

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CRIMINAL ACTION NO. 92-10369-RWZ

UNITED STATES OF AMERICA

VS.

ALFRED W. TRENKLER

**Motion for a court order to review the evidence the ATF has from Mr. Trenkler's trial.**

The motion is to make arrangements for a fingerprint expert – Richard Whalen, 1-508-520-2254 – and myself to examine all of the evidence the ATF has in its possession. The purpose is take photographs and fingerprints of the remnants of the 1991 Shay bomb and all other evidence in the ATF's possession. Please order the ATF to preserve all of this evidence from the Trenkler trial.

The reason for my request is as follows:

Cynthia Wallace, ATF forensic chemist, incorrectly identified the two contacts found in the bomb debris as coming from a switch exclusively made for Radio Shack, Model No. 275-602.

We purchased a competitive toggle switch – Philmore No. 30219 – to compare with the Radio Shack switch No. 275-602. The two switches are identical with one major exception – the contacts of the competitive switch matched the contacts of the ATF evidence; the contacts of the Radio Shack switch did not match (See enclosure).

The Radio Shack switch was the basis for a conspiracy between Alfred Trenkler and Thomas Shay. The court acknowledged the reliability problem associated with the testimony of Thomas Shay. The court's concern was that it is highly crucial evidence – "It is the evidence on the issue of conspiracy."

The incorrect identification of the toggle switch caused other members of the prosecution team to offer testimony or statements which were incorrect:

Thomas H. Waskom – ATF Explosive Enforcement Officer.

"He knows it is a Radio Shack toggle switch from reading Ms. Wallace's report and from going and seeing the item at Radio Shack himself. He also observed that the packaging said that it was exclusively made for Radio Shack."

Dennis Leahy – ATF Special Agent

Mr. Leahy had received information that a toggle switch from Radio Shack was found in the device. Untrue because only the two unmarked contacts were found.

They contacted Radio Shack and obtained a computer print out which showed a toggle switch No. 275-602 had been sold by the store at 197 Massachusetts Avenue in Boston. There was no address or telephone number on the print out to trace the purchase to Shay or anybody else. Mr. Leahy discovered a receipt at the store which Radio Shack headquarters had no record of. The receipt was improperly made out, plus none of the six (6) items listed in the receipt were found in the debris with the exception of the two contacts.

Paul V. Kelly – AUSA who prosecuted both cases – Trenkler and Shay.

"The chemist was able to identify the toggle switch from the bomb as model no. 275-602, a toggle switch, as you've heard, is custom manufactured for Radio Shack."

David Apfel, AUSA, at Shay change of plea and disposition proceedings.

"Thomas Shay purchased certain electrical components, including a toggle switch needed for the construction and testing of the explosive device."

Alfred Trenkler built a remote control explosive device consisting of dynamite, blasting caps and other materials including the toggle switch that Thomas Shay has purchased from Radio Shack on October 18, 1991.

The explosives device was affixed to the undercarriage of the 1986 Buick automobile owned and operated by Thomas Shay, Sr.

"The evidence in the case would conclusively show all of these facts."  
A search for dynamite having been on the car proved negative.

In the Pre-sentence Report, the probation officer stated "It is unknown who actually affixed the bomb to the vehicle."

Kevin P. McGrath – AUSA

The ATF chemist identified the specific toggle switch used in the bomb as Model No. 275-602, a toggle switch which was custom manufactured for Radio Shack.

I am filing this motion pro se as Alfred's mother has spent \$625,000 in legal fees defending an innocent son who is serving two illegal life sentences for a crime he did not commit.

The prosecutors did not prove that Mr. Trenkler 1) entered into a conspiracy with Tom Shay (2) built the 1991 Shay bomb, (3) obtained the dynamite, (4) placed the bomb on Tom Shay's father's car and (5) activated the bomb the morning of the explosion.

Incidentally, the bomb exploded 10 minutes after Evelyn Pirrello and her son, Robert, saw Tom Shay, Sr. walk up the driveway holding an object in his right hand. She described the object as about one foot long, either 4 or 5 inches wide and flat. She said the object had a drab color. Shay, Sr's. description of the bomb: 1" thick, by 5" or 6" wide by 10" or 12" long.

