

ALFRED W. TRENKLER

SERVING A LIFE SENTENCE FOR A CRIME HE DID NOT COMMIT

IMPORTANT FACTS THE JURY DID NOT HAVE WHEN THEY ARRIVED AT A
GUILTY VERDICT

1. EXIS

The district court abused its power in admitting the EXIS - derived evidence to prove the identity of the builder of the Roslindale bomb. (U.S. Court of Appeals for the First Circuit).

The majority found the error harmless beyond a reasonable doubt. How could it be harmless when the jury was told that out of 14, 252 bombings and attempted bombings, only the Roslindale and Quincy devices share the same characteristics?

The facts indicate that the EXIS test was skewed to find a match between the Quincy and Roslindale incidents. (Chief Judge Torruella U.S. Court of Appeals for the First Circuit).

2. DR. THOMAS PHILLIPS

The district court erred in not allowing Shay's psychiatrist, Dr. Phillips, to testify that Shay suffered from a mental disorder which caused him to tell grandiose, self-incriminating lies. Secondly, that exclusion of such testimony was not harmless in light of importance of defendant's statements to government's case. (U.S. Court of Appeals for the First Circuit).

3. DAVID LINDHOLM

David Lindholm was released from prison after serving only 3 1/2 years of an approximate 8 year prison term for conspiracy to distribute marijuana (22 1/2 tons into Massachusetts in the 1980's) and income tax evasion.

The majority felt that David Lindholm had convincingly testified that Alfred had admitted building the Roslindale bomb (U.S. Court of Appeals for the First Circuit).

The jurors did not agree as some felt Lindholm's testimony was very important, while others did not. Also the jury was unaware that Lindholm did not miss the transport van to Middleton, but was deliberately sent to the Plymouth County Sheriff's Department for housing over the week-end. (One of the Marshal's comment to Alfred's trial attorney after the trial).

4. ATF AGENT THOMAS D'AMBROSIO

At the trial, D'Ambrosio testified that Trenkler drew a diagram which showed two (2) blasting caps inserted into two (2) sticks of dynamite.

Besides the fact that the ATF never produced the diagram at the trial, the following facts are contrary to D'Ambrosio's testimony:

a. The DETONATOR, official publication of the International Association of Bomb Technicians and Investigators, reported in its November - December, 1991 issue that the Roslindale device consisted of three (3) to four (4) sticks of dynamite, not two (2) as D'Ambrosio testified.

b. The FBI File # 184B-BS-59917 on Alfred Trenkler reported that they found three (3) blasting caps at the bomb site, not two (2), as D'Ambrosio testified.

5. INTENT

Trenkler's contention with respect to intent stands on firmer ground. We have some difficulty comprehending (and the government does not clearly articulate) any theory of "special relevance" tending to show intent that does not depend heavily on an inference of propensity. (U.S. Court of Appeals for the First Circuit).

6. 1986 INCIDENT

The Court of Appeals disagreed with the district court that the evidence of the 1986 incident did not pose any risk of unfair prejudice to the defendant. (U.S. Court of Appeals for the First Circuit).

One juror said the evidence about the 1986 bombing was "very decisive in the jury's finding."

7. SIGNATURE ISSUE

The court admitted the signature issue in Alfred's trial but specifically found in the Shay trial that the 1986 device was "not so unusual and distinctive as to be like a signature." The Court of Appeals opinion was that the evidence could have been more compelling. (U.S. Court of Appeals for the First Circuit).

In effect, admission of the 1986 evidence on the signature issue permitted the jury to draw the improper propensity inference, and resulted in the deprivation of defendant's constitutional right to a fair trial.

8. SHAY REMAND

On June 22, 1995, the Court of Appeals for the First Circuit remanded Shay's case to the district court for further proceedings consistent with this opinion.

On September 14, 1997, Judge Zobel ruled that she should have allowed testimony from a psychiatrist, Dr. Phillips, who believes Shay may have lied about his role in the bombing. Shay suffered from a mental disorder that caused him to tell self-aggrandizing lies.

The testimony would offer an alternative explanation for incriminating statements made to police and others.

A new trial was ordered for Thomas Shay scheduled for January 19, 1999.

9. SHAY CHANGE OF PLEA

On October 29, 1998, Shay entered a change of plea when he pled guilty resulting in a reduction in his sentence from 15 years and 8 months down to 12 years with credit for time served. Also 5 years of supervised release in a mental health program, as directed by the United States Probation Office.

In pleading guilty, Shay gave up all of his constitutional rights with the exception of right to counsel.

SUMMARY

I wish the jury would have the opportunity to read the opinions issued on July 18, 1995 by the Court of Appeals for the First Circuit.

The dissenting opinion by Chief Judge Torruella was far more convincing of Alfred's innocence than the majority opinion by Senior Circuit Judge Coffin and Circuit Judge Stahl was of Alfred's guilt.

DOES ANYONE FEEL THAT THE JURY WOULD HAVE ARRIVED AT A GUILTY VERDICT IF THEY KNEW THE ABOVE FACTS?