST REPORT

CASE # 267-273

VICTIMS NAME (LAST, FIRST, MIDDLE) OR FIRM NAME IF A BUSINESS	JAMES Wojtasinski	LOCATION OF INCIDENT HOUSE NO., ST. NAME	295 WILLARD ST	DATE OF INCIDENT	9-1-86
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BLOCK NO. INDICATE BLOCK NO. IN LEFT MARGIN FROM INVESTIGATIVE CASE REPORT

his truck were slashed believed to
of been done by the Sheas. The victims
wife stated that a party named
DAVID NOONAN of Lake St way usually
does the dirty work for the Sheas.
Mr Wojtasinski states that the
Sheas are cocaine dealers and that
they do not hold ordinary jobs
Last night the victim
received a call from the Sheas
stating that he was dead & his
kids would also be dead. The victim
states that he has made several complaints
to the Way PD regarding the Sheas.
The victim states that this all
started because the Sheas m/t tires
were slashed & they believed that Mr
Wojtasinski did it.

Something peculiar about this
is that the victim seems to know
an awfully lot about the bomb
type & what it was made from.
The deputy of the FD feels that the
victim may have done it himself.

Capt Powell was on
scene alone with less unit from

REPORTING OFFICER(S)	BADGES # (S)	SUPERVISOR
Peter Lewowski	# 132	

NARRATIVE

CASE REPORT ARREST REPORT

CASE # 001 - 11

VICTIMS NAME (LAST, FIRST, MIDDLE)
OR FIRM NAME IF A BUSINESS

LOCATION OF INCIDENT
HOUSE NO., ST. NAME

DATE OF INCIDENT

Wojtasinski - JAMES

295 WILLIAMS ST

9-1-86

BLOCK NO. INDICATE BLOCK NO. IN LEFT MARGIN FROM INVESTIGATIVE CASE REPORT

the state Police. Mr. Vost took
 all the remains of the bomb with
 him. Mr. Vost stated that the
 explosive was a artillery simulant,
 often used by the National Guard, he
 does not know what the batteries &
 other articles were used for since the
 simulant has a pin like a grenade, and
 need for more batteries has a
 5-11 serial delay time.

Diana then was a part
 employee of the machine she was
 paid for dealing machine case
 the counter. Mr. Wojtasinski has
 a restraining order against her, Mr. P
 has a copy. The phone at the
 Cape was not being tapped
 375-4281 + 375-4282

REPORTING OFFICER(S)

BADGES # (S)

SUPERVISOR

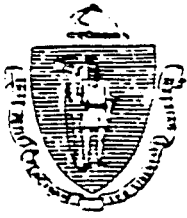
Peter L... # 133

PAGE 7 OF 7 PAGES

QUINCY POLICE DEPARTMENT NARRATIVE REPORT

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The Commonwealth of Massachusetts
Department of Public Safety



1010 Commonwealth Avenue, Boston, Ma. 02215

November 20, 1986

LAB.NO. F86-1210 - Examination of Material in
Connection with Explosion on Truck in driveway
at 295 Willard Street, Quincy on September 1,
1986.

On October 17, 1986, Explosives Technician Leo Voght of the Division of Fire Prevention delivered to this laboratory a sample of debris which had been removed from the scene of the above explosion.

Examination was to be made for evidential traces and explosive residues in this debris which was submitted by Explosive Technician Leo Voght and Detective William Lanergan of the Quincy Police Department.

EXAMINATION

Gross and microscopic examination revealed that the submitted sample of debris consisted of the following:

a) Remains of an "Artillery Flash Simulator":

1. Two partially-blackened pieces of an approximately 2½"-long x 1½"-diameter, translucent plastic tube having a wall thickness of about 1/16". Chemical and energy dispersive x-ray examination of deposits on the inside surfaces of the pieces of plastic identified the following ingredients: aluminum, barium, and the nitrite and sulfide ions.
2. Two partially-blackened pieces of an approximately 4"-long x 1 3/4"-diameter, brown-and-grey cardboard tube having a wall thickness of about 1/8".
3. Six partially-blackened pieces of an approximately 4½"-long x 2"-diameter white plastic tube which had a wall thickness of about 1/8" and was labelled in black "SIMULATOR FLASH ARTILLIARY: LOW 84H008". A series of longitudinal raised ribs was present on the inside surface of the plastic tube which had four 1" x 1" x 1/8"-thick plastic protuberances on the surface about 9/16" from one end.
4. Two partially-blackened pieces of an approximately 1 7/8"-diameter x 1/16"-thick, translucent plastic disc.

