

THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RICHARD J. SERON)
)
Plaintiff,)
)
vs.)
)
PLANNED PARENTHOOD)
FEDERATION OF AMERICA, INC., and)
NATIONAL ABORTION FEDERATION)
)
Defendants.)
)

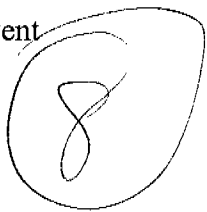
Civil Action No.
00CV10317 NG

**MEMORANDUM IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS**

Defendants have moved to dismiss the Amended Complaint for failure to state a claim upon which relief may be granted. The grounds for this motion, set forth in greater detail below, are that as a matter of law the conditions of the reward offer alleged in the Complaint were not satisfied.

Introduction

This case arises out of plaintiff's ("Seron's") performance of his duties as a security guard at a reproductive health clinic in Brookline (then known as "Preterm") at the time of the widely-publicized events of December 30, 1994, when a clinic employee at that and another Brookline clinic were each shot and killed by John Salvi. Seron claims two separate rewards -- one per death -- for his actions that he alleges led to the arrest of Salvi, who was later convicted of murder at trial, a conviction subsequently vacated when Salvi died while his appeal was pending. An identical claim to Seron's, brought by a security firm at the Virginia clinic where Salvi went



from Massachusetts, was rejected on the ground that the reward offer was contingent upon conviction, and a vacated conviction is not a conviction under the reward offer. Security Consultants, Inc. v. Planned Parenthood Fed. of Amer., Inc., (N.Y.S.Ct. No. 121692/96, *slip op.*, 8/26/97)(copy attached as Ex. 1).

Seron's complaint is in five counts: contract counts (Counts I & II) for each clinic, respectively; a count for substantial performance (Count III); and then the usual counts that accompany a contract claim, namely counts for breach of the implied covenant of good faith and fair dealing (Count IV) and for unfair practices in trade or commerce under Mass. G.L. c.93A (Count V). The amended complaint attaches both Seron's chapter 93A demand letters (Exs. I-1 & I-2), and defendants' factual and legal responses and defenses (Exs. J, K, L & M). Certain of those defenses are the subject of the motion to dismiss.

The Allegations Concerning the Offer of Reward

The allegations pertinent to defendants' motion are as follows. Seron alleges that defendants in November 1993 "announced ... [a] reward fund to help solve attacks on abortion clinics" (¶6), but describes none of the details of this 1993 alleged "reward offer" (*id.*). However, Seron then alleges a specific offer made in September 1994 by defendant NAF: "\$100,000 per incident [reward] for information leading to the arrest *and conviction* of any person responsible for murder or serious acts of vandalism at abortion and family planning clinics" (¶7 & Ex. A, p.3; emphasis added).¹

¹ Defendants do not concede this September 1994 statement by NAF constitutes a "perpetual" reward offer, or an offer with respect to the December 30, 1994 shootings, but the statement is the specific reward offer relied upon in the amended complaint, and is treated for motion to dismiss purposes only as such.

Seron alleges that he was an employee of Preterm, "a part-time facilities worker and a part-time security guard", and that he was "stocking and checking supplies in the storage room" when Salvi entered Preterm and shot an employee (§§8-9). Seron "engaged in a shoot out with Salvi at close range", resulting in Salvi "fleeing the building leaving behind" a bag with ammunition, and pistol and gun store receipts (§10). Seron further alleges that based on the information found in the Salvi's bag, "law enforcement authorities traced" information "that led to the speedy identification and arrest" of Salvi (§12), and that Seron also served as a "key witness" at Salvi's trial (§14). Subsequently, Seron claimed a reward, which has not been granted (§§16-17, 35-36). Defendants' defenses set forth in its chapter 93A replies (Amend.Compl. Exs J-M) include the defenses that a security guard is not entitled to a reward under Massachusetts law, that under Massachusetts law Salvi's conviction was vacated by reason of death during his appeal, and that his 93A claims are barred by the "trade or commerce" requirement of that statute.

The Vacating Ab Initio of the Salvi Conviction

Pursuant to FRE 201, this Court may take judicial notice of Salvi's conviction at trial, death while his appeal was pending, and the subsequent vacatur of his conviction. These facts were and are generally known within the territorial jurisdiction of this Court (Massachusetts), and are also capable of accurate and ready determination by resort to unquestioned sources. *Id.*, Rule 201(b). With respect to general knowledge, attached as Ex. 2 are the front page *The Boston Globe* stories from March 19, 1996 and February 1, 1997 concerning the trial conviction and subsequent vacatur. With respect to unquestioned sources, attached as Ex. 3 is a certified copy of the Norfolk Superior Court docket entries for Salvi's murder indictment, showing the vacatur on January 21, 1997.

Argument

I. AS A SECURITY GUARD, SERON CANNOT RECOVER A REWARD

In Massachusetts, it has been the law for more than 150 years that an employee's performance of actions that are within the duties of his employment does not entitle him or her to a contract claim for a reward. Poole v. The City of Boston, 5 Cush. (59 Mass.) 219, 220-21 (1849). Accord Kaplan v. Suher, 254 Mass. 180, 184 (1926).² This rule reflects Massachusetts public policy that reward offers are not intended to induce people such as security guards to perform the duties of their job, but to induce people to act who otherwise would not do so but for the reward.

The fact that Seron's duties "were split" between security guard work and other work does not mean that his actions *vis a vis* John Salvi were in any capacity other than as an armed security guard who engaged in the highly publicized "shoot out" with Salvi that apparently drove Salvi away and contributed to his later arrest. Seron was not carrying a weapon in order to stock shelves. He was obviously carrying a weapon solely to facilitate the carrying out of his other duties -- being a security guard. And what he did -- "engage[] in a shoot out with Salvi at close range ... result[ing] in Salvi fleeing the building" (Amend.Compl. ¶10) reflects the essence of what an armed security guard is engaged to do in the most dire circumstances: protect the clinic and its employees and drive an attacker away.

It should be of no moment that security guards are private citizens, not law enforcement officials, and cannot make arrests. Seron was not making an arrest. He was simply protecting

² United States v. Matthews, 173 U.S. 381, 385 (1899) cited Poole for the more limited proposition of no reward for public officers, but Kaplan v. Suher, *supra*, makes no public/private distinction, instead allowing the claim because of the absence of any duty to disclose on the part of the particular employee in question.

the clinic, using the weapon he carried as an armed security guard. He was not asked to "arrest" Salvi, and did not purport to do so.

It should also be of no moment that Seron could have chosen not to "open[] the storage room door and engage[] in [the] shootout" (§10). Any security guard is entitled to use his or her judgment as to whether to engage in a "shoot out", and defendants do not suggest that Seron automatically had a *duty* to engage in this shoot out. But his duties included the duty to act and make judgments as an armed security guard, necessarily licensed to carry a weapon in Massachusetts, and if in his judgment protection of the clinic required him to take action, as he did, that is still within the scope of his duties. The point of the word "duty" is not that Seron in all circumstances was required to deter attacks, or to deter them with pistol fire, but rather that such action was one of the optional courses of action within the range of actions that he as a security guard might take, and, thus, was within the scope of his duties.

II. THE VACATING OF SALVI'S CONVICTION BARS THE REWARD

The vacating of Salvi's conviction at trial while his appeal was pending vacates the judgment of conviction *ab initio*. This principle is firmly established in Massachusetts and elsewhere. *E.g.* Commonwealth v. De La Zerda, 416 Mass. 247 (1993); United States v. Sheehan, 874 F.Supp. 31 (D.Mass. 1994)("death of the defendant pending appeal has consistently been held to abate the prosecution *ab initio*"). This is the precise ground on which the New York Supreme Court (trial court) dismissed a reward claim lawsuit brought by other security guards at another clinic, who also claimed that their efforts led to Salvi's arrest and conviction at trial. Security Consultants, Inc. v. Planned Parenthood Fed. of Amer., *supra* (Ex. 1 hereto).

Because Salvi's counsel successfully moved to vacate the conviction after Salvi's death and while his appeal was pending, there was no "conviction" and the condition precedent to the reward was not met. While the effective "erasure" of Salvi's conviction was certainly not welcomed by the clinics where the murders took place, the Massachusetts rule is long established, and consistent with comparable rules in most if not all of the other states. 80 ALR.Fed 446, 448. "[T]he interests of justice require that [appellee] not stand convicted without resolution of the merits of the appeal, which is an integral part of the system for finally adjudicating guilt or innocence." United States v. Oberlin, 718 F.2d 894 (9th Cir. 1983). The legal effect of the vacatur of judgment is the same whether arrived at by successful appeal on the merits or by successful motion to vacate based on death during an appeal.

The reward offer at issue can only be construed to be consistent with these legal principles. The purpose of this reward, or any such reward, is to obtain assistance in achieving a conviction that stands as final in the judicial system, and thus as final to the public (at least insofar as the public accepts judicial finality). Whether a conviction is reversed on appeal, or is subject to a pending appeal not yet decided, or is vacated because of death during an appeal, that conviction in each case is not final. Thus, it is "plain that [the offeror's] object is not attained where, as in this case ... the conviction relied upon is liable to become a nullity." Stone v. Wickliffe, 106 Ky 252, 259 (1899), cited in Security Consultants, Inc. v. Planned Parenthood Fed. of Amer., *supra* (Ex. 1 hereto).

Moreover, there are any number of reasons why a conviction might be vacated (or "overturned" in lay parlance), ranging from reversible error identified by an appellate court, to actions by a trial court on a variety of grounds. The fact that the conviction was vacated by the trial court because someone died while on appeal is just one ground on which a trial court might

act. Moreover, one cannot presume from the action by the trial court that Salvi could not have raised any appellate issues of any merit. In any event, the judgment of conviction was *vacated*, and no conviction stands.

There are no "fairness" or "public policy" grounds on which this Court might somehow reject this particular vacatur of a judgment of conviction. It is not a relevant public policy matter that Salvi may have avoided having his conviction upheld by suicide. A conviction might be overturned for other reasons deemed "technical" and emotionally unsatisfying by the public at large -- e.g., improper law enforcement action in seizing evidence, or in securing a statement or confession from a defendant. Defendants have found no case in which a court, faced with the situation of a reward conditioned on a conviction and a conviction vacated on appeal due to death, has ever suggested going down the path of deciding which ground for overturning a conviction should or should not "count".