Shay, Sr. was the only one there to activate the bomb as the batteries would have been dead if the device had been put on the car on Saturday or Sunday as the prosecution testified.

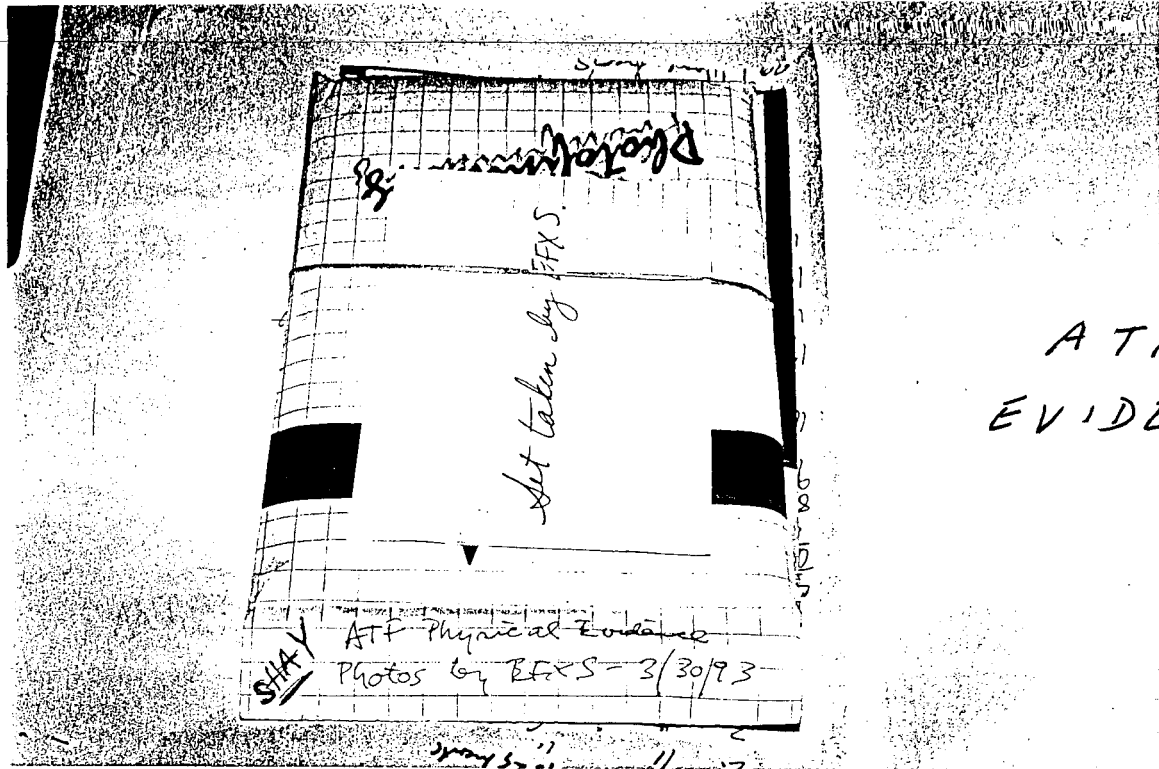
As Judge Torrella stated in his dissenting opinion "constitutional cases are governed by a stringent harmless error analysis – a conviction cannot stand unless the effect of the evidence is harmless beyond a reasonable doubt." It was not harmless. Under the harmless beyond a reasonable doubt standard, we must vacate the conviction if there is "some reasonable possibility the error of constitutional dimension influenced the jury." It did influence the jury.

Respectfully submitted by  
John D. Wallace Pro Se  
On behalf of Alfred W. Trenkler,  
My stepson.

