

# FBI Evidence Proves Innocence of Accused Boston Marathon Bomber Dzhokhar Tsarnaev

By [Dr. Paul Craig Roberts](#)

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Region: [USA](#)

Theme: [Intelligence](#), [Law and Justice](#)

*I have been contacted by attorney John Remington Graham, a member in good standing of the Minnesota bar. He informs me that acting in behalf of Maret Tsanaeva, the aunt of the accused Tsarnaev brothers and a citizen of the Kyrgyz Republic where she is qualified to practice law, he has assisted her in filing with the US District Court in Boston a pro se motion, including an argument of amicus curiae, and an affidavit of Maret Tsarnaeva. The presiding judge has ordered that these documents be included in the formal record of the case so they will be publicly accessible. The documents are reproduced below.*

The documents argue that on the basis of the evidence provided by the FBI, there is no basis for the indictment of Dzhokhar Tsarnaev. The FBI's evidence clearly concludes that the bomb was in a black knapsack, but the photographs used to establish Dzhokhar's presence at the marathon show him with a white knapsack. Moreover, the knapsack lacks the heavy bulging appearance that a knapsack containing a bomb would have.

As readers know, I have been suspicious of the Boston Marathon Bombing from the beginning. It seems obvious that both Tsarnaev brothers were intended to be killed in the alleged firefight with police, like the alleged perpetrators of the Charlie Hebdo affair in Paris. Convenient deaths in firefights are accepted as indications of guilt and solve the problem of trying innocent patsies.

In Dzhokhar's case, his guilt was established not by evidence but by accusations, by the betrayal of his government-appointed public defender Judy Clarke who declared Dzhokhar's guilt in her opening statement of her "defense," by an alleged confession, evidence of which was never provided, written by Dzhokhar on a boat under which the badly wounded youth lay dying until discovered by the boat owner and hospitalized in critical condition. Following his conviction by his defense attorney, Dzhokhar allegedly confessed again in jihadist terms. As legal scholars have known for centuries, confessions are worthless as indicators of guilt.

Dzhokhar was not convicted on the basis of evidence.

In my questioning of John Remington Graham, I concluded that despite 48 years of active experience with criminal justice, both as a prosecuting attorney and defense attorney, he was shocked to his core by the legal malfeasance of the Tsarnaev case. As Graham is nearing the end of his career, he is willing to speak out, but he could not find a single attorney in the state of Massachusetts who would sponsor his appearance before the Federal District Court in Boston.

This tells me that fear of retribution has now extended its reach into the justice (sic) system and that the America that we knew where law was a shield of the people no longer exists.

*Here is the Affidavit of Maret Tsarnaeva:*

AFFIDAVIT OF MARET TSARNAEVA CONCERNING THE PROSECUTION OF DZHOKHAR TSARNAEV

Mindful that this affidavit may be filed or displayed as an offer of proof with her authorization in public proceedings contemplated by the laws of the United States of America, and in reliance upon Title 28 of the United States Code, Section 1746, Maret Tsarnaeva deposes and says:

I am the paternal aunt of Dzhokhar Tsarnaev who has been prosecuted before the United States District Court for Massachusetts upon indictment of a federal grand jury returned on June 27, 2013, for causing one of two explosions on Boylston Street in Boston on April 15, 2013. In the count for conspiracy, certain other overt acts of wrongdoing are mentioned. As I understand the indictment, if Dzhokhar did not carry and detonate an improvised explosive device or pressure-cooker bomb as alleged, all thirty counts fail, although perhaps some lingering questions, about which I offer no comment here, might remain for resolution, subject to guarantees of due process of law, within the jurisdiction of the Commonwealth of Massachusetts.