III. COUNT V (Mass. G.L. Chapter 93a) SHOULD BE DISMISSED

The Trade or Commerce Requirement of Chapter 93A Is Not Satisfied

The amended complaint fails to alleged that defendants' actions occurred "in the conduct of any trade or commerce", which is a condition precedent for liability under ch. 93A that is set forth in Section 2. Planned Parenthood Federation of America, Inc. v. Problem Pregnancy of Worcester, Inc., 398 Mass. 480, 490-94 (1986). "Trade or commerce" is defined in Section 1 to mean:

the offering for sale, rent or lease, the sale, rent, lease or distribution or any services and any property ...any security [as defined] ... any contract of sale of a commodity for future deliver, and any other article, commodity, or thing of value ... and shall include any trade or commerce directly or indirectly affecting the people of this commonwealth.

The amended complaint merely describes PPFA as New York corporation, and NAF as "national association" of abortion providers. Nothing is alleged about either of them actually being involved in selling or contacting to sell services or property.³ Seron does not suggest that either defendant was his employer, or had any corporate connection to his employer, Preterm Health Services (Amend.Compl. ¶8).⁴

The "trade or commerce" condition for chapter 93A liability is a pleading defect. "[A] Chapter 93A defendant should always explore the possibility that this threshold requirement has not been met, and should assert such failure by way of a motion to dismiss or as an affirmative defense in the answer." *MCLE Chapter 93A Rights and Remedies*, MCLE Supp.-1999, at 6-2. Poznik v. Massachusetts Med. Prof. Ins. Assoc., 417 Mass. 48 (1994)("Plaintiffs assert that [defendant] is engaged in 'trade or commerce' for purposes of G.L. c. 93A").

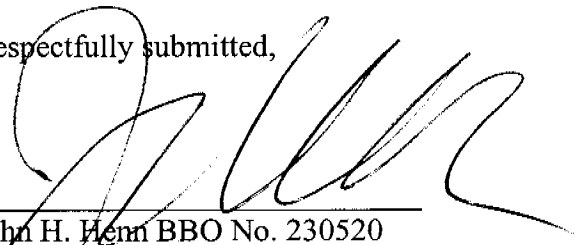
³ Seron does not allege that either defendant -- one a "federation" and the other an "association" -- itself provides reproductive health care services, in contrast to clinics, which obviously do so.

⁴ He does not identify the other clinic, but it is probably generally know that it was Planned Parenthood League of Mass., Inc., a separate corporation and legal entity from either defendant, and a prominent litigant in its own right in reproductive health cases. *E.g.*, Planned Parenthood League of Massachusetts, Inc. v Attorney General, 424 Mass. 586 (1997)(minors); Planned Parenthood League of Massachusetts, Inc. v Blake, 417 Mass. 467 (1994)(clinic blockades).

Conclusion

For the foregoing reasons, defendants motion to dismiss should be granted.

Respectfully submitted,



John H. Henn BBO No. 230520
Foley, Hoag & Eliot LLP
One Post Office Square
Boston, Massachusetts 02109
(617) 832-1000

Dated: May 26, 2000

I HEREBY CERTIFY THAT A TRUE COPY OF THE ABOVE
DOCUMENT WAS SERVED UPON THE ATTORNEY OF
RECORD FOR EACH OTHER PARTY BY MAIL-HAND ON

5/26/00



Exhibit A
Cahill
Bucklin

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: IAS PART 49

-----X
SECURITY CONSULTANTS, INC.,

Plaintiff.

David Meltzer
964-3872

Index No. 121692/96

-against-

PLANNED PARENTHOOD FEDERATION
OF AMERICA, INC.,

541-7800

Defendant.

Elaine Tammulata 7754796
Methen 202785-9700

964 3800
John Argen...

-----X
HERMAN CAHN, J.:

Defendant Planned Parenthood Federation of America, Inc.

("Planned Parenthood") moves for an order dismissing the
complaint pursuant to CPLR 3211.

This is an action to recover reward monies in the amount of
\$100,000 offered by Planned Parenthood in connection with the
murders of two female staff workers who were working in two
abortion clinics in Massachusetts in December 1994. On December
30, 1994, an individual entered into the Planned Parenthood
Clinic and the Preterm Health Services Clinic (the "Preterm
Clinic"), both located in or near Brookline, Massachusetts,
pulled out a gun and began firing. He killed two individuals and
wounded five others (the "Massachusetts shootings").

The complaint alleges that on or about the same day, Planned
Parenthood offered a One Hundred Thousand (\$100,000) Dollar award
for information leading to the conviction of anyone involved in
the slayings at the Planned Parenthood Clinic and the Preterm
Clinic which occurred on December 30, 1994 (the "Reward Offer").

On December 30, 1994, Lisa Williams and Charles Holmes, Jr.

(the "security guards") were employees of plaintiff, Security Consultants, Inc ("Security Consultants"). They were stationed at a location known as the Bel-Aire building in Norfolk, Virginia. The building housed a clinic, bank, credit union, jewelry store, and governmental offices. Security services were provided to the building pursuant to a contract between Security Consultants, Inc. and Great Atlantic, the building owner (the "contract").

757
027
0003
glazer

Security Consultants alleges that subsequent to the shootings in the Boston area, John Salvi III ("Salvi") drove to Virginia and tried to gain access to the clinic which was located in the Bel-Air building. After being deterred by the security guards, Salvi fled the premises in his truck. It is alleged that the security guards, in reliance upon the Award Offer, provided information that led to the apprehension and subsequent conviction of Salvi for the Massachusetts shootings on March 18, 1996.

The complaint alleges that the information provided by the security guards was "provided under the aegis of Security Consultants, Inc. and was done within the scope of their employment." Security Consultants claims that despite its demand for the reward, the demand remains outstanding.

Following his arrest, Salvi was tried and sentenced to a long prison term. He appealed his conviction. While the appeal was still pending, on November 29, 1996, he committed suicide in his jail cell. On January 21, 1997, the Superior Court of the

Commonwealth of Massachusetts vacated the judgment of conviction and dismissed the indictments against Salvi on the basis that the criminal conviction was abated ab initio due to Salvi's death. This lawsuit was commenced after Salvi's death.

Planned Parenthood argues that the complaint should be dismissed because (1) the terms and conditions of the reward offer were not satisfied since the conviction was vacated ab initio; and (2) the alleged acceptance of the offer of the reward was not supported by consideration since the security guards were acting within the scope of their employment when they provided the information.

A unilateral contract imposes no obligation upon the promisor until the specific act specified in the offer is performed (Matter of Lord's Will, 175 Misc 921 [Surrogate's Ct, Kings County 1941]). Planned Parenthood's offer of a reward for information leading to the conviction of the person responsible for the Massachusetts shootings and Security Consultant's purported services in procuring the conviction of Salvi constituted a contract which is to be construed by the same rules as any other contract (Greene v Heinrich, 65 Misc2d 622 [App Term 1st Dept], aff'd 38 AD2d 691 [1st Dept 1971]).

It is a fundamental principal of contract law that a valid acceptance must substantially comply with the terms of the offer. The conditions attached to the offer must be met before liability ensues (Roer v Cross County Medical Center Corp., 83 AD2d 861 [2d Dept 1981]). It is also well settled that when the court

interprets a contract, it should arrive at a construction that is reasonable, keeping in mind the purpose of the party offering the reward (Patrick v Guarniere, 204 AD2d 702 (2d Dept), app denied 84 NY2d 810 [1994]; Tantleff v Truscelli, 110 AD2d 240 (2d Dept 1985), aff'd 69 NY2d 769 (1987)). The parties' intention should be determined from the language employed, and where the language is clear and unambiguous, interpretation is a matter of law to be determined by the court (Namad v Salomon Inc., 74 NY2d 751 [1989]).

In New York and Massachusetts, as in many states, in criminal cases, the death of the accused pending an appeal from a judgment of conviction abates the prosecution ab initio (Commonwealth v De La Zerdo, 416 Mass 247 (1993); Commonwealth v Harris, 379 Mass 917 (1980); People v Matteson, 75 NY2d 745 (1989); People v Mintz, 20 NY2d 753, 754 (1967); see also, United States v Floyd, 496 F2d 982 [2d Cir 1974], cert denied 419 US 1069 [1974]). This abatement has the effect of entirely eliminating the jury verdict and the sentence of the trial court (Scott v American Express Co., 233 SW 492 [Mo Ct App 1921]).

The complaint states that the Reward Offer was "for information leading to the conviction of anyone involved in the slayings at the [clinics]...." (emphasis added). Various courts have held that to entitle a party to an award offered for information leading to the "conviction" of an offender, there must be a final conviction which settles the guilt of the party, and as long as there is an appeal pending, or the defendant dies

pending an appeal, there is no conviction within the meaning of an offer of a reward (Scott v American Express Co., *supra*; Stone v Wickliffe, 50 SW 44, 45-46 [Ky 1899]).

The court further notes that abatement of a conviction has been held to prevent the recovery against the decedent's estate (United States v Pauline, 625 F2d 604 [5th Cir 1980]); has required the government to forfeit a fine already paid and to reimburse costs back to the estate (United States v Knetzer, 117 F Supp 917, 918 [S D Ill 1954]); has required a beneficiary society, which sought to void a member's death benefit because the member had been convicted of a felony, to pay the death benefit to the beneficiaries of the member whose conviction was abated because he had died while his appeal was pending (Baker v Modern Woodmen of America, 121 SW 794 [Mo Ct App 1909]; and has set aside a \$21 million restitution order which was based on a conviction, after the accused committed suicide and the court of appeals abated his conviction (United States v Logal, 106 F3d 1547, 1551-52 [11th Cir 1997], rehearing denied 116 F3d 1495 [1997]).

