

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
V.)
)
THOMAS A. SHAY)
_____)

No. 91-10206-W04

MOTION OF DEFENDANT THOMAS A. SHAY FOR DISCLOSURE
OF BAD ACTS, "SPECIFIC CONDUCT" AND CRIMINAL CONVICTIONS, IF ANY

Defendant Thomas A. Shay ("Shay") hereby moves this Court to order the government to disclose to him:

I. Federal Rule of Evidence 404(b):

1. The existence of any prior or subsequent bad acts or convictions of

- (a) Thomas A. Shay,
- (b) any co-defendants, or
- (c) any unindicted co-conspirators;

2. A statement of whether the government intends to offer, under Fed. R. Evid. 404(b) as set forth above in 1 (a) through (c), evidence of any such prior or subsequent bad acts against Shay, or any other current co-defendant during the trial of the instant Indictment, together with a description of the method or means by which the government intends to introduce such evidence, including but not limited to:

(a) providing the names and addresses of all witnesses which the government intends to call to offer such evidence.

United States v. King, 121 F.R.D. 277, 281 (E.D.N.C. 1988);

United States v. Baum, 482 F.2d 1325, 1332 (2d Cir. 1973);

See also United States v. Turkish, 458 F.Supp. 874 (S.D.N.Y. 1978), aff;d., 623 F.2d 769 (2d Cir. 1980); United States v. Price, 448 F.Supp. 503, 505 (D. Colo. 1978); United States v. Shoher, 555 F. Supp. 346, 354 (S.D.N.Y. 1983);

(b) the dates, times, places, and persons involved in said "other crimes, wrongs or acts";

(c) any statements of any participant in "other crimes, wrongs or acts";

(d) the issue or issues on which the government relies in its contention that such "other crimes, wrongs or acts" evidence is relevant and admissible under Fed. R. Evid.

404(b). United States v. Roybel, 566 F.2d 1109 (9th Cir. 1978); United States v. Stofsky, 409 F.Supp. 609 (S.D.N.Y. 1973).

3. Any documents, reports or statements of any such witness relating to, referencing, or regarding such bad acts or convictions, including when the documents were prepared, who prepared the documents and who has possession of the documents. See, e.g., United States v. Baum, 482 F.2d at 1332.

II. Federal Rule of Evidence 608(b)

1. To provide evidence of any "specific instances of conduct" of Shay as that phrase is used in Fed. R. Evid. 608(b).

(a) In regard to such notice, the government should identify and describe:

(i) the dates, times, places and persons involved in "specific acts of conduct";

(ii) the statements of each participant in any "specific act of conduct"; and

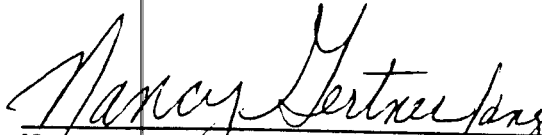
(iii) the documents which contain or evidence any "specific acts of conduct", including when the documents were prepared, who prepared the documents and who has possession of the documents.

III. Federal Rule of Evidence 609

1. To state whether or not the government intends to offer any evidence of any prior criminal conviction of Shay, should he testify, pursuant to Fed. R. Evid. 609, and, if so, to state the particulars of the conviction if any.

Respectfully submitted,

THOMAS A. SHAY
By his attorneys,


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Dated: March 2, 1993

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney or record for each other party

~~by mail~~ (by hand) on 3/2/93