I am currently living in Grozny, the capital of Chechnya which is a republic within the Russian Federation. My academic training included full-time studies in a five-year program of the Law Faculty at the Kyrgyz State University, and I also hold the degree of master of laws (LL. M.), with focus on securities laws, granted by the University of Manitoba while I lived in Canada. I am qualified to practice law in Kyrgyzstan. I am fluent in Russian, Chechen, and English, and am familiar with other languages. I am prepared to testify under oath in public proceedings in the United States, if my expenses are paid, and if my personal safety and right of return to my home in Chechnya are adequately assured in advance.

Aside from other anomalies and other aspects of the case on which I make no comment here, I am aware of several photo exhibits, upon which the Federal Bureau of Investigation (FBI) relied, or of evidence which their crime laboratory has produced, and certain other reports or material. Together, these plainly show that Dzhokhar was not carrying a large, nylon, black backpack, including a white-rectangle marking at the top, and containing a heavy pressure-cooker bomb, shortly before explosions in Boston on April 15, 2013, as claimed by the FBI and as alleged in the indictment for both explosions. On the contrary, these photo exhibits show unmistakably that Dzhokhar was carrying over his right shoulder a primarily white backpack which was light in weight, and was not bulging or sagging as would have been evident if it contained a heavy pressure-cooker bomb. The only reasonable conclusion is that Dzhokhar was not responsible for either of the explosions in question.

On or about June 20-21, 2013, during their first trip to Russia, which lasted about ten days more or less, Judy Clarke and William Fick, lawyers from the federal public defender's office in Boston, visited my brother Anzor Tsarnaev, and his wife Zubeidat, respectively the father and mother of Dzhokhar. The meeting was at the home of Dzhokhar's parents in Makhachka which is in the republic of Dagestan adjacent to the republic of Chechnya, and about three hours' drive from Grozny. My mother, my sister Malkan, and I were present at this meeting. Zubeidat speaks acceptable English. Mr. Fick is fluent in Russian.

Laying aside other details of the conversation on June 20-21, 2013, I wish to note the following:

— The lawyers from Boston strongly advised that Anzor and Zubeidat refrain from saying in public that Dzhokhar and his brother Tamerlan were not guilty. They warned that, if their advice were not followed, Dzhokhar's life in custody near Boston would be more difficult;

— Mme Clarke and Mr. Fick also requested of Anzor and Zubeidat that they assist in influencing Dzhokhar to accept the legal representation of the federal public defender's office in Boston. Mr. Fick revealed that Dzhokhar was refusing the services of the federal public defender's office in Boston, and sending lawyers and staff away when they visited him in custody. In reaction to the suggestion of Mr. Fick, lively discussion followed;

— As Dzhokhar's family, we expressed our concern that the federal public defender's office in Boston was untrustworthy, and might not defend Dzhokhar properly, since they were paid by the government of the United States which was prosecuting him, as many believe for political reasons. Dzhokhar's parents expressed willingness to engage independent counsel, since Dzhokhar did not trust his government-appointed lawyers. Mr. Fick reacted by saying that the government agents and lawyers would obstruct independent counsel;

— I proposed that Dzhokhar's family hire independent counsel to work with the federal public defender's office in order to assure proper and effective representation of Dzhokhar. Mr. Fick replied that, if independent counsel were hired by the family, the federal public defender's office in Boston would withdraw;

— Mr. Fick then assured Anzor and Zubeidat that the United States Department of Justice had allotted \$5 million to Dzhokhar's defense, and that the federal public defender's office in Boston intended to defend Dzhokhar properly. Zubeidat then and there said little concerning assurances of Mr. Fick. But for my part, I never believed that the federal public defender's office in Boston ever intended to defend Dzhokhar as promised. And my impressions from what happened during the trial lead me to believe that the federal public defender's office in Boston did not defend Dzhokhar competently and ethically.

In any event, I am aware that, following the meeting on June 20-21, 2013, Mme Clarke and Mr. Fick continued to spend time with Anzor and Zubeidat, and eventually persuaded Zubeidat to sign a typed letter in Russian to Dzhokhar, urging him to cooperate wholeheartedly with the federal public defender's office in Boston. I am informed by my sister Malkan, that Zubeidat gave the letter to the public defenders, shortly before their departure from Russia on or about June 29, 2013, for delivery to Dzhokhar.