Although the parties have failed to attach a copy of the actual Award Offer, a plain reading of the language of the offer as alleged in the complaint makes clear that the purpose of the reward offer was to obtain a conviction of the guilty party. That purpose is not attained where, as in this case, the conviction has been declared entirely abated due to the death of the defendant during the pendency of the appeal. As noted in

People v Mintz, supra, at 771, the rationale for abating an appeal and all proceedings in the prosecution from its inception is that "If [the appeal was] affirmed, the judgment of conviction could not be enforced and, if reversed, there is no person to try. Therefore, the appeal should not be heard but, since it cannot be heard, it can never stand, and this requires that the judgment of conviction be vacated and the indictment dismissed."

Security Consultants is bound by the plain meaning of the Reward Offer, i.e., that the reward would only be paid upon a final conviction. Accordingly, the complaint is dismissed as Security Consultant's cause of action never accrued due to the abatement of Salvi's conviction.

In view of the above, Planned Parenthood's remaining argument need not be addressed.

Accordingly, it is

ORDERED that the motion to dismiss is granted and the complaint is dismissed with costs and disbursements to be taxed by the Clerk upon the filing of an appropriate Bill of Costs; and it is further

ORDERED that the Clerk is directed to enter judgment accordingly.

DATED: August 26, 1997

ENTER:


J.S.C.

VOLUME 249 • NUMBER 79
80 pages
50 cents

The Boston Globe

TUESDAY, MARCH 19, 1996

MARCH MUDNESS
Today: Rain likely P.M.: 46
Tomorrow: Expect rain: 40-45
High tide: 10:55 a.m., 11:19 p.m.
Full report: Page 41

We are already in a general election dynamic. It is a valuable opportunity... in the campaign for public opinion.

ANN LEWIS, President's deputy campaign manager

Campaign trail looms longer

By Curtis Wilkie
CLIMATE STAFF

CHICAGO — Sen. Bob Dole is ready to claim the Republican presidential nomination five months before his party's convention, setting up a situation without precedent in modern US politics.
During the long interval, when the nominees of both parties are known months in advance of the general election, Dole will be placed at a financial disadvantage. But in addition, basic conflicts between Dole and President Clinton will be brought into sharp relief in Washington. Dissatisfied voters will have time to mobilize behind a third candidate. And the prospective Republican nominee will have months to choose a running mate.

Faced with an extended general

election, Dole's campaign is short of funds until its treasury is replenished following the party's August convention. Using Federal Election Commission figures, Clinton's strategists calculate that Dole has spent all but \$1.5 million of his pre-convention allotment in a punishing primary schedule. Dole will rely on indirect assistance from party sources or separate support committees.

Clinton, the first Democrat to run unopposed in 82 years, still has \$25 million in primary funds to lavish on political advertising and travel in the months before Labor Day.

"We are already in a general election dynamic," said Ann Lewis, Clinton's deputy campaign manager. "It is a valuable opportunity for us to be persuasive in the campaign for public opinion."

GAP, Page 10

Guilty verdict sends Salvi to prison for life



John C. Salvi Jr. is led from the court yesterday after being sentenced to two consecutive life terms.

Jury rejects insanity plea in slayings at two clinics

By John Ellement
CLIMATE STAFF

DEDHAM — Rejecting defense claims that he was insane, a Norfolk County jury yesterday convicted John C. Salvi Jr. of first-degree murder in the Dec. 30, 1994, rampage that left two dead and five wounded in two Brookline reproductive clinics.

The jury of six women and six men deliberated for about eight hours before apparently concluding Salvi was a ruthless killer motivated by his opposition to abortion when he committed what became one of the worst acts of violence in the national debate over abortion.

Salvi, 24, stood impassively as the verdict was read. He was later sentenced to two consecutive life terms in prison without parole.

Relatives of the two women killed — 25-year-old Shannon Lowney and 28-year-old Lee Ann Nichols — reacted to the verdict with tears and hugs as the jury forewoman announced the convictions. Relatives and a surviving victim later called Salvi an "amazingly pathetic human being" and a "little man with a big gun" that December morning.

The verdict was greeted with despair by Salvi's mother, Ann Marie, who hung her head between her knees and sobbed as her husband, John C. Salvi Sr., rubbed her back. She later was helped out of the courthouse and was not in court when her only child was sentenced.

The jury's verdict explicitly: re-SALVI, Page 22

Handful in Bosnia fight flames, fears

By Elizabeth Neuffer
CLIMATE STAFF

GRBAVICA, Bosnia-Herzegovina — As arsonists' fires danced like demons in the darkness, the handful of people still left at 41 Brotherhood and Unity St. were fighting last night to live for another day.

They had patrolled their building for nearly 24 hours, too scared to sleep lest looters torch their homes in this Serb-held district of Sarajevo, which is scheduled to come under Muslim-Croat control today. They had buckets of water ready for sparks. They had sharpened their tongues to berate gangs of hoodlums.

But late at night, as flames leapt from the windows of an ad-

joining building, they feared their building to stay and see Sarajevo reunified after nearly four years of war might prove their undoing. Thousands of Serb residents had already fled.

"Please help us! It's spreading!" screamed 40-year-old Gromanka, as she ran into the darkness after a UN civil police patrol. "I hope we survive this night," said Biljana Tubin, 33.

Their battle was one of the very few in Grbavica, now deserted by most of its residents and even its police force.

Grbavica is the last of five Serb-held Sarajevo suburbs to be handed over to the Muslim-Croat Federation under the terms of the Dayton peace pact. The plan

BOSNIA, Page 7

Off-duty trooper charged with trying to kill woman

By John Milne
CLIMATE STAFF

CAMBRIDGE — After an off-duty state trooper wrapped a purse strap around the neck of his sometime girlfriend, choked her and left her for dead Saturday, he immediately began constructing an alibi to cover his tracks, prosecutors said yesterday.

There was one contingency he could not plan for: The victim survived.

Police said Deborah Ewings, 26, of Cambridge, told police the man who attacked her in her apartment was Thomas A. Downs 3d, a 40-year-old trooper assigned to the Middlesex Falls District in Medford.

And, in a move that prosecutors protested, a judge released Downs yesterday on \$1,500 bail.

In granting the bail, Cambridge District Judge Jonathan Brandt rejected the argument of Assistant Middlesex District Attorney Gerard A. Butler Jr. that Downs intended further harm to Ewings on Sunday when he went to Mount Auburn Hospital, where Ewings was in the intensive care unit.

Downs was arrested outside by Cambridge police.

"He had called the hospital and was told he could not see her," said Jill Reilly, a spokeswoman for the district attorney's office. "It was our feeling that he went there to further

TROOPER, Page 16

Recalling the victims: Excerpts from impact statements given in court yesterday

LIAM LOWNEY

brother of Shannon Lowney



"The sense of humor... We miss her love which she gave always and unconditionally... We miss her commitment to making the world a better place... The world is a more desolate place for the loss of her presence."

DAVID KEENE

father of Shannon Lowney



"The most wonderful thing about my daughter... was her sense of humor... She was a very kind and loving person... I hope she is in a better place now."

RUTH NICHOLS

mother of Lee Ann Nichols



"When Lee Ann was a small baby her first words were, 'Ma, chase the birds, Mommy.' And her last words were, 'excuse me, No, no, no as you pumped 10 bullets into her body. You shot her in the back, and that's cowardly. And you were a little man with a big gun... Without hesitation, I hope you have sheer misery every day of your life, as you have brought all the families...'"

More on the Salvi verdict: Pages 22-25

'90s Girl Scouts trek board room, urban wilds



Monika Jones, 10, glances back at her reflection in a mirror as she practices a dance routine last week.

By Karen Averano
CLIMATE STAFF

Kate Kellogg recently gave her Boston Girl Scout troop several options for an annual spring outing. They could camp and hike and canoe in the woods. Or they could take the MBTA to the Children's Museum — taking sleeping bags and shopping money — and bunk for the night beneath giant-sized Legos and Japanese karaoke machines.

Monique Cimaco, a 10-year-old from the North End, concluded that it would be cool to get out of the city and "see rocks and trees and leaves and things."

Rif she was the only scout who

voted for the outdoor excursion.

"I went camping once and I got a million mosquito bites," declared Tracy Fidelman, 8, a third-grader from Charlestown.

Suffice it to say that Thin Mints and Peanut Butter Patties are just about all this group has in common with the green-clad, badge-wearing scouts from the 1950s and '60s. An 84-year-old national organization set up to teach little ladies how to basket, cross-stitch and build bangin' campfires while boosting self-esteem, Girl Scouts has adapted with feminism, technology and '90s urban issues in mind.

"The basic mission — to help girls reach their full potential — has never changed," said Laura Watkins, ex-

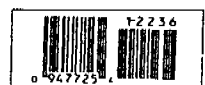
4 SCOUTS, Page 31

Inside

LIVING/ARTS: The American in Paris

Remedial education: Strict limits are voted for the special courses at the University of Massachusetts and the state's four-year colleges. Page 29.
Nicotine manipulation: Three former Philip Morris officials declare that the tobacco company was preoccupied with hooking customers. Business, Page 41.
Severance package: Ira Stepanian, ousted last year as chairman of Bank of Boston Corp., will be paid nearly \$2 million a year through 1998. Business, Page 41.

FEATURES	CLASSIFIED
Ask The Globe 58	Classified 76-80
Business 41	Action 36-49
Comics 38	Help Wanted 78
Deaths 26	Real Estate 77
Editorials 18	Apartments 77
Horoscopes 58	Comm/Vol 57
Living/Arts 69	Market Basket 76
Lottery 20	Yacht/Boats 65
Metro/Region 25	Learning 75
Sports 61	© Color Management Co
TV/Radio 34-35	



ABORTION DEBATE

Surprising many, abortion issue took back seat at trial

By Peter J. Howe
STAFF WRITER

To an extent that surprised and pleased both sides of the abortion debate, the murder trial of John C. Salvi 3d never became the forum for arguing the ethics of abortion that some other criminal trials involving abortion-rights opponents have.

Before the trial began last month, Thomas Hoopes, a noted Boston criminal defense lawyer, said, "It's all about abortion. It's only partially about insanity." Hoopes and others predicted that jurors' views on abortion could prove critical.

