IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	
v.	:	CRIMINAL NO. 99-003
	:	
JOSEPH MICHAEL TRAITZ	:	
STEPHEN JOSEPH TRAITZ, III	:	
MARK GOODWIN	:	
PIETRO JOSEPH GRIPPI	:	

MEMORANDUM

BUCKWALTER, J. November 26, 2002

I. BACKGROUND

After a seven-week trial by jury, all four defendants were found guilty of Count 1, participation in the affairs of an interstate enterprise through a pattern of racketeering activity, the enterprise being a methamphetamine organization which existed from 1982 until June of 1997 according to the indictment.

All four defendants were also found guilty of Count 2, a conspiracy to manufacture and distribute more than one kilogram of methamphetamine, said conspiracy, according to the indictment, lasting from 1982 to June of 1997.

All four defendants were found guilty on separate Counts; namely, 3, 6, 9, 10 and 11, charging them with distribution of methamphetamine on certain dates. Joseph Traitz, Stephen Traitz and Mark Goodwin were also found guilty on separate Counts; namely, 7, 8 and 12 of distribution of methamphetamine on certain dates.

All four defendants were found not guilty on Counts 4 and 5, charging them with distribution of methamphetamine on certain dates.

Of the racketeering acts charged, all were alleged to have occurred on or after November 1992, except: (1) Racketeering Act 1 (conspiracy to distribute methamphetamine from 1982 to June of 1997) on which all four defendants were found guilty; and (2) Racketeering Acts 2(a) (conspiracy to murder Robert Hammond, Sr.) and 2(b) (murder of Robert Hammond, Sr.) alleged to have taken place in February 1987 and April 14, 1987, as to both of which acts all defendants were found not guilty.

Timely post trial motions under Fed. R. Crim. P. 29 and 33 have been filed. In their brief in support of those motions, the defendants argue:

A. The evidence of discontinuity caused a fatal variance between the proof and the RICO Enterprise charged, as well as between the proof and the drug conspiracy charged.

B. The failure of proof of continuity requires a new trial on all counts as to which a judgment of acquittal may not be granted.

C. Alternatively, the verdicts are at least against the weight of the evidence calling for a new trial.

D. Responding to the jury requests for witness testimony by sending out unredacted transcripts, including highly prejudicial sidebar discussions, was plain error.

E. The government's failure to investigate Chris Duffy's very serious allegations against John Goodwin, and then using Goodwin as a key witness, denied defendants due process, requiring dismissal or a new trial.

II. DISCUSSION

As previously referred to, both the RICO enterprise (Count 1) and the drug conspiracy (Count 2) were alleged to have been formed in 1982 and to have continued to in or about June 1997. Thus, defendants argue, with regard to both counts, that the undisputed fact that Joseph Traitz and Stephen Traitz went to separate state and federal prisons for five years respectively in 1987 and 1988 must result in acquittal for the following reasons:

(1) As to Count 1, the continuity of the existence of the enterprise perforce fails when the Traitz's went to prison; and

(2) As to Count 2, a single continuing conspiracy as charged could not properly be found by the jury for the same reason.

With respect to the RICO charge (Count 1), the court, without objection, instructed the jury as follows:

> If you conclude that the operation did not continue during the five year period that Joseph and Stephen Traitz were in jail, then the Government has failed to satisfy the essential element of RICO – this is the very first element of showing enterprise – and, as such, you must find the defendants not guilty on this charge, and accordingly, you should not consider the remaining four elements of the RICO charge.
>
> I also told you that, in order to be considered an enterprise under RICO, in addition to the requirements of being an ongoing organization functioning as a continuing unit, the Government must prove beyond a reasonable doubt that the separate – that the enterprise exists separate and apart from the pattern of activity in which it engages. By the words exists separate and apart from the pattern of activity it engages in, I mean that the enterprise has an existence beyond that which is necessarily merely to commit each of the acts charged as racketeering offenses.

> Therefore, the evidence must show that the organization continued to exist in the intervals between the alleged racketeering activities. The enterprise must have had an existence separate and apart from the pattern of racketeering activity in which the indictment charges it engaged. It is not necessary that the Government prove the enterprise had some function entirely unrelated to the criminal conduct alleged, but only that the enterprise had an existence beyond that which was necessary to commit each of the listed acts of racketeering.