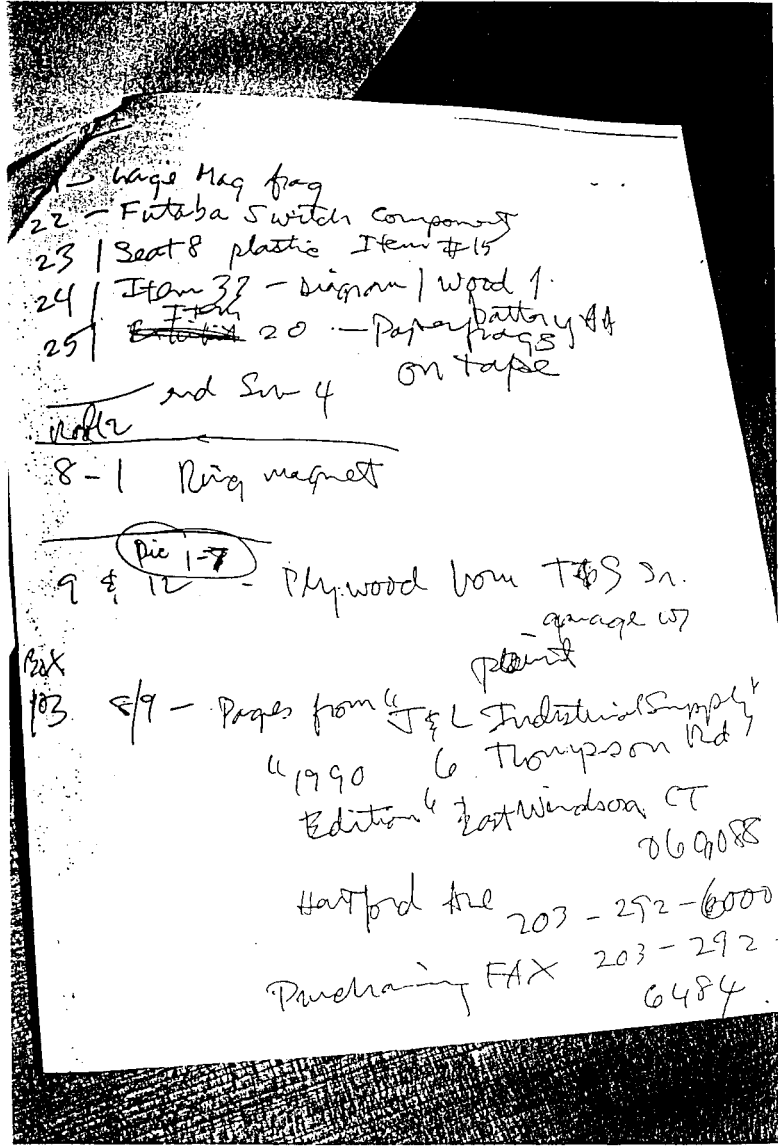
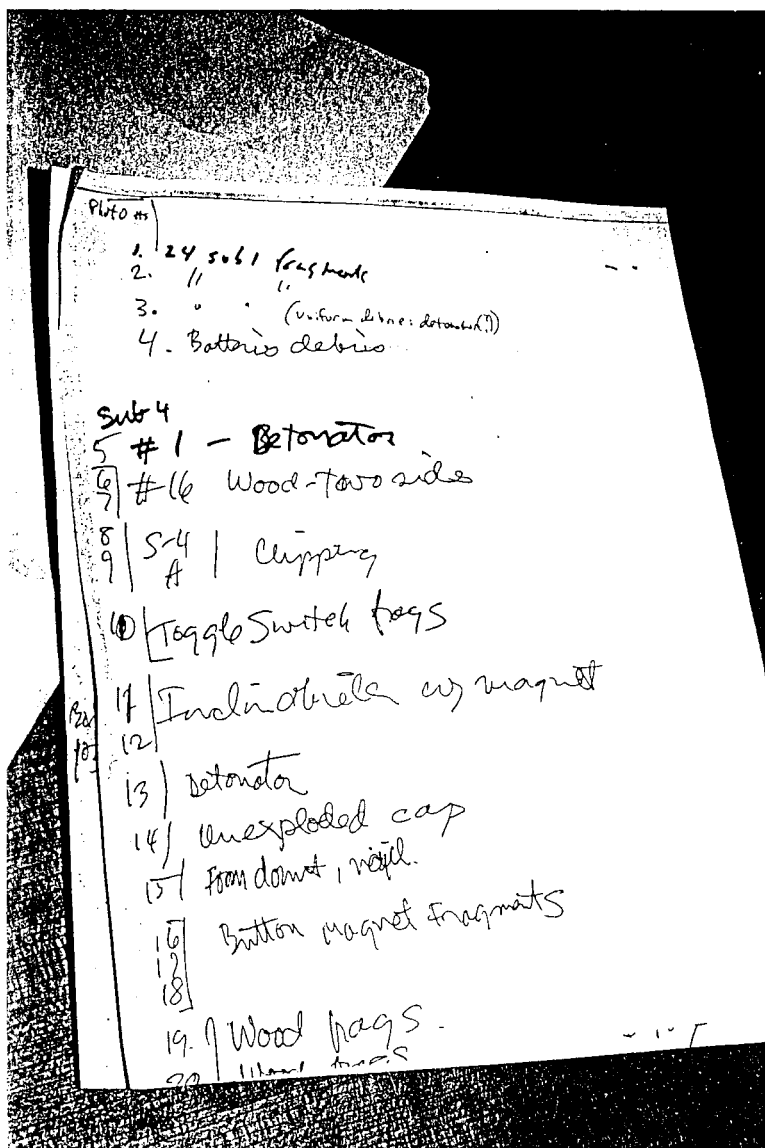
#### Certificate of Service