Indeed, many observers expected that Salvi and his attorneys might try, as abortion-rights opponents have in other criminal

trials, to argue that Salvi saw the killings of clinic receptionists Shannon Lowmyer and Lee Ann Nichols as "justifiable homicide" in a bid to prevent abortions that Salvi saw as equivalent to murder.

But such issues never arose in the trial, largely because Salvi attorney J. W. Carney Jr. mounted, without success, a defense that Salvi was not criminally responsible for the killings because he is a schizophrenic. Why he committed the murders never became the issue; what mattered in court was whether he was sane, and therefore criminally responsible.

Observers also cited the strict management of the courtroom by Judge Barbara Dorth-Okara, who banned television coverage that might have led to grandstanding

and imposed a gag order on both prosecution and defense attorneys, though the order was relaxed "on appeal. Dorth-Okara also refused to allow Salvi to present his theories about abortion and anti-Catholic conspiracy, saying they were not relevant.

"We made every effort not to allow it to become a political trial, just that justice be done," said William H. Delahunt, district attorney for Norfolk County.

"Obviously, we're not oblivious to the fact that there's a context to Salvi's actions," Delahunt said, "but the trial itself wasn't about the issue of abortion. The trial itself was about criminal responsibility."

In other cases, such as two trials in Pensacola, Fla., for the murders of doctors who performed abortions and several criminal

trespassing cases against demonstrators outside clinics, defendants have sought to present a "necessity defense" that preventing abortions justified killing people involved in the procedure.

Shannon Welcher, vice president for external affairs for Planned Parenthood, said, "I guess it is a little surprising that abortion was not a central issue, but it is appropriate. This was about murder."

"I'm delighted that we didn't have to talk about the issue of abortion in this trial and have our time wasted with some of the kinds of things that opponents to abortion sometimes use in their trials," Welcher said.

Joseph Reilly, executive director of Massachusetts Citizens for Life, which opposes abortion, called the trial "a model of

badge and experientialism."
Calling Salvi "a well-proclaimed vigilante," Reilly said, "Mr. Salvi and we have nothing in common. What Mr. Salvi did has nothing to do with pro-life principles or conduct."

In the wake of the Feb. 1994 Simpson murder trial, where racial issues often overshadowed the question of Simpson's role in the death of Nicole Brown Simpson and Ronald Goldman, Delahunt said he was conscious of keeping the Salvi case focused on the facts of the murders. "In some ways our system of jurisprudence is from a trial here," Delahunt said. Praising Dorth-Okara, Delahunt said, "Every single court proceeding was conducted with a level of dignity that hopefully will restore people's confidence in the legal system" after the Simpson case.

Reaction to the verdict

GOV. WILLIAM F. WELD

"I think the guilty verdict is appropriate, based upon a lot of evidence; first degree is the right response. The families of the victims are going to be able to have the feeling now that justice is done here."

JOSEPH REILLY

Executive director, Massachusetts Citizens for Life
"It is the abhorrence of violence that keeps us going. Mr. Salvi's activities totally contradict our pro-life principles. We are joined in sadness with the families of the dead people and the wounded people. Mr. Salvi is in no way connected with us."

NICKI NICHOLS GAMBLE

President, Planned Parenthood of Massachusetts
"We are sure that the jury could clearly see that these murders and maiming were the result of planned, premeditated action. While the jury has come as close as possible to justice, true justice will never be done. Shannon and Lee Ann will never be with us again. [However], we are confident that our staff will feel less fear knowing that John Salvi is permanently behind bars."

BILL COTTER

President, Operation Rescue in Boston
"We need to turn our sights to address the lawmakers, which is where this problem starts. What Salvi did is a side effect of abortion. We shouldn't be surprised that 23 years of sanctioned violence against the unborn has resulted in a further action of violence. We do condemn and disapprove of Salvi's actions."

CHERYL GARRITY

President, Massachusetts NOW
"If John Salvi believed that murdering women could be righteous, he learned this lesson at the knees of the antiabortion establishment. This trial sharply revealed that the rhetoric and the practices of the antiabortion movement encouraged this rampage, by advocating violence and discounting women's lives. The violence must end."

REV. MATTHEW HABIGER

President, Human Life International
"Throughout the course of the trial, the emphasis has been on the shooting deaths of the two young women who worked at the clinics. And yes, these deaths are tragic. But equally tragic are the thousands of deaths occurring inside abortion clinics every day... Violence, even in the name of preserving life, can never be justified."

KATE MICHELMAN

President, National Abortion Rights Action League
"This guilty verdict sends an unmistakable message that Americans will neither excuse nor tolerate antichoice violence. Opposition to abortion is not a license to bomb, harass, stalk or commit arson or murder. But many antichoice leaders encourage such violence."

Salvi found guilty in clinic shootings



John C. Salvi 3d is flanked by his attorneys, Janice Bassif and J.W. Carney Jr., as he listens to the jury's decision yesterday.



John Salvi Jr. comforts his wife, Ann Marie, after a jury found their son guilty on two counts of murder.

Insanity defense fails; judge sentences him to life terms for killing 2 women

Continued from Page 1
Insanity defense claims that Salvi was a paranoid schizophrenic in the grips of a delusional world view linking the clinics to a conspiracy against Catholics when he attacked the Beacon Street clinics.

Instead, the jury embraced Norfolk County prosecutors' contention that Salvi had planned the killings and conducted them with "extreme cruelty" when he shot Lowmyer at the Planned Parenthood clinic and then shot Nichols at the Preterm Health Services clinic some 15 minutes later.

"The jury came to the determination that on the day of the act, he was aware of the criminal responsibility," said juror Albert Frey of Wrentham.

Norfolk County District Attorney William Delahunt yesterday called the murders of Lowmyer and Nichols — and the wounding of five other people — a "massacre." First Assistant District Attorney John Kivlan, who prosecuted the case along with Marianne Hinkle, called the killings an "act of terrorism."

US Attorney Donald Stern, who initially considered prosecuting Salvi under federal law that calls for the death penalty for those who kill at a clinic, said yesterday that he will not bring Salvi to trial — unless his state conviction is overturned on appeal.

Salvi, who was an apprentice hairdresser living in a New Hampshire motel room at the time of the killings, briefly addressed Norfolk Superior Court Judge Barbara Dorth-Okara before she sentenced him.

"I don't have a prepared statement," Salvi began. In what his attorneys said was an unflinching glimpse into the 24-year-old's thought processes. "But as you know, I haven't pleaded guilty. I am

against abortion. My position is pro-welfare state and pro-Catholic labor union. And basically, I'd like the opportunity to address the populace" in an interview.

Dorth-Okara then sentenced Salvi to two mandatory life terms in prison, without parole, to be served consecutively for the murders and an additional 18-20 years in prison to be served after the two life terms.

Dorth-Okara's sentence seemed to be what relatives of Salvi's victims — and one victim herself — sought when they delivered victim-impact statements in the crowded courtroom where they had spent much of the past six weeks hearing daily about Salvi's mental condition.

Ruth Nichols, Lee Ann Nichols' mother, spoke directly at Salvi, forcing him to break eye contact and stare off as she recounted the first and final words of her only daughter. Lee Ann Nichols was shot 10 times as Salvi shouted, "This is what you get, pray the rosary."

"When Lee Ann was a small baby, her first words were, 'Me chase the birds, Mommy.' And her last words were her screaming 'no, no, no' as you pumped 10 bullets into her," said Ruth Nichols. "You were a little man with a big gun... I hope you have sheer misery every day of your life."

Liam Lowmyer, the younger brother of Shannon, spoke on behalf of his parents, William and Joan, and sister, Meghan. Liam, who was in court for each of the trial days along with his parents, poetically described his lost sibling who loved languages and music and was committed to peaceful resolution of disputes.

"We miss her musical soul," he said. "The world is a more desolate place for the loss of her presence."
Anjana Agrawal was the only survivor to speak. Agrawal was standing next to Lowmyer when Salvi

stepped into the reception room at Planned Parenthood, pulled out his .22-caliber rifle, and began shooting. Lowmyer was struck twice in the throat, Agrawal was shot in the back as she ran for safety.

"With a bullet still lodged in her body without injury, to be served 'I feel it with every breath I take' — Agrawal said that her life was turned upside down by the shooting and that she has become a fearful person where once she would easily stroll among mad huts in an African village.

"The amount of pain and suffering that this single, amazingly pathetic human being caused," she said with sadness and anger in her voice, "he should never, ever have the sun on his face again."

J.W. Carney Jr. and Janice Bassif, Salvi's defense team, declined to discuss appellate issues yesterday. But both said they would not have changed their strategy in the trial, during which they called 29 witnesses who described Salvi as spiraling slowly into the grips of mental illness. Defense psychiatrists said Salvi is a paranoid schizophrenic.

Carney said he believed "fear" of mental illness and the uncertainty that Salvi could one day be released drove the jury to reject the evidence of mental illness.

"We represented a young man who had no idea what was going on in this trial," Carney said. "The trial swirled around him, and even right now, in speaking with him upstairs, he has no idea what happened."

From the testimony of 111 witnesses, prosecutors painted a picture of an antiabortion zealot who was upset with activists not doing enough against the medical practice. Salvi, who appeared at two prayer vigils outside Planned Parenthood in the spring 1994, moved to New Hampshire where he purchased a 10-shot

The victims

John C. Salvi 3d was convicted yesterday of first-degree murder in the shootings at two women's health clinics in Brookline Dec. 30, 1994.

KILLED

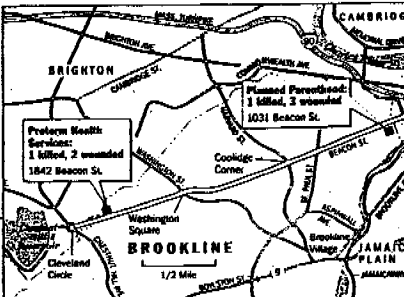
Shannon Lowmyer, 25
PLANNED PARENTHOOD RECEPTIONIST
Lowmyer was engaged to marry David Keene. A graduate of Boston College, she was a feminist who believed in the right to an abortion, her family has said.

