

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

vs.

THOMAS A. SHAY and
ALFRED W. TRENKLER

Criminal No.:
92-10369-Z

AFFIDAVIT OF SCOTT P. LOPEZ IN SUPPORT OF
DEFENDANT, ALFRED W. TRENKLER'S, MOTION FOR
RELIEF FROM PREJUDICIAL JOINDER AND SEVERANCE

Now comes Scott P. Lopez, and on my oath do hereby depose and say the following:

1. I am a duly licensed attorney in the Commonwealth of Massachusetts, and have been admitted to district bar of this district.
2. I am an associate with the firm of Segal & Feinberg.
3. Terry Philip Segal, Esq. and I represent Defendant, Alfred W. Trenkler, in this case.
4. Based on my review of the discovery provided to date, it is anticipated the government will introduce at trial extrajudicial statements of codefendant Thomas Shay which inculcate defendant.
5. Specifically, Shay has allegedly made statements to one Larry Plant, and others, which directly incriminate Trenkler. Should the Court desire, either the government or defendant will provide copies of said statements to the Court in camera. See Fed.R.Crim.P. 14.

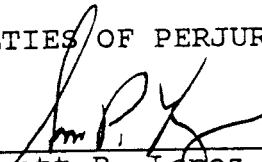
6. In the event defendant is tried jointly with Shay, and Shay fails to testify, Trenkler will be substantially prejudiced by the admission of these statements, and will be deprived of his right to a fair trial. See Bruton v. United States, 391 U.S. 123 (1968).

7. Moreover, nonprejudicial redaction of Shay's statements is not possible in the context of this case where only two (2) defendants have been charged. Regardless of how the statements are redacted, they will either prejudice Trenkler, Shay or the government. See Memorandum in Support of this motion, Part IV.

8. Since effective redaction is not possible, and no limiting instructions can cure the substantial prejudicial error that will result from the admission of Shay's extrajudicial statements at a joint trial, violation of the Bruton rule in this case will constitute reversible error.

14. Under these circumstances, defendant is entitled to relief from prejudicial joinder and severance of his trial.

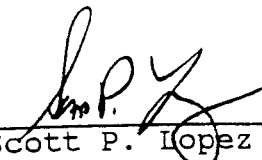
SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 12TH DAY OF FEBRUARY, 1993.



Scott P. Lopez

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 messenger on February 12, 1993.



Scott P. Lopez