During subsequent trips Mme Clarke and Mr. Fick to see Dzhokhar's parents in Makhachkala, the strategy for defending Dzhokhar was explained, as I learned from my sister Malkan. The public defender's office in Boston intended to contend at trial, as actually has happened since, that Tamerlan, now deceased, was the mastermind of the crime, and that Dzhokhar was merely following his big brother. I was firmly opposed to this strategy as morally and legally wrong, because Dzhokhar is not guilty, as FBI-

generated evidence shows. Some ill- feeling has since developed between myself and Dzhokhar's parents over their acquiescence.

On or about June 19, 2014, during their visit to Grozny over nearly two weeks, three staff members from the public defender's office in Boston visited my mother and sisters in Grozny. I am told that they also visited Dzhokhar's parents in Makhachkala.

The personnel visiting my mother and sisters in Grozny on or about June 19, 2014, included one Charlene, who introduced herself as an independent investigator, working in and with the federal public defender's office in Boston; another by the name of Jane, a social worker who claimed to have spoken with Dzhokhar; and a third, by the name of Olga, who was a Russian- English interpreter from New Jersey. They did not leave business cards, but stayed at the main hotel in Grozny, hence I presume that their surnames can be ascertained.

I was not present at the meeting in Grozny on or about June 19, 2014, but my sister Malkan, who was present, called me by telephone immediately after the meeting concluded. She revealed to me then the details of the conversation at the meeting. Malkan and I have since spoken about the visit on several occasions.

Malkan speaks Russian and Chechen and is willing to testify under oath in public proceedings in the United States through an interpreter in Russian, if her expenses are paid, and if her personal safety and right of return to her home in Chechnya are adequately assured in advance. She relates, and has authorized me to state for her that, during the conversation on June 19, 2014, in Grozny, Charlene the independent investigator stated flatly that the federal public defender's office in Boston knew that Dzhokhar was not guilty as charged, and that their office was under enormous pressure from law enforcement agencies and high levels of the government of the United States not to resist conviction. [Remember what happened to Lynne Stewart, the federally appointed public defender who actually served her client. She was sentenced to prison.]

This affidavit is executed outside of the United States, but the foregoing account is true to the best of my knowledge, information, and belief, and subject to the pains and penalties of perjury under the laws of the United States of America.  
Given on this 17th day of April 2015.

/s/ Maret Tsarnaeva

*Here is the Argument of Amicus Curiae:*

UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

ARGUMENT OF AMICUS CURIAE No. 13-CR-10200-GAO

MAY IT PLEASE THE COURT:

1. Federal jurisdiction: The constitutional authority of the United States cannot be extended to the prosecution of Dzhokhar Tsarnaev in light of the opinion of the court in *United States v. Lopez*, 514 U. S. 549 (1995), and views of Alexander Hamilton in *The Federalist*, Ns. 17, 22, and 34 [Clinton Rossiter (ed.), Mentor edition by New American Library, New York, 1961, pp. 118, 143-144, and 209]. Congress has broad power to regulate commerce, including trade and the incidents of trade, but domestic crimes and

use of weapons are generally reserved to the States. If there is sufficient evidence to prosecute Dzhokhar for murder and mayhem, he should and can be prosecuted exclusively by the Commonwealth of Massachusetts. Accordingly, amicus urges that the indictment now pending should be dismissed, and the conviction of her nephew Dzhokhar Tsarnaev of charges under several acts of Congress should be vacated.

2. The actual innocence of the accused: Laying aside misgivings of amicus and many others about of the “official” scenario concerning this case, as broadcast to the world by the government and mainstream news media of the United States, evidence generated by the Federal Bureau of Investigation (FBI), confirmed on the judicial record of this cause, and clarified by the indictment, or suitable for judicial notice under Rule 201(b) of the Federal Rules of Evidence, conclusively proves that Dzhokhar Tsarnaev cannot be guilty of the crimes charged in this prosecution.