WOUNDED

At Planned Parenthood
Anjana Agrawal, of Cambridge, medical assistant. Antonia Hernandez, of Worcester, accompanied a patient to clinic. Brian Murray of Hingham, accompanied patient to clinic.

Lee Ann Nichols, 38

PRETERM HEALTH SERVICES RECEPTIONIST
Nichols lived in Salem, N.H., with her boyfriend, Edward McDonough. She previously had worked at another clinic in Brookline. (Shown here in a 1970s yearbook photo.)



.22-caliber rifle with a pistol grip on Oct. 11, 1994.

He brought more than 1,200 rounds of ammunition and taped two 50-round clips together so that he had 100 bullets in his rifle when he attacked. One day before, he practiced shooting at close range. He was identified when a receipt from the range was found in a duffel bag stuffed with ammunition that Salvi left behind at Preterm. Salvi was arrested on Dec. 31, 1994, after he shot up an abortion clinic in Norfolk, Va.

During the trial, Salvi postulated the proceedings with outbursts, tossing over a table once when he was blocked from having a hand-printed message photographed. He

also raised a paper cup in a sarcastic salute to a witness who threatened to "get him" because Salvi had shot in his direction outside the Preterm clinic.

As he was being sentenced yesterday, Salvi wore the same basic outfit he has since his trial began on Feb. 28. Salvi said, white shirt, tan pants — and a bulletproof vest.

For extensive information about the John Salvi case, see the Globe Online at <http://www.globe.com>, which can be found at <http://www.mass.com>. Use the keyword: Salvi. Results of an informal electronic survey of Globe Online users also can be found at <http://www.globe.com> (keyword: Salvi/nd).

VOLUME 241 • NUMBER 42
96 pages
50 cents

The Boston Globe

SATURDAY, FEBRUARY 1, 1997

RIPOFF 'THE MORNIN'
Today: Rain, snow showers, 40
Tomorrow: Sun by afternoon, 40
Night tide: 6:00 a.m., 6:11 p.m.
Full report: Page 26

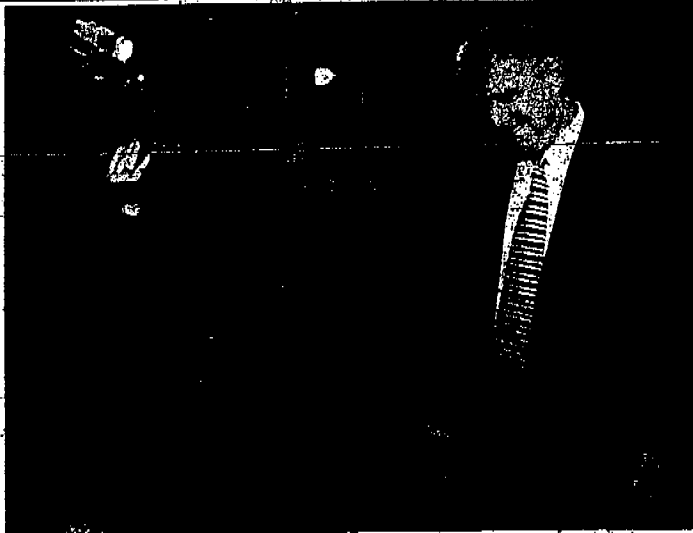
PARCELS BOWS OUT

Carroll favored: The 49ers' Pete Carroll will meet with owner Robert Kraft, and if all goes well, no one else will suit for the Patriots' coaching job. E1.

Pics to pay: The New York Jets had best understand that if they want the services of Bill Parcells next season, it will cost them at least the No. 1 draft pick. E1.

Fish story: Give the Tuna's Farewell Address a "D." That's D for Distinguished. Bob Ryan writes, E6.

Coverage, E1, E6-8.



Bill Parcells arrives at Fenway Stadium yesterday for his press conference to announce he's quitting as Patriots coach.

Lobbying nets heat aid funds for region

Mass. gets \$7.6m for families

By John M. Biers
STAFF WRITER

WASHINGTON — Responding to intense lobbying by the New England congressional delegation, the White House yesterday authorized the release of \$210 million in emergency heating funds nationwide, including \$7.6 million for Massachusetts.

The decision marked a reversal from earlier this week, when the White House had tentatively decided on a far more cautious release of \$50 million in emergency funds for the Midwest, but nothing for the Northeast in midwinter. That set off an intense lobbying campaign of phone calls and letters from New England lawmakers to senior White House officials.

Clinton administration officials said the decision to release the money from the Low Income Home Energy Assistance Program, or LIHEAP, was necessary because of the cold weather and high cost of heating oil in the Northeast. The action will mean an additional subsidy of about \$50 per family in Massachusetts.

LIHEAP is a federal energy assistance program administered through the states for the poor, elderly and disabled.

Although all 50 states participate, the majority of LIHEAP funds go to the Northeast and the Midwest. Some 125,000 Massachusetts families receive a one-time sum for the winter based on income and family size. Before yesterday's announcement of additional emergency funds, the maximum benefit this winter was \$300.

HEAT, Page A10

Judge clamps down on Simpson jury

By Adam Partman
STAFF WRITER

SANTA MONICA, Calif. — Judge Hiroshi Fujisaki yesterday dismissed the only black woman juror in the O.J. Simpson civil trial and, after expressing concern that the case could "unravel," he ordered the remaining jurors to watch no television and read no newspapers until after they reach a verdict.

Fujisaki denied a request by the defense for a mistrial and ordered the jurors to be sequestered in the courtroom for the remainder of the trial. But, faced with the possibility that events are spinning out of his control, Fujisaki ended the day by asking jurors

Tightens restrictions after 1 dismissed

to give their "solemn promise" to avoid all contacts that might result in their receiving any outside information.

The dismissed juror, who the plaintiff believed was sympathetic to their case, was released because she had expressed that her daughter was a legal secretary at the district attorney's office. The prosecutor dismissed Simpson two years ago. It is common to replace a juror during deliberations, which had to start anew yesterday with the new panel member, an Asian man in his 30s.

The new jury contains six women and

six men. Nine of the panelists are white.

"I will order you not to watch television, not to listen to the radio, not to read the newspaper, while you are still on this case," Fujisaki said. He also ordered them to advise family members and friends not to have contact with them, and asked them to have someone screen their calls and their mail to prevent anyone from contacting them about it.

"It's unfortunate that we have come to this point, but sometimes in a long trial ... things sometimes unravel," Fujisaki said. "I'm trusting in you to follow the court's order so that it doesn't unravel."

The immediate response for Fujisaki's action — which he took after a lengthy unusual meeting with several other judges — was that the dismissed juror Rosemary Caraway, might discuss her opinions or the jury deliberations with the media. Fujisaki applied to "responsible" journalists not to endanger the case by conducting or giving such interviews.

Earlier, he admonished attorneys for both sides to stop leaking information.

SIMPSON, Page A4

US plans Colombia drug rebuke

By David L. Marcus
GLOBE STAFF

WASHINGTON — After weeks of being on the verge of praising Colombia publicly for its antidrug efforts, the Clinton administration has decided instead to send the country a strong rebuke, officials said yesterday.

For the second year in a row, the officials said, the administration will place Colombia on a list of international pariahs, including Syria and Nigeria. That would be a blow to America's most important partner in the fight against cocaine traffic at a time when Colombia is reeling from political scandals and a recession.

The judgment will be announced at the end of this month when President Clinton is required to "certify" that 31 drug-producing and -shipping countries are doing their best to control the narcotics trade.

Clinton will sharply criticize Jamaica in this year's report, officials said. Despite allegations of corruption and other setbacks in Mexico's drug fight, the Clinton administration plans to emphasize positive news about Mexico.

The decision on Colombia follows DRUGS, Page A6.

"In my mind's eye, it's younger and brighter-looking. There's some polish there."

—GEORGE BOWMAN, *Boston* beater

A part of Americana loosens up

Conservative clothier Brooks Brothers goes a bit casual

By Suzanne C. Ryan
GLOBE CONTRIBUTOR

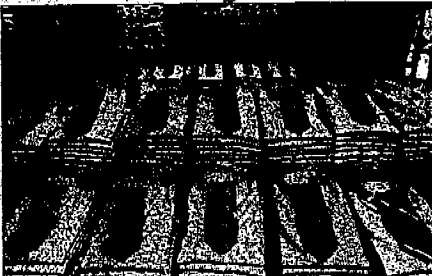
After nearly two centuries of selling button-down, conservative apparel, Brooks Brothers — the "godfather of American style" — is getting a makeover.

Nothing radical, mind you. But when the retailer whose name is synonymous with traditional staples such as bright colors, trendy logos, and casual wear, a sartorial tradition has been breached.

The company, one of the oldest clothing retailers in the nation, virtually invented the standards for traditional business attire in corporate America: the navy blue pinstriped necktie, white shirt, and suit tie. Its customers have included legendary dapper dressers from President John F. Kennedy to Fred Astaire.

But these days, with pin-striped suits increasingly passe in the ever-more-casual workplace, Brooks Brothers is vying to remain a player. You might not call it a new blue pinstriped necktie, white shirt, and suit tie. Its customers have included legendary dapper dressers from President John F. Kennedy to Fred Astaire.

Royal blue sports coats, lime green,



Salesman Michael McDonald arranges colored shirts and styled ties, part of a new line of clothing, in the Brooks Brothers store in Boston.

fuchsia, and orange ties; bright yellow and royal blue handkerchiefs; and the once-unheard-of pairing of checkered shirts with striped ties — all essential to make a Boston lawyer blanch. Casual wear sports giant "B B" "1818" logos, much like Tommy Hilfiter's. And in women's wear, Brooks is now offering

suave jackets and velvet tops in pastel colors.

Such consumers can find bright yellow ties and giant logo sweatshirts in every Macy's. But given Brooks Brothers' history, beginning in 1818 as "the birthplace of a vestmental tradition that has

BROOKS BROTHERS, Page A7

Salvi's record wiped clean, posthumously

Charges voided on technicality

By John Ellerman
GLOBE STAFF

In what may be the ultimate legal technicality, John C. Salvi III's two murder convictions in the 1994 shootings at two women's health clinics have been wiped out, with all criminal charges dismissed, because he died before his appeal was heard.