I do hereby certify that on this 28<sup>th</sup> day of June, 2006, I placed in the U.S. mail, first-class postage prepaid, a true and correct copy of this motion for delivery to:

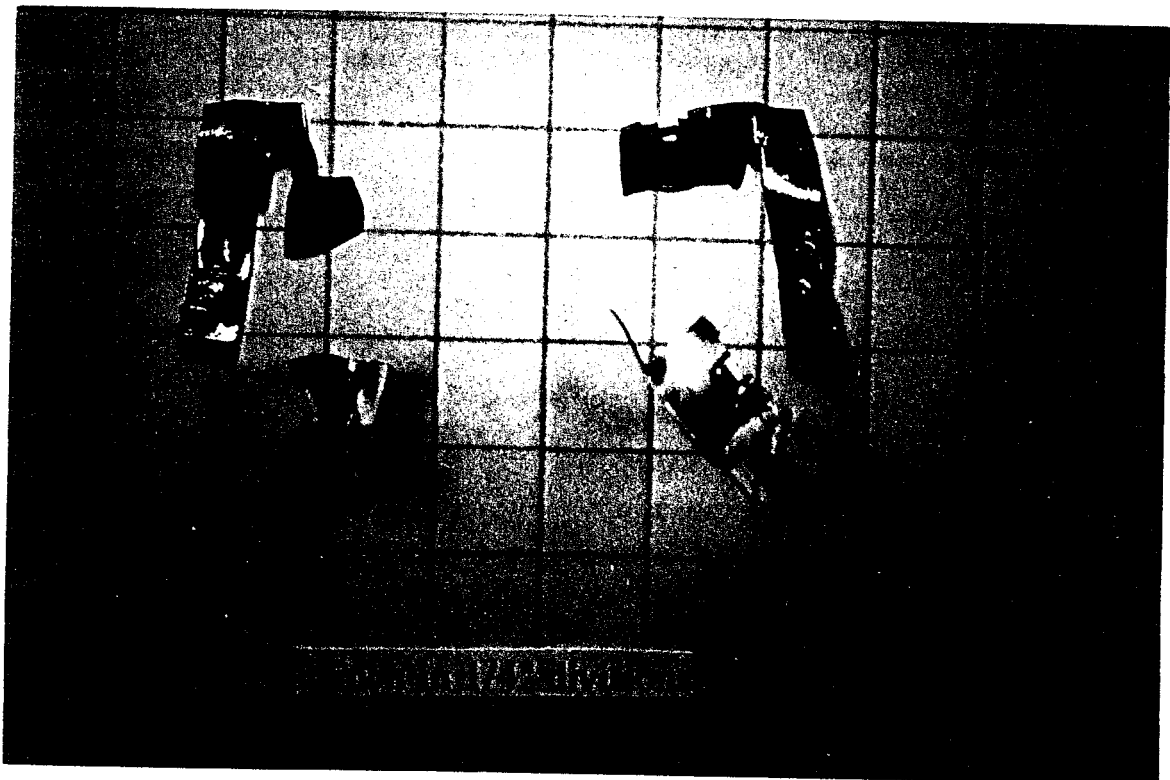
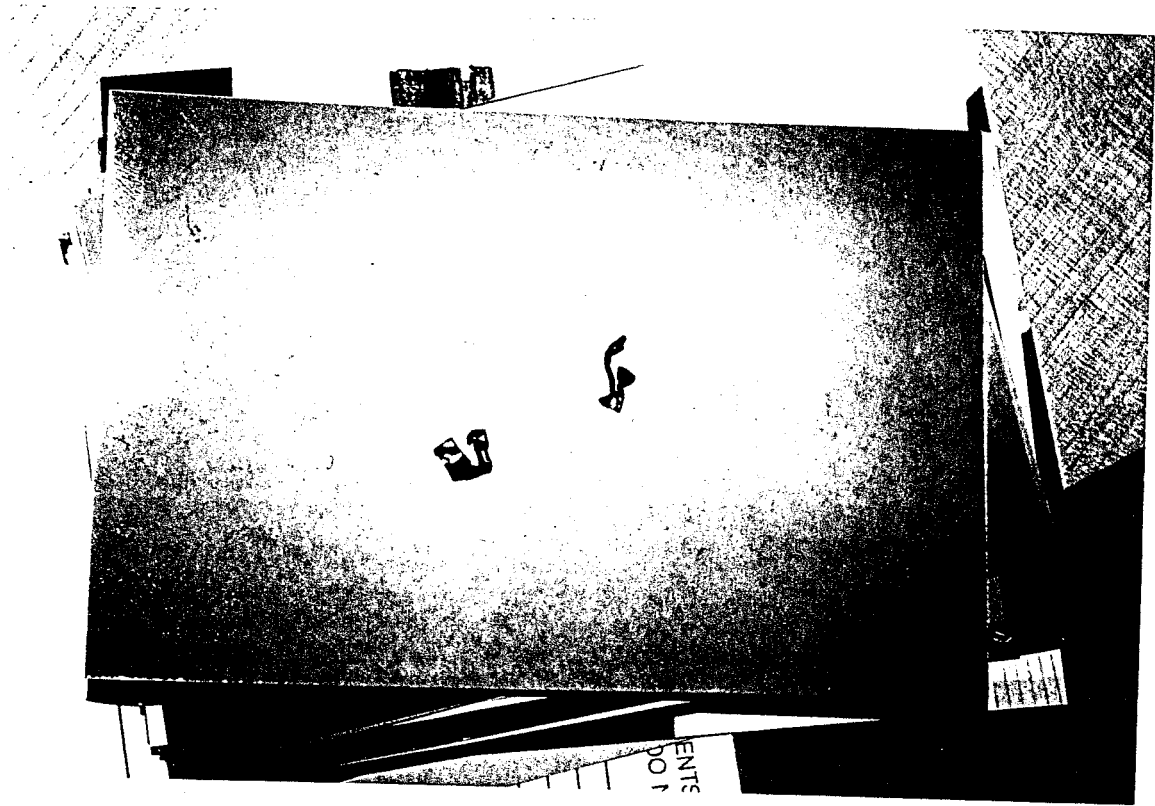
U.S. Attorney's Office for  
The District of Massachusetts  
One Courthouse Way, Suite 9200  
Boston, MA 02210



ATF  
EVIDENCE



ATF EVIDENCE



# TOGGLE SWITCH COMPARISON

<u>BRAND</u>	<u>RADIO SHACK</u>	<u>PHILMORE</u>
<u>CATALOG NO.</u>	275-602	30219
<u>TYPE</u>	SPST SINGLE POLE/ SINGLE THROW	SAME
<u>CURRENT RATING</u>	3 A 125 AC	SAME
<u>CASE</u>	SAME	SAME
<u>ON/OFF MARKING</u>	SAME	SAME
<u>TOGGLE</u>	SAME	SAME
<u>HEXAGONAL NUT</u>	SAME	SAME
<u>THREADS PER INCH</u>	SAME	SAME
* <u>CONTACTS</u>	TWO (2) DIFFERENT FROM CONTACTS RECOVERED	TWO (2) SAME AS CONTACTS RECOVERED
<u>COMPANY</u>	RADIO SHACK A DIVISION OF TANDY CORP. FT. WORTH, TEXAS	LKG INDUSTRIES ROCKFORD, IL.
<u>MANUFACTURER</u>	CUSTOM MANUFACTURED IN TAIWAN ROC FOR RADIO SHACK	MADE IN TAIWAN