The formal indictment against Dzhokhar Tsarnaev was returned on June 27, 2013. The document is 74 pages long, and accuses Mr. Tsarnaev (hereinafter called Dzhokhar) of heinous crimes, including many counts punishable by death. The central event for which Dzhokhar is alleged to have been responsible, according to the indictment, took place, on Boylston Street, in front of the Forum Restaurant, near the finish line of the Boston marathon on April 15, 2013. The most important paragraphs of the indictment are numbered 6, 7, and 24 (including several other paragraphs repeating expressly or by implication the substance thereof). Paragraphs 6-7, read in themselves and in context, state that, acting in concert with his (now deceased) brother, Dzhokhar set down on the sidewalk and detonated one of two “black backpacks” which contained “improvised explosive devices,” these “constructed from pressure cookers, low explosive power, shrapnel, adhesive, and other materials.” Paragraph 24 clarifies that the black backpack carried, and containing the pressure-cooker bomb allegedly detonated by Dzhokhar, was placed in front of the Forum Restaurant and was associated with the second explosion. The indictment says in paragraph 6 that both bombs exploded at about 2:49 in the afternoon (Eastern time), and that the bombs Dzhokhar and his brother placed and detonated each killed at least one person, and wounded scores of others.

On the morning after the explosions, i. e., on April 16, 2013, Richard DesLauriers, special agent in charge of the FBI in Boston, made a public statement at a press conference, which is published in printed form on the FBI website and in the news media concerning the facts later set forth in the indictment. Mr. DesLauriers said, as paragraphs 6-7 of the indictment substantially confirm,

. . . this morning, it was determined that both of the explosives were placed in a dark-colored nylon bag or backpack. The bag would have been heavy, because of the components believed to be in it.

. . . we are asking that the public remain alert, and to alert us to the following activity . . . someone who appeared to be carrying an unusually heavy bag yesterday around the time of the blasts and in the vicinity of the blasts.

The FBI also published on April 16, 2013, a crime lab photo of a bomb fragment found after the explosions This photo is reproduced as Tsarnaeva exhibit 1 in the appendix

hereof, and is believed proper for judicial notice.

From this bomb fragment, the FBI crime lab was able to reconstruct the size, shape, and type of pressure cookers, as was reported on information published by the FBI to the nation on ABC News Nightline on April 16, 2013. A still-frame, taken from (about 01:39-01:54) of this ABC television report, is reproduced as Tsarnaeva exhibit 2 in the appendix hereof, and is offered for judicial notice. A larger segment of this ABC Nightline News report (at about 01:31-02:14) elaborates facts set forth in paragraphs 6-7 of the indictment, including reference to three of the four exhibits reproduced in the appendix hereof. Each of the pressure cookers in question was a Fagor, 6-quart model, marketed in or near Boston and elsewhere in the United States by Macey's. Its external dimensions are probably about 8 1/2 inches in height, including cover, and about 9 inches in diameter. Stripped of hard plastic handles and filled with nails, bee bees, and other such metal, then prepared as a bomb, it would cause a bag carrying it to be, as observed by the FBI chief in Boston during his press conference on April 16, 2013, "unusually heavy."

Again on April 16, 2013, the FBI published a crime lab photo, here reproduced as Tsarnaeva exhibit 3 in the appendix hereof, and showing a blown-out backpack which is said to have contained one of the bombs, — a black nylon bag with a characteristic white rectangle marking about 3 by 1 1/2 inches more or less as it appeared following the explosions the day before. This photo pictures the "dark colored nylon bag or backpack" which Mr. DesLauriers described in his press conference on the day after the explosions when he described what was carried by the guilty parties. It was one of the "black backpacks" referenced in paragraph 7 of the indictment. It is pictured in prosecution exhibit 26 which was introduced on the second day of the trial in this cause (day 28 on the transcript, March 5, 2015), showing that the bag or backpack in question was found on the street near the post box in front of the Forum Restaurant on Boylston Street, and, as previously noted, was associated with the second explosion on April 15, 2013, which, in paragraph 24 of the indictment, Dzhokhar is alleged to have detonated. This general impression is confirmed by defense exhibit 3090, showing a backpack with black exterior or covering, and introduced on the sixteenth day of the trial (day 42 on the transcript, March 31, 2015). Tsarnaeva exhibit 3 is also suitable for judicial notice.