Norfolk Superior Court Judge Barbara Dorth-Okun, who presided at Salvi's trial and sentenced him to life in prison after a jury convicted him, voided the indictments and convictions on Jan. 21 at the request of Salvi's appellate attorney, James Sultan.

Since Salvi is dead, the judge's ruling has no practical effect. But the idea that the criminal justice system that convicted Salvi has now reversed itself and set aside the verdicts infuriated relatives and co-workers of the victims.

Sultan said yesterday he invoked a little-known legal principle after Salvi apparently committed suicide in his cell at Walpole state prison on Nov. 28. For at least 25 years, the Supreme Judicial Court has held that if a defendant dies before a conviction is reviewed, the charges are dismissed.

"Mr. Salvi is no longer with us, so I think he has suffered the ultimate punishment," Sultan said. "In our legal system, everybody is entitled to have the fairest

SALVI, Page A7

Metro/Region B

On a fix — Colleen Cronin, Brockton's parking clerk, didn't fix tickets.

Living/Arts C

Contraptions The unique MIT Museum offers a good amount of entertainment.

Real Estate D

Borrowers beware Home buyers, refinancees and home equity loan applicants are warned to heed.

Sports E

Victory trail Rick Fox scores 33 to help the Celtics stun the Portland Trail Blazers. 111.

Business F

Economic growth Paced by solid consumer spending, the US economy expanded at a 4.7

Features

Ask The Globe Q1
Auto Q1
Census Q10
Crossword Q10
Death Q4
Editorial Q4
Horse Q14

Classified

Classified Q1,78,91
Help Wanted Q6
Real Estate Q2
Apartments Q4
Comm/Ind'l Q4
Market Basket Q12

Globe Online

www.boston.cdu.globe
05634

Sum yesterday for his press conference to announce he's quitting as Patriots coach.

GLOBE STAFF PHOTO / FRANK O'BRIEN

vn on Simpson jury

ctions after 1 dismissed

avoid all six men. Nine of the panelists are white, one Hispanic, one Asian and one Jamaican-born man of black and Asian parentage.

"I will order you not to watch television, not to listen to the radio, not to read a newspaper... while you are still on this case deliberating," the judge told the jurors yesterday. He also ordered them to advise family members and friends not to mention the case to them, and asked them to have someone screen their calls and their mail to prevent anyone from contacting them about it.

"It's unfortunate that we have come to this pass, but sometimes in a long trial... things sometimes unravel," Fujisaki said. "I'm trusting in you to follow the court's order so that it doesn't unravel."

The immediate impetus for Fujisaki's action - which he took after a highly unusual meeting with several other judges - was that the dismissed juror, Rosemary Caraway, might discuss her opinions or the jury deliberations with the media. Fujisaki appealed to "responsible" journalists not to endanger the case by conducting or airing such interviews.

Earlier, he admonished attorneys for both sides to stop leaking information

SIMPSON, Page A4

million for Massachusetts.

The decision marked a reversal from earlier this week, when the White House had tentatively decided on a far more austere release of \$50 million in emergency funds for the Midwest, but nothing for the Northeast in midwinter. That set off an intense lobbying campaign of phone calls and letters from New England lawmakers to senior White House officials.

Clinton administration officials said the decision to release the money from the Low Income Home Energy Assistance Program, or LIHEAP, was necessary because of the cold weather and high cost of heating oil in the Northeast. The action will mean an additional subsidy of about \$50 per family in Massachusetts.

LIHEAP is a federal energy assistance program administered through the states for the poor, elderly and disabled.

Although all 50 states participate, the majority of LIHEAP funds go to the Northeast and the Midwest. Some 125,000 Massachusetts families receive a one-time sum for the winter based on income and family size. Before yesterday's announcement of additional emergency funds, the maximum benefit this winter was \$360.

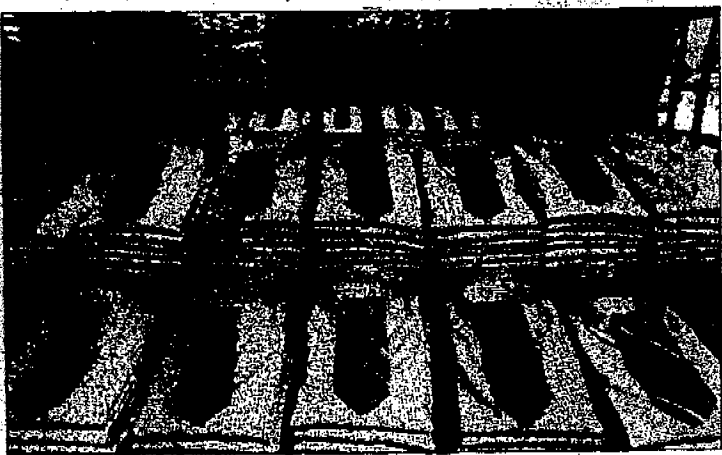
HEAT, Page A10

mind's eye, it's younger and brighter-looking. There's some polish there.

GEORGE BOWMAN, Boston banker

f Americana loosens up

clothier Brooks Brothers goes a bit casual



Salesman Michael McDonald arranges colored shirts and styled ties, part of a new line of clothing, in the Brooks Brothers store in Boston.

fuchsia, and orange ties; bright yellow and royal blue handkerchiefs; and the once-unheard-of pairing of checkered shirts with striped ties - all enough to make a Boston lawyer blanch. Casual wear sports giant "B B - 1818" logos, much like Tommy Hilfiger's. And in women's wear, Brooks is now offering

suede jackets and velour tops in pastel colors.

Sure, consumers can find bright yellow ties and giant logo sweatshirts in every Macy's. But given Brooks Brothers' history, beginning in 1818 as "the birthplace of a vestmental tradition that has

BROOKS BROTHERS, Page A7

Salvi's record wiped clean, posthumously

Charges voided on technicality

By John Ellement
GLOBE STAFF

In what may be the ultimate legal technicality, John C. Salvi III's two murder convictions in the 1994 shootings at two women's health clinics have been wiped out, with all criminal charges dismissed, because he died before his appeal was heard.

Norfolk Superior Court Judge Barbara Dortch-Okara, who presided at Salvi's trial and sentenced him to life in prison after a jury convicted him, voided the indictments and convictions on Jan. 21 at the request of Salvi's appellate attorney, James Sultan.

Since Salvi is dead, the judge's ruling has no practical effect. But the idea that the criminal justice system that convicted Salvi has now reversed itself and set aside the verdicts infuriated relatives and co-workers of the victims.



JOHN C. SALVI III

Sultan said yesterday he invoked a little-known legal principle after Salvi apparently committed suicide in his cell at Walpole state prison on Nov. 29. For at least 25 years, the Supreme Judicial Court has held that if a defendant dies before a conviction is reviewed, the charges are dismissed.

"Mr. Salvi is no longer with us, so I think he has suffered the ultimate punishment," Sultan said. "In our legal system, everybody is entitled to have the fairness

SALVI, Page A7

Real Estate D

Sports E

Business F

FEATURES

CLASSIFIED

Globe Online

Borrowers beware
Home buyers, refinancers and home equity loan applicants

Victory trail
Rick Fox scores 33 to help the Celtics stun the Portland

Economic growth
Paced by solid consumer spending, the US economy

Ask The Globe **D10**
Autos **G1**
Comics **D10**
Crossword **D10**
Deaths **B4**

Classified **D1,F8,G1**
Help Wanted **D6**
Real Estate **D2**
Apartments **D4**
Comm/Ind'l **D4**
Market Basket **D12**

www.boston.com/globe

05634

BROOKS BROTHERS
continued from Page A1

some part of Americana," as chronicler puts it, even incremental changes there are radical. Mellet, who was hired as retailer's first design director 14 months ago, recalls that first impression of the clothier as a "wonderful mausoleum," prompting him to wonder, "What've I gotten myself into?"

Customer reaction to the changes has been mixed, and not along predictable age lines. George Bowman, a 51-year-old Boston banker, likes the new look. "In my mind's eye, it's younger and brighter-looking," says Bowman. "There's some polish to it."

But Gregg Wilson, a 41-year-old attorney from Westwood, likes the bright colors are too bright for his profession. "For me, a little too much."

It's a sign of the times that unlike Brooks Brothers has loosened its buttoned-down image. As more men and women dress more casually for work, consumers want a closet of blue, black and gray suits and white shirts.

Moreover, many baby boomers - Brooks Brothers' largest customer pool now that older boomers are retiring - want the temporary looks of designers in their generation (Calvin Klein, Joseph Abboud, and Perry Ellis).

"We want to broaden our customer base. We have very loyal (older) customers who've been shopping here for years. But by boomers have an image in their minds that Brooks Brothers is stodgy," Mellet says. "We have update everything in our stores make them more exciting."

Brooks Brothers' changes, which began about 18 months ago, do not represent a complete transformation. The retailer still offers plenty of blue pin-striped shirts and crisp white shirts.

But to some longtime customers who grew up shopping at the store, even subtle changes are dramatic and unwarranted. Brooks Brothers has turned its back on its heritage, "complains Alan Flusser, a New York designer who created Michael Douglas' impeccable wardrobe for his role as Gordon Gekko in the 1987 movie "Wall Street." Flusser, 51, is shopped at Brooks Brothers for almost 40 years, and his father, Marty, shopped there for most of his life as well. "When I grew up, Brooks was the only place you could go to learn about clothes and how to put them together. ... Now the clothes and

colors they're showing are devoid of taste."

Flusser critiques Brooks Brothers in his recent book, "Style and the Man: How and Where to Buy Fine Men's Clothes," charging that its suits are now "mere shadows" of the past, that its hosiery is ordinary and that its classic shirt collars have been discontinued.

While implementing changes throughout 1996, Brooks Brothers' sales have risen, and it has made a profit. A subsidiary of Marks & Spencer plc of London, the retailer reported that operating profits rose to \$1.7 million in September, compared with a loss of \$4 million in the same period a year ago.

