

US Supreme Court to consider reinstating death sentence for Boston Marathon bomber Dzhokhar Tsarnaev

Kate Randall
23 March 2021

The US Supreme Court said Monday it will consider a petition filed by the Justice Department during the Trump administration to restore the death sentence for Boston Marathon bomber Dzhokhar Tsarnaev. Tsarnaev was sentenced to death in 2015 for his role in the 2013 attacks that killed three people and injured 260 near the finish line at the sporting event.

Tsarnaev, now 27, has acknowledged his role alongside his older brother Tamerlan Tsarnaev, in the bombings, but claimed he was less culpable having acted under his brother's direction.

The high court's unusual decision to review the case, which will likely come in the fall, places President Joe Biden under scrutiny for having indicated during the 2020 presidential election that he would seek an end to federal executions.

Last summer, the First Circuit Court of Appeals upheld the bulk of the younger Tsarnaev's convictions but vacated his sentence, ruling that the trial judge "did not meet the standard" of fairness while presiding over selection of the jury. The court found that at least two of the 12 jurors selected did not fully disclose what they knew about the case or had discussed it on social media before they were chosen for the jury.

The Supreme Court could decide to affirm the ruling of the appellate court, which has ordered a new trial to determine whether Tsarnaev will be put to death or spend the rest of his life in prison. They could also reinstate the original death sentence.

Federal prosecutors could abandon the Trump administration's petition and concede that the Appeals Court ruling was correct. Biden could also commute Tsarnaev's death sentence, rendering any ruling by the Supreme Court moot.

Neither Biden nor Attorney General Merrick Garland has indicated where they stand on death sentences for either Tsarnaev or Dylann Roof, the 26-year-old white supremacist who murdered nine black men and women inside a church in Charleston, South Carolina, in 2015. The attorney general has expressed "great" concern about the application of the death penalty.

Speaking about Tsarnaev's case, White House press secretary Jen Psaki said Monday, "President Biden has made clear, as he did on the campaign trail, that he has grave concerns about whether capital punishment as currently implemented is consistent with the values that are fundamental to our sense of justice and fairness." She added, however, "He's also expressed his horror at the events of that day, and ... Tsarnaev's actions."

The president's professed opposition to the federal death penalty is belied by the fact it was during the Obama administration—when Biden was vice president—that the Justice Department initially recommended the death sentence in Tsarnaev's case.

Barack Obama has conveniently chosen when and when not to support the death penalty. In his 2006 memoir *The Audacity of Hope*, Obama wrote, "While the evidence tells me that the death penalty does little to deter crime, I believe there are some crimes—mass murder, the rape and murder of a child—so heinous that the community is justified in expressing the full measure of its outrage by meting out the ultimate punishment."

After a particularly gruesome execution in Oklahoma, in which the inmate writhed and gasped for air for 43 minutes on the execution gurney, the then-president said, "There are certain circumstances in which a crime is so terrible that the application of the death penalty

may be appropriate.”

Then-Vice President Biden spoke at the official commemorations on the one-year anniversary of the Marathon bombings. Like the other Democratic Party speakers that day, he gave no explanation as to how the Marathon bombers were able to carry out their crime unhindered despite numerous warnings to the FBI about the terrorist inclinations of the elder Tsarnaev brother.

The lockdown of Boston four days after the bombings—when area residents were told to “shelter in place” and the city was placed under de facto martial law—was essentially sanctioned as the legitimate response. Tributes abounded to the “heroes” of law enforcement who eventually killed Tamerlan Tsarnaev and captured his younger brother.

In his remarks at the event, Biden exploited the tragedy of the victims and the bombing survivors’ struggle to heal to advance US militarism and the “war on terror.” “You’re living proof that America can never, never be defeated,” he said. “You have become the face of America’s resolve, not unlike what happened in 9/11; the face of America’s resolve for the whole world to see.”

He continued, “They try to instill fear so that we will jettison what we value the most and what the world most values about us.” These values, he asserted, are “an open society, our system of justice, our freedom of religion, our access to opportunity, the free flow of information and ideas across the country, the willingness and capacity to gather anywhere in any numbers and say what we believe.”

In the aftermath of the January 6 coup attempt—and Biden’s attempt to make peace with the coup plotters and their accomplices—this vision of “American values” takes on new meaning. Considered in the context of the Biden administration’s criminal response to the pandemic, including the reopening of schools and workplaces based on the falsification of science, the invocation of “the free flow of information and ideas across the country” rings particularly false.

The Trump administration concluded with a flurry of federal executions, with 12 men and one woman sent to their deaths, ending a de facto moratorium on the federal death penalty over the previous two decades. Regardless of how Biden eventually responds to the Tsarnaev case, his administration will continue along

this same class-based trajectory regarding legal matters and all facets of social life.



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