Similarly, with respect to the conspiracy charge (Count 2), the court, without objection, instructed the jury as follows:

> Even if you find beyond a reasonable doubt that some of the same persons were involved in distribution of methamphetamine after the Traitz's release from jail, as were involved before they went to jail, in order to convict, you must find beyond a reasonable doubt that the activity these defendants participated in was undertaken pursuant to an agreement reached in the 1980's. That is to say that it was a continuation of the unlawful agreement made in the 1980's and not a new unlawful agreement made in the 1990's.
>
> Now, while the indictment charges that the conspiracy existed between 1982 and 1997, it is not essential that the Government prove the conspiracy started and ended precisely in those dates. It is sufficient if you find beyond a reasonable doubt that, in fact, a conspiracy was formed and existed continuously between the dates reasonably near those alleged in the indictment as the beginning and ending dates.
>
> Moreover, if you find that a drug conspiracy existed in the 1980's but ended when Joseph and Stephen Traitz went to jail in the 1980's, then you must find the defendants not guilty in this count. This is so even were you to find that a new conspiracy was formed when they were released from prison in the early 1990's.

The jury's verdict, the government argues, shows that it found a continuing existence of the enterprise and a single continuing conspiracy even though Stephen Traitz and Joseph Traitz were in jail for five years.

In the present procedural posture of this case, the jury's verdict should be sustained if there is substantial evidence, viewed in a light most favorable to the government, to support a continuing existence of the enterprise and a single continuing

conspiracy. *Paraphrasing* U.S. v. Barr, 963 F.2d 641, 648 (3rd Cir. 1992). The court follows the above standard to determine under the facts of the case, "if a reasonable jury could find the existence of a single conspiracy."

In their brief, defendants do not argue that the enterprise or conspiracy ended as a matter of law when its leaders were incarcerated on unrelated charges as in this case. They do cite U.S. v. Pelulio, 964 F.2d 193, 209 f.n. 15 (3rd Cir. 1992) for the proposition that a five-year gap in the activity of an alleged enterprise is a presumptively strong indication of lack of continuity. This is not exactly what the court in Pelulio was saying. What it did say was that "in light of the apparent five-year gap in criminal activity between the most recent racketeering act and the indictment, it would be quite difficult to characterize the period of racketeering activity as open-ended." Pelulio at 209, f.n. 15. In the final analysis, the continuity element of a RICO enterprise must be determined on a case-by-case basis. *See* Pelulio at 208, *citing* H. J. Inc. v. Northwestern Bell Telephone Co., 492 U.S. 229, 241, 109 S.Ct. 2893, 2902 (1989).

The ultimate question as suggested by defendants is whether there is sufficient evidence to support beyond a reasonable doubt a conclusion that the enterprise alleged in the indictment continued despite a five-year period of dormancy when the Traitz's were incarcerated, rather than simply that some of the defendants went back into the drug business after serving a sentence. *(See* Defendants' Memorandum of Law in Support of Post Trial Motions, p. 10).

In response to this question, and in support of a continuing enterprise and conspiracy, the government cites:

(1) the testimony of John Goodwin;

(2) the testimony of Robert Sylvester;

(3) the testimony of Richard Schoenberger; and

(4) the overwhelming evidence of the immediate active resumption of the manufacture and distribution of methamphetamine upon the release of Joseph Traitz, Richard Schoenberger and Stephen Traitz.

A review of the record of the trial as to the government's contentions shows the following:

First, John Goodwin testified that sometime after he got out of jail in November of 1987, his brother, Mark Goodwin, came to the house with a gallon of P_2P that he got from Stephen Traitz and Joseph Traitz which he used in a cook in 1987. Then in early 1988, he did another gallon which produced 12, 14 pounds of methamphetamine, which he claimed his brother took up to Montgomery County for the Traitz's. Mark Goodwin came around again in 1990 or 1991 and said "we're going to be cooking oil again" apparently meaning himself and his brother John. Then in 1994, Mark Goodwin, according to John Goodwin, purchased his pizza shop for seven (7) pounds of methamphetamine which was made at the lab that Stephen Traitz, Joseph Traitz and Mark Goodwin had in Montgomery County. An inference which can reasonably be drawn from the above, according to the government, is that although John Goodwin and Mark

Goodwin never manufactured methamphetamine in 1990 and 1991, he was preparing to cook for Stephen Traitz and Joseph Traitz in 1990 and 1991 since they were the only people with whom he ever cooked methamphetamine. John Goodwin's testimony begins on page 4 of the Notes of Testimony of March 15, 2001.