On April 18, 2013, the FBI published a 29-second street video claimed to have been taken from Whiskey's Steak House on Boylston Street at about 02:37- 38 o'clock in the afternoon (Eastern time), only minutes before the explosions on April 15, 2013. It definitively settles the principal question raised by the indictment and the plea of not guilty interposed against it. Part of this video is tucked into prosecution exhibit 22 introduced on the third day of the trial in this cause (day 29 on the transcript, March 9, 2015). From this street video, three still-frame photos have been extracted. Two of these still-frame photos were published by the FBI on April 18, 2013, on posters which were used to identify suspects. All three photos were published by CNN and the Associated Press on April 19, 2013. The third still-frame photo from this video is most telling, and is reproduced as Tsarnaeva exhibit 4 in the appendix hereof. As already noted, the FBI and the indictment have together affirmed that the culprits who detonated these explosions were carrying large, unusually heavy, black backpacks concealing pressure-cooker bombs; but, the third still-frame photo from the Whiskey's Steak House video reproduced as Tsarnaeva exhibit 4, and drawn from a street video already used by the FBI to identify the suspects and acknowledged by the government

in this prosecution, shows unmistakably that, shortly before the explosions, Dzhokhar was carrying a small-size, white\* backpack over his right shoulder the same light in weight, not heavy laden, and displaying no sagging or bulging as would normally be evident if the bag identified contained a pressure-cooker bomb of the size and weight which the FBI has described.

(\*For all practical purposes and to the naked eye, the color is white, although technical computer analysis suggests a very whitish shade of gray.)

Dzhokhar is not guilty of carrying and detonating a pressure-cooker bomb, as charged in the indictment, as is literally as obvious as the difference between black and white. There were and remain other suspects whose identities have been credibly suggested. See, e. g., Toni Cartalucci, Land Destroyer Report, April 19, 2013 (illustrated commentary entitled “‘Contractors’ Stood Near Bomb, Left Before Detonation.”). But here it is enough to reflect on the comment of Lord Acton that “historic responsibility has to make up for the want of legal responsibility.” — J. Rufus Fears, *Selected Writings of Lord Acton*, Liberty Fund, Indianapolis, 1985, Vol. 2, p. 383 (Letter to Mandell Creighton, April 5, 1887). Whatever is done in judicial proceedings, history will judge this case, as surely as history has judged other significant cases.

3. The grievance of amicus: It is impossible that federal prosecutors and counsel for the accused did not know of the exculpatory evidence which has just been identified and illustrated. Yet federal prosecutors went head without probable cause, as if decisive evidence of actual innocence, impossible to ignore in a diligent study of this case, did not exist, as is wholly unacceptable in light of *Brady v. Maryland*, 373 U. S. 83 at 86-87 (1963).

Moreover, in her opening statement at trial on March 4, 2015, as reflected in the fourth paragraph of the transcript of her comments, court-appointed counsel for the accused forcefully insisted that Dzhokhar was guilty of capital felonies, as is positively disproved by evidence generated by the FBI, reinforced by the indictment itself. She said,

“The government and the defense will agree about many things that happened during the week of April 15th, 2013. On Marathon Monday, Tamerlan Tsarnaev walked down Boylston Street with a backpack on his back, carrying a pressure cooker bomb, and put it down in front of Marathon Sports near the finish line of the Marathon. Jahar [i. e., Dzhokhar] Tsarnaev walked down Boylston Street with a backpack on his back carrying a pressure cooker bomb and placed it next to a tree in front of the Forum Restaurant. The explosions extinguished three lives.”