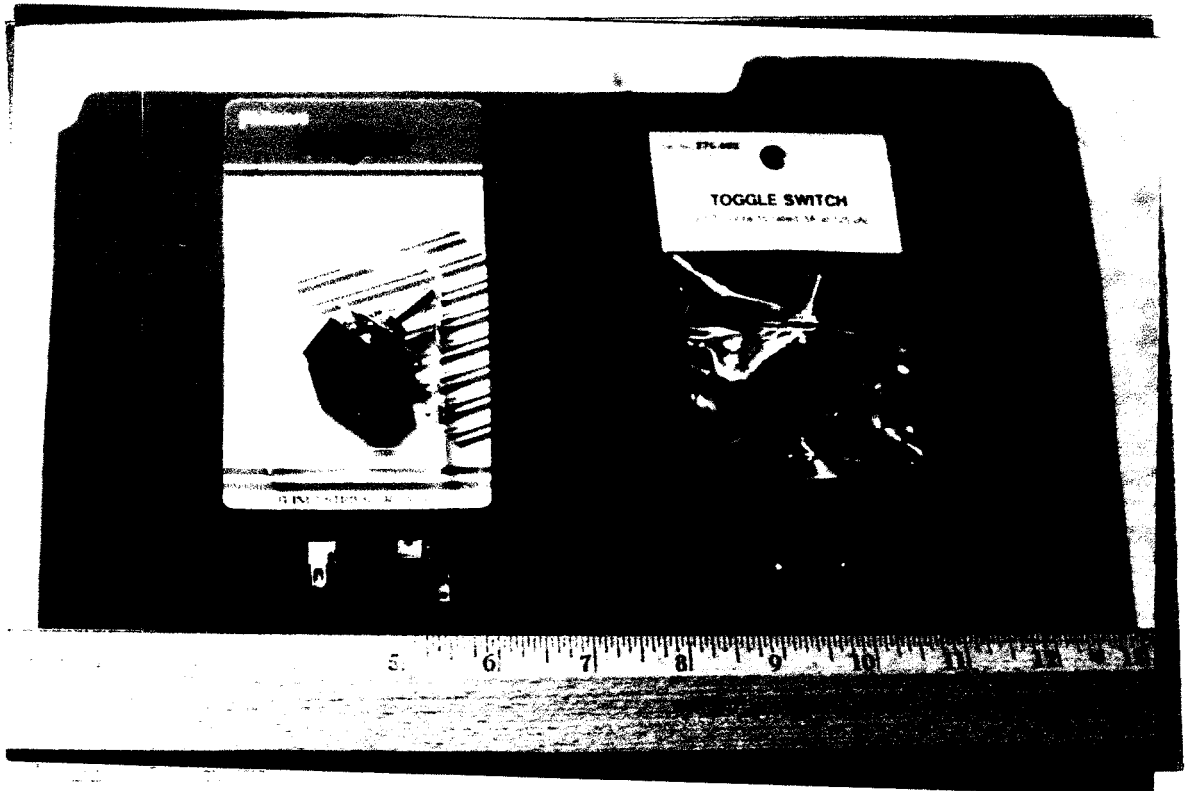
\* CONTACT COMPARISON BASED ON ATF PHYSICAL EVIDENCE OF CONTACTS RECOVERED ...

Date	Location	Explosive	Detonator	Switch	Fuzing System	Wire
Oct. 28th	39 Eastbourne Street Rosindale, MA Crime Scene - Device Explodes Sub. 1 (All); Sub. 1-4; Sub. 3 (Ex. 39-44); Sub. 4 (All except 30,31,32,54A-54B)	<i>Ammonia</i> <i>Dynamite</i> Sub. 1-1A-B Side of House Sub. 1-19A-B Dirt from Seat of Blast Sub. 4-1	<i>2-Austin</i> <i>Rock Star</i> <i>6 ms-delay</i> Yellow-red leg wires CU-23 gauge Sub. 4, Ex. 1	<i>Radio</i> <i>Shack</i> <i>SPST- Toggle</i> # 275-602 2 contacts only remain	<i>Futaba-Radio Controlled</i> Model # FP-R102JE 72 Mhz-Aircraft Only Complete system including: Receiver, Servo Battery Holder, Slide Switch Servo Label # FP-5148 (Indirect Drive) Servo Horn # FSH-6E Battery Holder #4M-3X4-6V	<i>Red/Black</i> CU-TCU Multistrand Consistent with Snap Connectors and Futaba Components <i>Black/Red/White</i> 3 Conductor CU Consistent with Futaba Components <i>White Multistrand</i> CU - Consistent with Futaba Antenna <i>Red</i> Large Multistrand Not consistent with Futaba Components No tool marks on wire