Second, Robert Sylvester testified as follows:

> Q. Mr. Sylvester, I'm going to move forward. I'm continuing forward from 1987. Did you at any point in time see Joseph Traitz when he was in jail?
>
> A. Yes.
>
> Q. Okay. And, when do you recollect that that was?
>
> A. Around 1990.
>
> Q. Okay. And what prison?
>
> A. Dallas.
>
> Q. Okay. Now, how did you come to be at Dallas State Prison in 1990?
>
> A. I was visiting my ex-girlfriend's brother.
>
> Q. Okay. And, where did you see Joseph Traitz?
>
> A. In the visiting room.
>
> Q. Okay. Was anyone visiting him that day?
>
> A. Yes.
>
> Q. And, who was that?
>
> A. His wife.
>
> Q. And, what was her name, do you know?
>
> A. I think it's Angela.
>
> Q. Okay. And, did you have a conversation with Joseph Traitz that day?

A. Yes.

Q. Okay. Tell us about that conversation, please.

A. We went outside and we were talking and we got a –

Q. When you say you went outside, where did you physically go?

A. Well, they have a visiting room and you can go outside. They have like a little area out there were you can walk around. And, we got on the subject of drugs, if I was doing anything, and I said, no. And, he – then he was telling me that he had ten gallons of oil stashed somewhere. He didn't say where. And, he had like $10,000 in cash stashed so that when he got out, he would be able to get started again.

Q. And, what, if any other, conversation did you have with Mr. Traitz about the P_2P and the cash and getting started again?

A. That's about it.

Q. Okay.

THE COURT: And, what?

MR. SYLVESTER: That's about it.

THE COURT: Oh, okay.

Q. Did – in that conversation, did you have any discussion with Joseph Traitz about you having any involvement with him?

A. Yes.

Q. Okay. What was that conversation?

A. He said he would think about maybe getting the stuff to me to get it made.

Q. And, what was your response?

A. I never – never got involved with it.

Q. Okay. But, did you tell him one way or the other whether you would?

A. No.

He also testified that he was told that Mark Goodwin was a cook and that he was teaching Joey how to cook. (*supra*, N.T. 57).

Thirdly, the testimony of Richard Schoenberger overwhelmingly supports the government's contention that the drug organization existed before, during and after the incarceration of the Traitz's.

Aside from the fact that Schoenberger's testimony shows that many of the same people were involved both before and after the incarceration, there is also his testimony concerning conversations with Joseph Traitz while he was in the same prison relating to the killing of Robert Hammond, Sr. There are several inferences that can reasonably be drawn from those conversations (*see* testimony of Robert Schoenberger beginning at p. 188 of the Notes of Testimony of March 1, 2001), not the least of which is that the discovery of who murdered Robert Hammond, Sr. would put an effective end to the methamphetamine enterprise and conspiracy.

Thomas Gibson testified that he was involved with the Traitz's and Grippi in the methamphetamine operation. He participated in several cooks with the Traitz's prior to their incarceration and he delivered methamphetamine for Joseph Traitz which Pietro Grippi brought. (*See* N.T. 2/20/01 at p. 164).

Barry Sheridan testified as to the methamphetamine organization prior to the Traitz's incarceration. Shortly after Stephen Traitz got out of jail in July of 1993, Stephen Traitz and Mark Goodwin came into Sheridan's house and gave him $110,000 in

cash (*see* Sheridan testimony, N.T. 3/12/01 at p. 149) so that he could buy a landfill in Florida. Coupled with other testimony in the trial, this amount of money would fairly lead to the conclusion that the Traitz drug enterprise and conspiracy was in operation.

Jennifer Morrow testified that she met Joseph Traitz after he got out of jail in 1992. Around Thanksgiving of that year, Joseph Traitz got methamphetamine for her mother that David Criniti delivered to Joseph Traitz (*see* N.T. 3/8/01 at p. 74). She also testified that Joseph Traitz was getting chemicals for methamphetamine from Michael Salvo (*see* N.T. at 77, 78, *supra*) and that the Salvos were bringing lots of money to the house.