And in her summation to the jury on April 6, 2015, as the transcript shows, court-appointed counsel for the accused said nothing of the exculpatory evidence in this case. She did not even ask for a verdict of not guilty. She could hardly have done more to promote a conviction and the severest sentence possible, even though the third still-frame photo from the video at Whiskey’s Steak House, reproduced as Tsarnaeva exhibit 4, showed Dzhokhar carrying a white backpack, as alone was enough to defeat the indictment insofar as paragraph 7 thereof averred that the accused and his brother committed the principal acts of wrongdoing by carrying and setting down black backpacks. Such misconduct is altogether unacceptable in light of *Strickland v. Washington*, 446 U. S. 668 at 687- 688 (1984).

The misconduct of which amicus complains served to conceal decisive exculpatory evidence by legerdemain. Amicus urges not only that the death penalty may not be imposed in this case, for all three opinions in *Herrera v. Collins*, 506 U. S. 390 (1993), allow that the death penalty may not be constitutionally imposed where the accused is demonstrably innocent, but that sua sponte this court order a new trial with directions that new counsel for the accused be appointed, motivated to provide an authentic defense for Dzhokhar.

4. The corpus delicti: Paragraph 10 of the indictment recites a statement in the nature of a confession by Dzhokhar written on the inner walls of a boat in Watertown. But with respect to any and all evidence offered or treated as suggesting an extrajudicial admission of guilt in this case, amicus cites the penetrating observation by Sir William Blackstone in his *Commentaries on the Laws of England*, Edward Christian, London, 1765, Book IV, p. 357: “[E]ven in cases of felony at common law, [confessions] are the weakest and most suspicious of all testimony, ever liable to be obtained by artifice, false hopes, promises of favour, or menaces, seldom remembered accurately, or reported with due precision, and incapable in their nature of being disproved by other negative evidence.” Amicus and countless others suspect that the alleged confession in the boat was staged as artifice to suit the government’s case, and not authentic. But she stands on ancient wisdom which casts doubt on all extrajudicial confessions without adequate safeguards, including the rule that an extrajudicial confession is insufficient to convict, unless the corpus delicti be sufficiently proved up. The rule is defined with various degrees of rigor from jurisdiction to jurisdiction. In federal courts, in any event, the corroboration required to sustain a confession or statement in the nature of a confession need only be independent, substantial, and reveal the words in question to be reasonably trustworthy, as appears, e. g., in *Opper v. United States*, 348 U. S. 84 (1954).

If such be the law here applicable, the required corroboration in this case must include evidence showing that Dzhokhar actually carried a large, heavy, black backpack on Boylston Street before the explosions on the afternoon on April 15, 2013, as claimed by the FBI and alleged in the indictment. Tsarnaeva exhibit 4, a product of investigation by the FBI, shows plainly that Dzhokhar did no such thing, hence no required corroboration has been established

5. Closing remarks: The views here expressed are not unique, but shared by good Americans, and others the world over. The undersigned and her sister Malkan are prepared to testify as expressed in the affidavit filed in support of the motion for leave to file a submission as amicus curiae. This argument is

Respectfully submitted,

May 15, 2015 /s/ Maret Tsarnaeva

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#### CERTIFICATE OF COMPLIANCE

The undersigned certifies that this submission is consistent with the rules of this Court, that it is prepared in 14-point Times New Roman font, and that the bare text thereof consists of 2,331 words.

May 15, 2015 /s/ Maret Tsarnaeva

#### APPENDIX TSARNAEVA EXHIBIT 1



TSARNAEVA EXHIBIT 2



TSARNAEVA EXHIBIT 3



TSARNAEVA EXHIBIT 4



*This is the communication I received from attorney John Remington Graham:*

TO DR. PAUL CRAIG ROBERTS, GREETINGS :

Dear Sir, — By way of introduction. I have practiced criminal law for nearly forty-eight years, both prosecuting and defending, and served as a founding professor in an accredited law school in my native Minnesota. I have appeared as counsel before courts of record in sixteen jurisdictions, and have a background in forensic science and medicine. I can provide a résumé on request.