To implement its makeover, Brooks Brothers two years ago hired Joseph R. Gromek, the former general merchandise manager at Ann Taylor, as president and chief executive. In November 1995, the company hired Mellet, formerly design director at Fenn Wright & Manson, a contemporary

'Brooks Brothers has turned its back on its heritage.'

ALAN FLUSSER
New York designer

clothing wholesaler in New York.

To become consumer-friendly, Brooks Brothers is remodeling its 68 US stores (including five in Massachusetts), displaying ties on tables and shirts on forms, with color-coordinated sweaters and sports coats. Shirt selections have been expanded to include dark blue, burgundy, turquoise and even sea-foam green.

In its suit department, the company introduced "wardrobing," selling jackets and trousers separately to ensure a proper fit. It created wool suits with a stretch quality for greater comfort and fewer wrinkles. And it added a more fashionable three-button jacket, in addition to the traditional two-button jacket.

In its women's department, which is fairly small, Brooks Brothers has shortened skirts, tucked in jacket waists and added more casual Lycra knit tops, suede jackets, shiny silk shirts and even bright orange winter coats.

any "past, present or future cases," but Deputy Attorney General Jamie Gorelick said the "government will

supervisors whose work officials said was criticized in the still-secret draft report. All four await a final determi-

defense witness in the Oklahoma City bombing trial, set to begin March, and Grassley has question-

Salvi's record wiped clean, posthumously

■ SALVI
Continued from Page A1

of their conviction reviewed on appeal before it is considered legally final and binding. John Salvi never had that opportunity."

Ruth Nichols, whose daughter, Lee Ann, was shot 10 times by Salvi in one of two clinics he attacked in Brookline in 1994, yesterday said she was "outraged" by the ruling and angered that Sultan would seek it.

"That piece of paper wipes his slate clean," she said of Dorch-Okara's order. "I have a piece of paper that tells me she had to have an autopsy after he pumped 10 bullets into her. They had to take her body apart. I can't wipe her autopsy clean. It's there. And so should his conviction be there."

The parents of Salvi's second victim, Shannon Lowney, could not be reached for comment. Nicki Nichols Gamble, president of the Planned Parenthood League of Massachusetts for whom Lowney worked, yesterday was stunned that Salvi's criminal record has been expunged but viewed it as "minor footnote" in the context of what Salvi did.

"I think it's really important to remember that although the families of the victims are never going to achieve real peace, the conviction and the sentencing did as much as could be done to help them achieve a position of peace," Gamble said. "From my point of view, absolute justice was done in that trial and there can be no doubt about that."

Sultan said Salvi's parents, John and Ann Marie, were "thrilled" to learn that Dorch-Okara had approved the motion, which Sultan said "vindicates" Salvi's memory. He said the request to erase Salvi's convictions was not designed to help the Salvis if they sue the state as a result of their son's suicide in prison.

"I don't think this has any practical effect or legal consequence other than to give them some peace of mind as they grieve for their son," he said.

Sultan said they had planned to argue to the SJC that Salvi was mentally incompetent and should never have been tried. He said he also would have argued Salvi should have been found not guilty by reason of insanity, an argument the Norfolk Superior Court jury rejected.

"Those were critical issues in this case and those were the issues which our state supreme court will never

have an opportunity to review," Sultan said. "Nobody has, from day one, ever contested the fact that John Salvi killed these innocent individuals. That was a terrible thing."

Norfolk District Attorney Jeffrey Locke, who was not in office during the Salvi case, said yesterday he was confident the SJC would have found that Salvi was given a fair trial and would have upheld his convictions. Salvi's suicide, he said, prevents the SJC from looking at the case. "The final injustice committed by Salvi is denying the public that review," Locke said.

He also said Dorch-Okara was bound by prior SJC decisions and that the US Supreme Court follows a similar practice of voiding convictions where they have not been reviewed by an appellate court. "It's truly a quirk, very rarely encountered," Locke said.

While Salvi now has a clean legal record, Locke said Salvi will never be able to avoid his place in history as the author of the single worst act of violence committed against a clinic that provided abortions.

He said the questions of Salvi's mental state were raised in his trial. "Those were issues that were fully and fairly aired in the Superior Court and were thoughtfully considered by 12 people," Locke said. "The judgment of the jury will remain in the public arena for all time."

TOP DESIGNERS • BE



SWI
Biggest & Without the

OPEN -
FRI.....10-9
SAT.....8-7
SUN.....11-6

WESTWOOD • R

LIGHT


"The

A SHA

ALL LAMPSH

25% 0

A better selection of be
You better bel
Bring yo



Reading
Rte. 28
617-944-5455

LIGHTING • CEILING FAN

DESIGN YOUR BUY FROM THE FACTORY

Don't Settle For "What's" Available. Design Your Most Elegant. In Solid Oak, Maple, Cherry, Cori



Solid Oak and Maple Butcher Block 1 1/2" Thick.
Any Size. Any Stain.



Custom

New England Oriental Rug Gallery Inc.

25% - 55% SAVE

EVERYTHING HAS BEEN REDUCED

Grand Jury Case

UPDATED DOCKET

Docket No. 99518

Indictment returned February 14, 1995

Commonwealth vs.

JOHN C. SALVI, III

J.W. CARNEY, JR., ESQ. / Maryanne Hinkle
 Attorney 20 PARK PLAZA, BOSTON, 02116 5/2/96 Charles Rankin, Esq
 1 Commercial St. Boston, 02110 John Kivlan,

CR34A SM 3/77

1	Offence	MURDER		
	Committed at	BROOKLINE	on	DECEMBER 30, 1994
2.	1995 Feb. 14	- Service to defendant		
3.	1995 Feb. 14	- Service returned		
	1995 Feb. 15	- Plea not guilty bail - held without bail continued to 3/8/95 for conference (Flannery, J)		
4.	1995 Feb. 15	- Comm's motion for order requiring John C. Salvi, III to provide handwriting exemplars		
5.	1995 Feb. 15	- Order re: exemplars of his handwriting (Flannery, J) n/s		
6.	1995 Feb. 15	- Delt's motion for police reports - unopposed, allowed as agreed (see transcript) (Flannery, J) n/s		
7.	1995 Feb. 15	- Motion received and filed and impounded		
8.	1995 Mar. 8	- Continued to 4/10/95 at 2:00 PM status (Dortch-Okara, J)		
8a.	1995 Mar. 8	- Conference report		
9.	1995 Mar. 8	- List of grand jury transcripts		
	1995 Mar. 8	- Comm's motion for disclosure of insanity or lack of criminal responsibility defense.		
10.	1995 Mar. 8	- Comm's motion for notice of alibi defense		

I ATTEST THAT THIS DOCUMENT IS
 A CERTIFIED PHOTOCOPY OF AN ORIGINAL
 ON FILE

Angeline [Signature]
 DEPUTY ASSISTANT CLERK

NORFOLK COUNTY
SUPERIOR COURT
CRIMINAL DOCKET

Grand Jury Case

Page 2

Docket No. 99518

Indictment returned February 14, 1995

Commonwealth vs.

JOHN C. SALVI, III

Attorney

Offence MURDER

Committed at

BROOKLINE

on DECEMBER 30, 1994

30. 1995 Apr. 20 - Comm's response to deft's motion for all investigative reports
31. 1995 Apr. 20 - Comm's response to deft's motion for reports of scientific tests
and analyses

**

32. 1995 Apr. 10 - Comm's motion for disclosure of insanity or lack of criminal resp.
defense - motion to be complied with by 7/10/95 (Dortch-Okara, J)n/
33. 1995 Apr. 20 - Comm's response to deft's motion for physical evidence
34. 1995 Apr. 20 - Comm's response to deft's motion for discovery concerning expert w
35. 1995 Apr. 20 - Comm's response to deft's motion for photographs and diagrams
36. 1995 Apr. 20 - Comm's response to deft's request for exculpatory evidence
37. 1995 Apr. 20 - Comm's response to deft's motion for probation records of prospect
Comm. witnesses

38. 1995 Apr. 20 - Comm's response to deft's motion for list of criminal charges again
prosecutive witnesses
39. 1995 Apr. 20 - Comm's response to deft's motion for informant information

CR34A SM 3/77

(0V)

NORFOLK COUNTY
SUPERIOR COURT
CRIMINAL DOCKET

Grand Jury Case

Docket No. 99518

Indictment returned February 14, 1995

Commonwealth vs.

JOHN C. SALVI, III

Attorney	Offence	Committed at	on	Date
	MURDER	BROOKLINE	on	DECEMBER 30, 1994
				memoranda of the Comm. and the defense, the motion is allowed. The or of impoundment otherwise remains in effect (Dortch-Okara, J) n/s
				53. 1995 May 9 - Mem. of decision and order on deft's motion for presence of counsel during court-ordered psychiatric evaluation (Dortch-Okara, J) n/s
				1995 May 9 - Continued to 5/26/95 for status. Deft. returned to Bridgewater St. Ho (Dortch-Okara, J)
				54. 1995 May 11 - Habe issued to Bridgewater St. Hosp. for 5/26/95
				55. 1995 May 15 - Mem. of law concerning disclosure of interim report pursuant to G.L 123/15(b) to the prosecutor and cert. of service
				56. 1995 May 16 - Comm's mem. regarding release of competency report
				56a. 1995 May 17 - Mem. of decision and order on deft's motion to prohibit disclosure of G.L.c. 123/15(b) report to the Comm. and to the General Public
				57. 1995 May 18 - Motion to stay any order permitting disclosure of any portion of th interim report pursuant to G.L.c.123/15(b) to the prosecutor and certificate of service - motion denied in part and allowed in part See mem. of decision (Dortch-Okara, J) n/s

CR34A SM 3/77

(OV

NORFOLK COUNTY
SUPERIOR COURT
CRIMINAL DOCKET

Grand Jury Case

Page 5

Docket No. 99518

Indictment returned February 14, 1995

Commonwealth vs.