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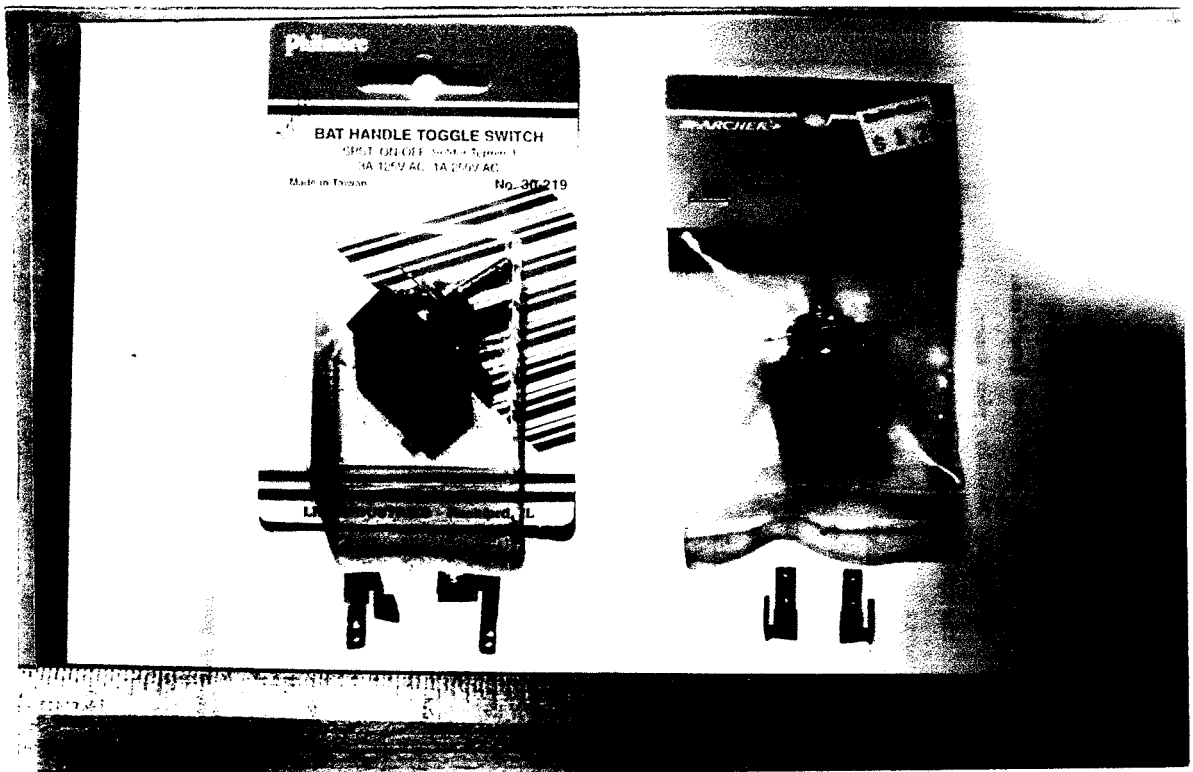


ATF EVIDENCE



CONTACTS SHOWN ABOVE ARE FROM  
PHILMORE TOGGLE SWITCH NO. 30219 NOT FROM  
RADIO SHACK TOGGLE SWITCH NO. 275-602  
AS THE GOVERNMENT TESTIFIED.

ATF EVIDENCE



THE 2 CONTACTS IN THE PHILMORE SWITCH ARE DIFFERENT FROM EACH OTHER WHEREAS THE 2 CONTACTS IN THE RADIO SHACK ARE THE SAME.