5. A two-prong plug consisting of a white plastic housing with two 3/8"-long x 3/32"-diameter cylindrical prongs on one side and two sections of white-insulated wire on the opposite side.

b) Portions of a radio signal receiver:

1. An approximately 2 1/2" x 3" x 3/4"-thick portion of a black plastic housing which was labelled "TYOO R/C MADE BY TAIYO IN KOREA" and contained one size AA "Rayovac" battery.
2. Three size AA "Rayovac" batteries.

c) Two 6-volt "Duracell" batteries: Two 1 3/8" x 1 7/8" x 5/16"-thick batteries labelled "6 VOLT DURACELL SIZE J BATTERY 7K67". Soldered to the terminals of one battery were the following sections of wire: a 3 3/4"-long section of grey-insulated, 22-gage stranded copper wire attached to the positive terminal; and a 1 1/2"-long section of dark-blue insulated, 26-gage stranded copper wire attached to the negative terminal.

d) Microswitch with wiring attached: A double-throw toggle switch which was labelled "MICROSWITCH 6ATI-T2" and had three terminals on the bottom. The position of the switch closed the circuit to two of the terminals to which were soldered the following sections of grey-insulated, 22-gage stranded copper wire:

1. An approximately 9"-long section with one end soldered to the central terminal. Adherent to a blob of solder on the free end of the wire were several strands of 0.005"-diameter copper wire consistent with 26-gage wire.
2. An approximately 9"-long section with one end soldered to an outside terminal, the free end of the wire had solder on the surface.

A 3 1/2"-long section of 26-gage, dark-blue insulated, stranded copper wire was taped to the surface of the above wires by a wrapping of 3/4"-wide black vinyl tape located about 1 1/2" from the switch.

Taped to the surface of wires (1) and (2) by several wrappings of black vinyl tape was an approximately 19"-long section of grey-insulated, 22-gage stranded copper wire having solder on each end and a tape wrapping on the surface. Removal of the tape wrapping revealed that the 19"-long section of wire was composed of two sections of wire which had lengths of about 9" and 10", respectively, and had been soldered together. One end of an approximately 1"-long section of dark-blue insulated, 26-gage stranded copper wire had been soldered to the junction of those wires.

e) Circular magnet: An approximately $4 \frac{7}{16}$ "-diameter x $\frac{1}{2}$ "-thick circular magnet which had a $4 \frac{3}{16}$ "-diameter x $\frac{1}{8}$ "-thick steel plate on each circular surface. The exposed surface of one plate had been covered with superimposed layers of 2"-wide aluminum-colored tape.

f) Miscellaneous material:

1. An approximately $75 \frac{3}{4}$ "-long section of grey insulated, 22-gage stranded copper wire having solder on one end.
2. An approximately 2"-long section of dark-blue insulated, 26-gage stranded copper wire having a $\frac{1}{4}$ "-long x $\frac{1}{32}$ "-wide curved strip of brass soldered to one end.
3. Several superimposed pieces of aluminum-colored tape to which was adherent an approximately $2\frac{1}{2}$ "-long section of dark-blue insulated, 26-gage stranded copper wire.
4. A torn piece of $\frac{3}{4}$ "-wide black vinyl tape to which was adherent three fragments of an approximately $\frac{1}{32}$ "-thick blue plastic housing.

CONCLUSION

The submitted sample of debris consisted of the following articles which are described in detail above: (a) the remains of an "Artillery Flash Simulator" originally charged with an explosive mixture of aluminum dust, barium nitrate, and sulfur; (b) portions of a battery-operated radio signal receiver; (c) two 6-volt "Duracell" batteries and wiring; (d) a double-throw microswitch with wiring attached; (e) a circular magnet with aluminum-colored tape on one surface; and (f) miscellaneous material consisting of pieces of wire and tape and fragments of a blue plastic housing.

FRH/lp
Report to: Expl. Techn. Voght
Division of Fire Prevention

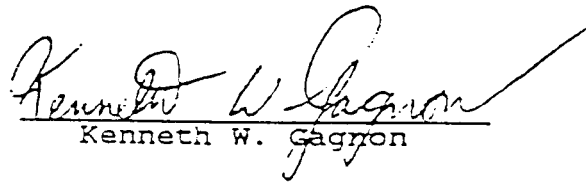
cc: Det. William Lanergan
Quincy Police Dept.

Francis R. Hankard
Francis R. Hankard
Assistant Chief of Laboratory
Crime Laboratory

F86-1210

January 15, 1992

I, Kenneth W. Gagnon, do hereby affirm the attached to be a True Copy of the laboratory record of the results made on Lab.No.: F86-1210, an Explosion on Truck in driveway at 295 Willard Street, Quincy on September 1, 1986.

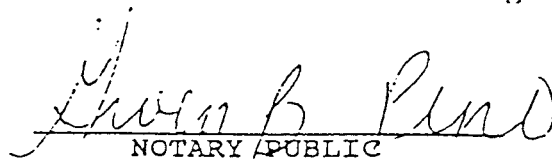

Kenneth W. Gagnon

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Kenneth W. Gagnon, whom I know to be a Chemist of the Massachusetts Department of Public Safety Crime Laboratory appeared before me and affirmed the attached to be a True Copy of the laboratory record of the results made on Lab.No.: F86-1210, an Explosion on Truck in driveway at 295 Willard Street, Quincy on September 1, 1986.

Sworn and subscribed to before me this 15th day of January 1992.


NOTARY PUBLIC

My commission expires: April 22, 1994