

Supreme Court reinstates death penalty for Boston Marathon bomber Dzhokhar Tsarnaev

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5 March 2022

On Friday the US Supreme Court's 6–3 conservative majority, following through on a request from the Biden administration, reinstated the death sentence for Dzhokhar Tsarnaev, previously convicted in the 2013 Boston Marathon bombing. Tsarnaev placed one of two “pressure cooker” bombs near the finish line, which killed three spectators and wounded some 260 more.

During the sentencing phase of his 2015 trial, attorneys for Tsarnaev argued that he should not be sentenced to death because his older brother Tamerlan, a violent man who was under surveillance by both Russian and US intelligence agencies prior to the bombing, had radicalized Dzhokhar and influenced his decision to participate in the terror plot.

The Supreme Court's reactionary ruling is further confirmation of the extreme crisis wracking the capitalist system. Under conditions of increasing working class resistance to unending war, mass death and impoverishment, the US ruling class, like their bourgeois counterparts around the world, are removing any barriers to enacting the most violent methods in order to enforce their historically outmoded system.

On Friday, White House press secretary Jen Psaki refused to state whether the Biden administration would seek Tsarnaev's execution, telling reporters that President Joe Biden “believes that Tsarnaev should be punished” but that he also has “grave concerns about capital punishment as implemented.

Appealing to the police and far-right elements, Psaki added that Biden, “believes Tsarnaev should be punished for responsibility in the murder of three innocent people at the marathon, for wounding dozens of others and for his role in killing two police officers who were attempting to bring him and his brother to justice.

The issue before the Supreme Court was not whether or

not Tsarnaev would be “punished.” The July 31, 2020 ruling by a three-judge panel of the US First Circuit Court of Appeals affirmed his guilt; but it overturned his death sentence and requested a new penalty phase of the trial be initiated.

In overturning the sentence, the panel ruled that the judge “did not meet the standard” of fairness while presiding over jury selection. The panel noted that US District Judge George A. O'Toole Jr. failed to weed out jurors who had foreknowledge of the highly publicized case which they did not disclose during jury selection, an error that should be remedied by a new penalty phase of the trial.

The panel also noted that mitigating evidence indicating that Tamerlan was the leader of the plot and more culpable for the bombing was improperly withheld by the judge. This evidence included the fact that Tamerlan was an extremely violent man who was the leading suspect in a triple homicide committed three years prior in Waltham, Massachusetts, which Dzhokhar had previously referred to as the first time he knew his brother had engaged in “jihad.”

Writing for the majority, arch-conservative Justice Clarence Thomas rejected the appeal court's decision, writing: “Dzhokhar Tsarnaev committed heinous crimes, The Sixth Amendment nonetheless guaranteed him a fair trial before an impartial jury. He received one. The Judgment of the United States Court of Appeals for the First Circuit is reversed.”

In arguing against allowing evidence of Tamerlan's role in a triple homicide, and the influence that might have had on Dzhokhar, Thomas supported Judge O'Toole's 2015 ruling, stating that the evidence was not relevant in part because there was no way to “confirm or verify the relevant facts, since all of the parties involved were

dead.” Thomas wrote that the evidence “lacked probative value, would confuse the jury and ultimately would be nothing more than ‘a waste of time.’”

Thomas was joined in the majority opinion by justices Samuel Alito, John Roberts and the three Trump-appointed judges, Neil Gorsuch, Brett Kavanaugh and Amy Coney Barrett.

In their dissenting opinion, Justice Stephen Breyer, who was joined by Elena Kagan and Sonia Sotomayor, focused on the withholding of the evidence about Tamerlan Tsarnaev. Breyer wrote on the influential role Tamerlan occupied in Dzhokhar’s life, including his religious and political radicalization.

The District Court allowed Dzhokhar to present evidence and argue that he had “acted under the influence of his older brother” and that he “would not have committed the crimes but for [his] older brother,” whose influence Dzhokhar “was particularly susceptible to” due to Tamerlan’s, “age, size, aggressiveness, domineering personality.” Tamerlan had “planned, led, and directed the Marathon bombing, and that Tamerlan “became radicalized first, and then encouraged his younger brother to follow him. But the court did not allow Dzhokhar’s lawyers to introduce the unsolved triple-homicide “Waltham murders” as evidence.

While the killing of three drug dealers in Waltham, Massachusetts on September 11, 2011, remains unsolved, after the Boston Marathon bombings, roughly a year and a half later, a federal judge found enough evidence sufficiently reliable to establish probable cause that Tamerlan committed the murders, ordering a search warrant.

The warrant led to the questioning of 27-year-old Ibragim Todashev, a friend of Tamerlan, by FBI agents, counterterrorism officials and Massachusetts state police. During the questioning session, the FBI claims that Todashev implicated himself and Tamerlan in the Waltham killings. After admitting the government claims, Todashev supposedly attacked the armed government agents with a knife, who promptly shot him to death.

Breyer noted that the fact that Tamerlan’s suspected involvement in the murders was enough for the government to obtain a search warrant, but was at the same time deemed by Judge O’Toole to be “unrelated” to the bombings and Dzhokhar’s decision to follow through on his older brother’s demands. These facts “strongly suggest that the District Court here abused its discretion in concluding that the same evidence was so unreliable that Dzhokhar could not use it as mitigating evidence to

establish the same proposition.”

Breyer wrote: “The prosecution went on to argue that Tamerlan and Dzhokhar were ‘equals,’ and that it was only once Dzhokhar ‘made the decision to become a terrorist, that Tamerlan was able to go into action.’ Would the prosecution have made that same claim in the face of evidence that Tamerlan had taken ‘action’ a year and half before the bombings, on the anniversary of 9/11 and that Dzhokhar characterized this action as ‘jihad’? The excluded evidence went to the heart of these critical sentencing issues.”

In contrast to the 13 human beings executed in the last six months of the Trump administration, upon assuming the presidency after Trump’s failed coup, Biden ordered the US Justice Department to halt federal executions. Last July, Attorney General Merrick Garland, announced a “moratorium” on federal executions while the department conducted a review. Garland did not give a timetable for the review to be completed, and Biden has refused to commute any of the sentences of the over 40 people still on federal death row.

Deeply affected by the slaughter of Muslim civilians in US imperialist war in Iraq and Afghanistan, Dzhokhar Tsarnaev, now 28, was 19 when he and his older brother, Tamerlan, 27 at the time, carried out their vicious attack. After the bombing, the brothers attempted to evade capture, leading to a four-day manhunt through the streets of Boston and its suburbs. A police-military occupation of Boston ensued as SWAT and FBI agents, without a warrant, searched dozens of people’s homes in search of Tsarnaev. Four days after the bombing during a virtual lockdown of Boston, a police shootout left Tamerlan dead while Dzhokhar attempted to flee on foot, eventually getting captured by police while hiding unarmed in a boat.

Dzhokhar is currently serving a lifetime prison sentence at the maximum-security ADX Florence prison in Colorado, which has been described by former prison wardens of the facility as a fate “worse than death.”



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