David Criniti testified how he got involved in the methamphetamine enterprise and conspiracy before the Traitz's were incarcerated. He testified that Joseph Traitz's barn was the location and Joseph Traitz told him how to make methamphetamine. Barry Sheridan and Richard Schoenberger were both in the barn when he got there to make methamphetamine. During the time Joseph Traitz was in jail, Criniti visited him frequently, every couple weeks, if not more. (N.T. 3/8/01 Vol. II at p. 261) Several months after he got out of jail, Joseph Traitz asked Criniti if he could make 11 pounds of methamphetamine he had access to. (N.T. 262, *supra*). On an occasion in November or December of 1994, Criniti asked Joseph Traitz for some methamphetamine and he had one of the Salvos deliver it to him. (N.T. 263, *supra*).

My review of the evidence following the standard for such review leads to the conclusion that the evidence was sufficient for the jury to find a single enterprise and a conspiracy to support the conviction in Counts 1 and 2. The same review also convinces me that the verdict is not against the weight of the evidence. While the court may have expressed its difficulty in believing some of the witnesses, it is obviously the sole function of the jury to make that judgment. The record in this case clearly supports the jury's verdict, which came only after each witness against the defendant had their credibility challenged and tested by some of the finest defense lawyers that have appeared before this court.

The above analysis is dispositive of defendants' contentions in A, B, and C, *supra*. As to alleged error E, this simply is not under the facts of this case a due process violation. The government did investigate the competing stories of Goodwin and Duffy and defendants did receive an FBI 302 concerning the interview of Duffy as well as a draft of a false letter in Duffy's handwriting. Defendants' own investigator interviewed Duffy. Defendants' citing of Northern Mariana Islands v. Bowie, 243 F.3d 1109 (9th Cir. 2001) does not support their argument in this case because the factual background is totally different. In Northern Mariana, the Attorney General's office took absolutely no action upon receipt of a letter from a cooperating defendant which spoke of an agreement between all the other defendants to blame the crime on Bowie.

The remaining alleged error left for discussion is D, which, again is:

D. Responding to the jury requests for witness testimony by sending out unredacted transcripts, including highly prejudicial sidebar discussions, was plain error.

To be added to D, *supra*, is the undisputed fact that during jury deliberations, tape recorded trial testimony of several government witnesses was played for the jury pursuant to its request. Neither the court nor counsel were advised of this request.

There is a disagreement as to whether this conceded error was structural. A finding of structural error requires a new trial without regard to a prejudice analysis. Structural errors have been found to occur only in a limited number of cases. In Neder v. U.S., 527 U.S. 1, 119 S.Ct. 1827 (1999), the court said:

> We have recognized that "most constitutional errors can be harmless." *Fulminante, supra*, at 306, 111 S.Ct. 1246. "[I]f the defendant had counsel and was tried by an impartial adjudicator, there is a strong presumption that any other [constitutional] errors that may have occurred are subject to harmless-error analysis." *Rose v. Clark*, 478 U.S. 570, 579, 106 S.Ct. 3101, 92 L.Ed.2d 460 (1986). Indeed, we have found an error to be "structural" and thus subject to automatic reversal, only in a "very limited class of cases." *Johnson v. United States*, 520 U.S. 461, 468, 117 S.Ct. 1544, 137 L.Ed.2d 718 (1997) (citing *Gideon v. Wainwright*, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963) (complete denial of counsel); *Tumey v. Ohio*, 273 U.S. 510, 47 S.Ct. 437, 71 L.Ed. 749 (1927) (biased trial judge); *Vasquez v. Hillery*, 474 U.S. 254, 106 S.Ct. 617, 88 L.Ed.2d 598 (1986) (racial discrimination in selection of grand jury); *McKaskle v. Wiggins*, 465 U.S. 168, 104 S.Ct. 944, 79 L.Ed.2d 122 (1984) (denial of self-representation at trial); *Waller v. Georgia*, 467 U.S. 39, 104 S.Ct. 2210, 81 L.Ed.2d 31 (1984) (denial of public trial); *Sullivan v. Louisiana*, 508 U.S. 275, 113 S.Ct. 2078, 124 L.Ed.2d 182 (1993) (defective reasonable-doubt instruction).
>
> The error at issue here – a jury instruction that omits an element of the offense – differs markedly from the constitutional violations we have found to defy harmless-error review. Those cases, we have explained, contain a "defect affecting the framework within which the trial proceeds, rather than simply an error in the trial process itself." *Fulminante*, *supra*, at 310, 111 S.Ct. 1246.

