

NO. 94-1301

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

UNITED STATES OF AMERICA,
Appellee,

v.

ALFRED W. TRENKLER,
Defendant-Appellant.

DEFENDANT-APPELLANT ALFRED W. TRENKLER'S MOTION TO REMAND

The Defendant-Appellant Alfred W. Trenkler ["Trenkler"] hereby moves the Court to remand this action to the United States District Court for the District of Massachusetts for a determination of certain issues related to William David Lindholm ["Lindholm"], a convicted felon who testified that Trenkler admitted to building the Roslindale bomb and that he had no deal with the Government. Because the Majority of a panel of this Court "principally" relied upon Lindholm's testimony in finding the admission of certain erroneously admitted evidence nonetheless to be harmless beyond reasonable

doubt (Opinion at p. 39)¹, Trenkler seeks a determination of the following issues:

1. Why William David Lindholm was released on December 30, 1994, approximately four (4) years before his scheduled release date from federal prison?
2. Whether the early release of Lindholm was related to testimony he gave against Alfred Trenkler on November 10, 1993, in the trial of this action?
3. Whether there was an agreement, explicit or implicit, between the Government and Lindholm or whether there were any promises or inducements from the Government?

As reasons therefor, the Defendant asserts the following:

1) In finding the erroneous admission of evidence by the district court harmless beyond a reasonable doubt, the Majority of a panel of this Court relied principally upon David Lindholm "who convincingly testified that Trenkler actually admitted building the Roslindale bomb." (Opinion at p. 39).

2) Although Lindholm testified that he had no agreements with the Government and that he did not receive any promises or inducements for his testimony, he testified that he knew that the only way his ninety-seven month sentence could be reduced was if he supplied new information to the Government.

R.A. 1171, 1175.

¹ "Opinion" refers to the Opinion rendered in this Appeal by Senior Circuit Judge Coffin and Circuit Judge Stahl (Torruella, C.J., dissenting) on July 18, 1995.

3) Rejecting the inference drawn by the Dissent of an implicit deal between Lindholm and the Government (Dissent at p. 66), the Majority asserted that it found nothing in the record to support an inference of an "implicit quid pro quo" for Lindholm's cooperation. Opinion at p. 39 n. 23.

4) However, on August 1, 1995, an article appeared in The Boston Globe indicating that "Lindholm was reportedly released from federal prison 37 months into an 8-year sentence and testified against convicted bomb builder Alfred Trenkler in the Roslindale bombing case in which a Boston police officer was killed." A copy of The Boston Globe article is attached hereto as Exhibit A. Moreover, the Schuylkill Federal Prison in Minersville, Pennsylvania, confirms that William David Lindholm was released on September 30, 1994, four years before his scheduled release date.

5) The recent evidence of Lindholm's early release from prison indicates the existence, notwithstanding Lindholm's testimony to the contrary, that indeed an agreement existed between him and the Government. Given that the Majority placed great significance on Lindholm's testimony against Trenkler in reaching its decision that erroneously admitted error was harmless beyond a reasonable doubt, the Defendant is entitled to a hearing on remand to determine the issues set forth above relating to Lindholm's testimony.

WHEREFORE, the Defendant respectfully requests that this Court remand this action to the United States District Court for the District of Massachusetts for a hearing to determine:

1. Why William David Lindholm was released from federal prison on September 30, 1994, approximately four (4) years before his scheduled release date?
2. Whether the early release of Lindholm was related to testimony he gave against Alfred Trenkler on November 10, 1993, in the trial of this action?
3. Whether there was an agreement, explicit or implicit, between the Government and Lindholm or whether there were any promises or inducements from the Government?

Respectfully Submitted,

ALFRED W. TRENKLER

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DATED: August 8, 1995
T:580

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by hand mail on 8/11/95
Amy J. Axelrod