JOHN C. SALVI, III

Attorney

Offence MURDER

Committed at BROOKLINE on DECEMBER 30, 1994

- 89a. 1995 Aug. 22 - Deft's motion for an ex parte hearing of the deft's motion for funds nunc pro tunc
- 90. 1995 Aug. 23 - Order on: Comm's motion for reciprocal discovery (Dortch-Okara, J)
- 91. 1995 Aug. 23 - Deft's discovery motions (Dortch-Okara, J) n/s
- 91a. 1995 Aug. 24 - Deft's motion for funds nunc pro tunc - impounded
- 92. 1995 Sept. 11 - Petition pursuant to G.L.C. 211 s. 3 - denied (Wilkins, J)(S.J.C.
- 93. 1995 Sept. 13 - Deft's motion for funds, affidavit in support and mem. - motion allowed (Dortch-Okara, J) impounded
- 94. 1995 Sept. 13 - Deft's motion for an ex parte hearing on the deft's motion for funds motion allowed (Dortch-Okara, J) n/s impounded
- 95. 1995 Sept. 19 - Deft's notice of insanity defense
- 96. 1995 Sept. 27 - Comm's motion for physical evidence - motion allowed compliance by 10/27/95 (Dortch-Okara, J) n/s
- 97. 1995 Sept. 27 - Comm's motion for reciprocal discovery regarding prospective witnesses allowed to 10/27/95 regarding prospective witnesses 10/13/95 as regards to Dr. RESnick (Dortch-Okara, J) n/s

CR34A 5M 3/77

(OVI)

NORFOLK COUNTY
SUPERIOR COURT
CRIMINAL DOCKET

Grand Jury Case

Page 6

Docket No. 99518

Indictment returned February 14, 1995

Commonwealth vs.

JOHN C. SALVI, III

Attorney

Offence MURDER

Committed at

BROOKLINE

on

DECEMBER 30, 1994

113.
114.

1995 Dec. 7 - Order of the Court re: Norfolk County Sheriff's Dept. (Dortch-Okara, Globe newspaper company's memo. In opposition to comm's motion to exclude still photographs from further trial court proceedings against John C. Salvi, III

115.

1995 Dec. 14 - Comm's motion to amend its motion to prohibit TV cameras, video and audio recordings of the trial of this case to specifically include still as well as moving photographs from being taken

116.
117.

1995 Dec. 15 - Affidavit of Sheriff Clifford Marshall
1995 Dec. 15 - Mem. In opposition to comm's motion to exclude cameras and audio recording and appendix

118.

1995 Dec. 18 - Comm's memorandum in support of its motion to exclude TV camer, video recording or the taking of photographs in the above entitled case and affidavit

119.

1995 Dec. 18 - Order re: Division of Health and Human Services of Portsmouth (Dortch-Okara, J) n/s

CR34A 5M 3/77

(OVE

NORFOLK COUNTY
SUPERIOR COURT
CRIMINAL DOCKET

Grand Jury Case

Page 7

Docket No. 99-518

Indictment returned February 14, 1995

Commonwealth vs.

JOHN C. SALVI, III

Attorney

Offence

MURDER

Committed at

BROOKLINE

on DECEMBER 30, 1994

136	1995 Dec. 29	-	Court appointment re: Dr. Martin Kelly - filed 12/28/95
137	1995 Dec. 29	-	Order on deft's motion for videotaping the interview of the deft. by the comm's psychiatric expert - denied (Dortch-Okara, J) n/s
138	1995 Dec. 29	-	Deft's motion for a stay of order on deft's motion for videotaping the interview of the deft. by the Comm's psychiatric expert - not allowed (Dortch-Okara, J) n/s
139	1996 Jan. 2	-	Defendant's motion for funds
140	1996 Jan. 2	-	Affidavit in support of deft's motion for funds to the Comm.
141	1996 Jan. 2	-	Deft's objection to release of certain records - impounded
142	1996 Jan. 2	-	Affidavit in support of deft's motion for funds - impounded
143	1996 Jan. 2	-	Deft's motion for funds for an investigator - impounded
144	1996 Jan. 2	-	Deft's motion for an ex parte hearing of the deft's motion for funds for an investigator - impounded
145	1996 Jan. 2	-	Deft's motion for an ex parte hearing of the deft's motion for funds - impounded

CR34A SM 3/77

NORFOLK COUNTY
SUPERIOR COURT
CRIMINAL DOCKET

Grand Jury Case

Docket No. 99518

Indictment returned February 14, 1995

Commonwealth vs.

JOHN C. SALVI, III

Attorney	Offence	Committed at	on	DECEMBER 30, 1994
	MURDER	BROOKLINE		
161.	1996 Jan. 12 -	Order (Dortch-Okara, J) n/s		
	1996 Jan. 12 -	Upon oral motion, order of 1/12/96 is stayed until 1/16/96 at 9:00		
		continued to 1/16/96 for status (Dortch-Okara, J)		
	1996 Jan. 16 -	Impounded motions allowed (Dortch-Okara, J) n/s to Atty. Carney		
162.	1996 Jan. 16 -	Def't's motion for reconsideration of def't's motion for videotaping		
		the interview of the def't. by the Comm's psychiatric expert -		
		motion denied (Dortch-Okara, J) n/s		
		motion denied (Dortch-Okara, J) n/s		
163.	1996 Jan. 16 -	Comm's motion for a list of defense witnesses		
164.	1996 Jan. 23 -	Def't's impounded motion		
165.	1996 Jan. 23 -	Defendant's impounded motions (11)		
166.	1996 Jan. 23 -	Defendant's motion for ex parte hearing on def't's motions for out		
		of state summons to issue		
167.	1996 Jan. 25 -	Memorandum and order on Comm's motion to exclude television camera		
		video, audio recording or the taking of photographs and def't's mot		
		to exclude television cameras from the Court room (Dortch-Okara, J)		

CR34A SM 3/77

NORFOLK COUNTY
SUPERIOR COURT
CRIMINAL DOCKET

Grand Jury Case

Page 9

Docket No. 99518

Indictment returned February 14, 1995

Commonwealth vs.

JOHN C. SALVI, III

Attorney

Offence MURDER

Committed at

BROOKLINE

on DECEMBER 30, 1994

- 183. 1996 Feb. 5 - Order of the court - re: records (Dortch-Okara, J) n/s
- 184. 1996 Feb. 6 - Individual voir dire
- 185. 1996 Feb. 6 - Motion to instruct jurors at time of individual voir dire
- 186. 1996 Feb. 7 - Deft's motion to allow jurors to take notes allowed (Dortch-Okara, J)
- 187. 1996 Feb. 8 - Comm's motion in limine regarding defense opening
- 188. 1996 Feb. 8 - Comm's motion for sequestration
- 189. 1996 Feb. 9 - Memorandum supporting deft. motion in limine to exclude jail mental health exam
- 190. 1996 Feb. 12 - Impounded psychiatric report
- 191. 1996 Feb. 12 - Impounded order re: psychiatric report of Dr. Kelly (Dortch-Okara,
- 192. 1996 Feb. 12 - Memorandum of decision and order on Comm's motion for order limiti
all participating attorneys' extra judicial communications with
media (Dortch-Okara, J) n/s
- 193. 1996 Feb. 12 - Impounded summonses and motions

CR34A SM 3/77

(OVER

NORFOLK COUNTY
SUPERIOR COURT
CRIMINAL DOCKET

Grand Jury Case

Page 10

Docket No. 99518

Indictment returned February 14, 1995

Commonwealth vs.

JOHN C. SALVI, III

Attorney

Offence MURDER

Committed at BROOKLINE

on DECEMBER 30, 1994

CR34A SM 3/77

- 209. 1996 Feb. 26 - Deft's motion in limine to exclude any interviews of the deft.
- 210. 1996 Feb. 27 - Deft's motion for an exparte hearing on the deft's motion for F
for mental health experts allowed (Dortch-Okara, J) impounded
- 211. 1996 Feb. 27 - Deft's motion for juror's to ask questions during expert testir
motion denied (Dortch-Okara, J) n/s
- 212. 1996 Feb. 28 - Trial memorandum to treat witnesses as hostile
- 213. 1996 Mar. 1 - Deft's motion in limine to exclude testimony from experts regar
defense counsel
- 214. 1996 Mar. 1 - Deft's supplemental witness list
- 215. 1996 Mar. 1 - Deft's motion in limine to exclude certain alleged testimony of
Mark Roberts
- 216. 1996 Mar. 1 - Deft's motion in limine to exclude any reference to the Hill &
case denied - but references limited as stated in open court
(Dortch-Okara, J) n/s
- 217. 1996 Mar. 7 - Deft's offer of proof regarding the testimony of Atty. Earl Lov

NORFOLK COUNTY
SUPERIOR COURT
CRIMINAL DOCKET

Grand Jury Case

Page 11

Docket No. 99518

Indictment returned February 14, 1995

Commonwealth vs.

JOHN C. SALVI, III

Attorney	Offence	Committed at	on	Date	Description
	MURDER	BROOKLINE	on	DECEMBER 30, 1994	
				1996 Apr. 29	- Notice of assignment of counsel James L. Sultan, Esq. appointed co-counsel - (CPCS)
				1996 May 1	- Appearance of Charles W. Rankin, Esq.
				1996 July 30	- Defendant's motion for funds for investigators motion allowed (Dortch-Okara, J) n/s
				1996 July 31	- Defendant's motion for funds for mental health expert - motion allowed (Dortch-Okara, J) n/s
				1996 Dec. 20	- Notification of death of def. & mo. to vacate judg. of conv. ^{indict}
				1996 Dec. 24	- Suggestion of death and motion to vacate notices of appeal on the above captioned indictments - c/s to Judge Dortch-Okara
				1996 Dec. 27	- Opposition to Comm's motion to vacate notices of appeal - c/s to Judge Dortch-Okara
				1997 Jan. 21	- Suggestion of death and motion to vacate notices of appeal on the above captioned indictments allowed (Dortch-Okara, J) n/s
				1997 Jan. 21	- Notification of death of defendant, and motion to vacate judgment of conviction and to dismiss indictments - allowed (Dortch-Okara, J) n/s

CR34A SM 3/77