> Such errors "infect the entire trial process," *Brecht v. Abrahamson*,507 U.S. 619, 630, 113 S.Ct. 1710, 123 L.Ed.2d 353 (1993), and "necessarily render a trial fundamentally unfair," *Rose*, 478 U.S., at 577, 106 S.Ct. 3101. Put another way, these errors deprive defendants of "basic protections" without which "a criminal trial cannot reliably serve its function as a vehicle for determination of guilt or innocence ... and no criminal punishment may be regarded as fundamentally fair." *Id*., at 577-578, 106 S.Ct. 3101.

Each side has cited a particular case in support of its position. The government believes that the factual situation here is akin to the instance where a judge responds to a jury question without consulting counsel. In other words, as I view the government's argument, if the court itself had been asked by the jury in this case to listen to the testimony of certain witnesses and had proceeded to grant that request without consulting counsel, then its action would be analyzed under a harmless error standard. Unfortunately, the case the government cites, United States v. Maraj, 947 F.2d 520 (1st Cir. 1991) does not come anywhere close to the facts of this case.

Here are the facts of the Maraj case:

> The appellants' most troublesome claim of error relates to the trial judge's handling of a note received in the midst of the jury's deliberations. The note was written in Spanish. Translated, it reads as follows:
>
> > Hon. Mr. Judge:
> > We the jury would like to know if it is possible that we be provided with copy of the sworn statement of Maria Rabell, if it is possible.
> > Thank you very much.
> > There is only one person who has a doubt as to this.
> > signed/[Forelady]
>
> Following receipt of the note, the judge informed the lawyers of the jury's request (but did not show them the note itself). Without apprising counsel that the forelady wrote "[t]here is only one person who has a doubt as to this," the court had the jurors return to the courtroom and proceeded to tell them that no sworn statement could be provided. Without objection from counsel, the court said:

> If you are thinking in terms of a written sworn statement, there is no sworn statement in evidence. Therefore, I cannot give you th[e] sworn statement....
>
> Usually, usually, when cases are presented before the Grand Jury and agents testify or whomever testifies, the testimony is transcribed, and during the trial the attorneys for the defendants are entitled to have a copy of that testimony. It may be used, or it may not be used. In this case it was not used. It is not in evidence. Therefore, I cannot give it to you.
>
> If you were thinking, by sworn statement, the testimony she gave here in court, then it is not available.... [The court reporter] could read it to you, but I don't think you need that. Because it was ... brief testimony, very short. It was not complicated, and it was yesterday.... So you should try to recollect what the testimony was about....
>
> That is why we have twelve memories here to deal with the problem. Okay?

About half an hour later, the jury notified the judge that it had concluded its deliberations. Guilty verdicts followed.

The appellants insist that the court erred in not informing them of the entire contents of the note, and that the error was harmful because the court's ensuing statements to the jury were unduly coercive. We agree that the lower court erred – but the error was benign.

The Maraj case falls far short of supporting the government's position that the error it admits occurred in this case should be analyzed on a harmless error basis. Simply stated, the facts of Maraj are inapposite.

The case cited by defense is much closer to the case before the court. In Riley v. Deeds, 56 F.3d 1117 (9th Cir. 1995), the following occurred:

> On September 20, 1986, seven-year-old Leatrice Broaden was playing with dolls in the ladies' room at Doolittle Park in Las Vegas when a man entered, grabbed her and dragged her to the men's room.
>
> During their deliberations, the jury sent a note to the court requesting a readback of Leatrice's testimony. The parties agree that the judge was not in the courthouse at the time this request was made, and he could not be located. In the judge's absence, his law clerk convened the court. He explained to the jury that the court reporter would read Leatrice's testimony from the trial transcript, and instructed the foreman to raise his hand when the jury had heard enough. At the conclusion of Leatrice's direct examination, the foreman raised his hand and the readback terminated.

Although the trial judge was present at all times in the present case during jury deliberations, there was a total "absence of judicial discretion" as to whether and what should be played back to the jury.

The court in Riley concluded the absence of the judge was structural error, saying:

> ...the judge was not only absent from the readback, he also exercised no discretion in the decision whether to permit Leatrice's testimony to be read back, or how much of it should be read or whether other testimony should also be read.

Our circuit in U.S. v. Mortimer, 161 F.3d 240 (3rd Cir. 1998) in a decision written by Judge Noonan of the Ninth Circuit, found structural error when the trial judge was not present during defense closing argument. (Chief Judge Becker felt that the preferable manner of deciding the case would have been under the harmless error standard in Chapman v. California, 386 U.S. 18, 87 S.Ct. 824 (1967), but as set forth in footnote 1 of Mortimer, "believes that under the facts of this case, the label 'structural' is not inappropriate.") The error in the present case, following the rubric of Mortimer, could arguably result in the framework "within which the trial proceeds" being eliminated because the judge was effectively absent at a critical stage. In the words of Judge Noonan:

> A trial consists of a contest between litigants before a judge. When the judge is absent at a "critical stage" the forum is destroyed. *Gomez v. United States*, 490 U.S. 858, 873, 109 S.Ct. 2237, 104 L.Ed.2d 923 (1989). There is no trial. The structure has been removed. There is no way of repairing it. The framework "within which the trial proceeds" has been eliminated. *See Arizona v. Fulminante*, 499 U.S. 279, 309-10, 111 S.Ct. 1246, 113 L.Ed.2d 302 (1991). The verdict is a nullity. *Gomez*, 490 U.S. at 876, 109 S.Ct. 2237 (1989).

> We cannot, of course, anticipate every circumstance under which the judge's absence may destroy the structure. The structure normally stands if the parties consent to excuse the presence of a judge.

Thus, a strong argument can be made that the error in this case was structural. However, another Ninth Circuit case suggests otherwise. In Fisher v. Roe, 263 F.3d 906 (9th Cir. 2001), cited by the government, the following facts were found to be correct on appellate review:

1. The defendants and their attorneys were never informed that the jury had requested a readback.
2. The court reporter decided when to stop reading the testimony based on the reaction of the jurors.
3. The trial court failed to control the readback.

The court found with little discussion in Fisher (and not even mentioning Riley) that this type of occurrence is properly characterized as trial error rather than structural error, *citing* Arizona v. Fulminante, 499 U.S. 279, 111 S.Ct. 1246 (1991). (Interestingly, because the case was on collateral review, the burden of respondent was only to show that the error did not have "a substantial and injurious effect or influence in determining the jury's verdict." The court concluded that since its review of the record left it in "virtual equipoise" as to whether the error had a substantial effect or influence on the jury's verdict, the petitioner must be granted relief.) A reading of Fulminante leads me to conclude that the error in this case is more accurately characterized as trial error; that is, it was not a defect affecting the framework within which the trial proceeds, but rather an error in the trial process itself.

If the error in this case is trial error, as opposed to structural error, both counsel agree that the government has the burden of proving that the error was harmless beyond a reasonable doubt. In light of the inability to show precisely what portion of the testimony was played to the jury, such a burden would be virtually impossible to meet. Neither the government nor anyone else in this case has any idea what portion of the testimony of a particular witness was replayed for the jury. The government can only resort to conjecture in that regard. This certainly cannot form the basis for proof beyond a reasonable doubt, that whatever the jury had played back or failed to have played back resulted in only harmless error to defendants.

There remains the other fact that unredacted transcripts, although sent to the jury upon notification of counsel and without objection by either the government or the defense, were available for the jurors and contained sidebar conferences, many of which contained material which should not have been before the jury. While defendants, who failed to object to the submission of the unredacted transcripts, would bare the burden of proving that making these transcripts available to the jury effected the outcome, I need not resolve that issue in light of my decision with regard to the playing back of witness testimony.

An order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :
:
v. : CRIMINAL NO. 99-003
:
JOSEPH MICHAEL TRAITZ :
STEPHEN JOSEPH TRAITZ, III :
MARK GOODWIN :
PIETRO JOSEPH GRIPPI :

ORDER

AND NOW, this 26th day of November, 2002, it is hereby ORDERED that Defendants' Motion for Judgment of Acquittal is DENIED. Defendants' Motion for a New Trial is GRANTED.

BY THE COURT:

____
RONALD L. BUCKWALTER, J.