On March 25, 2015, while the trial was underway, I wrote and distributed a short opinion on the prosecution of Dzhokhar Tsarnaev, accused of capital felonies in Boston on April 15, 2013 in *United States v. Dzhokhar Tsarnaev*, No. 13-CR-10200-GAO on the docket of the United States District Court for Massachusetts, commonly known as the “Boston marathon case”, or “the Boston bomber case”. I used eight photo exhibits to explain my conclusions that, as a matter of law, there was no probable cause to support the indictment, and that Mr. Tsanaev was plainly not guilty as charged. These views were shared by others reporting on the internet, but my opinion was meant to provide professional assurance to fellow citizens that, legally speaking, something was radically wrong with the prosecution. In fact there were then and still are a great many anomalies with the case.

The substance of the Boston marathon case, as I then saw it, and as I still see it, is that, on the day after the explosions on Boylston Street in Boston, the FBI crime lab determined from fragments at the crime scene, the FBI chief in Boston announced, and the indictment itself later confirmed that, shortly before the explosions, the culprits were carrying large, heavy-laden, black backpacks containing pressure cooker bombs. Two days later, the FBI chief in Boston stated publicly that the suspects were identified by a certain street surveillance video, which for some days was later displayed for public viewing on the FBI website. The video had been taken from Whiskey’s Steak

House, and was used to create still-frame photos of Tamerlan Tsarnaev (the big brother, now deceased), and Dzhokhar Tsarnaev (the little brother, later accused) as they walked up Boylson Street toward the finish line of the Boston marathon, shortly before the bombs went off. These two still frames were featured on posters distributed by the FBI in soliciting cooperation from the general public. But there is a third still-frame photo, taken from the same video, which shows unmistakably that Dzhokhar was carrying a small, light-weight, white backpack. The backpack carried by Dzhokhar was flat, and did not sag or bulge as would have been apparent if it contained a pressure cooker bomb filled with shrapnel as described in the indictment. This third still-frame photo was published by the major news media of the United States. I retrieved my first copy of this third still-frame photo from an internet report of CNN on April 19, 2015.

The bottom line is that the FBI's own evidence eliminates Dzhokhar as a suspect, and conclusively proves he is not guilty as charged. This reality is literally as clear as the difference between black and white. The establishment press knew about it, and I cannot imagine how the federal prosecutors and counsel for the accused could not have known about it. So obvious was the actual innocence of Dzhokhar Tsarnaev that there was no need for a trial at all, because a good criminal defense lawyer could have taken the FBI information published the day after the explosions, the text of the indictment, and the third still-frame photo from the street surveillance video used by the FBI to identify suspects, and employed those items to support a pre-trial motion for dismissal of the indictment. I have on many occasions made such motions or seen such motions made by colleagues in federal courts, based on facts revealed by disclosures which prosecutors must and routinely do make available to counsel for the accused under a famous decision of the United States Supreme Court. And I have seen such motions granted on not a few occasions. Such practice is not uncommon, as I know from my own experience.

What was going on in Dzhokhar's case? Why was there no motion to dismiss the indictment based on indisputable facts? Why was there a trial at all? Why did Judy Clarke, a big-time death-penalty lawyer appointed to defend Dzhokhar, admit to the jury in her opening statement that her client was guilty? She had decisive evidence that her client was not guilty. Why did she not use it, bring the case to an end, and thereby save her client's life? In her final summation to the jury, Mme Clarke did not even ask for a verdict of not guilty. She made no mention of the exculpatory evidence generated by the FBI and mentioned in the indictment. Available were widely published photographs of possible paramilitary agents near the crime scene in Boston about the time of the explosions, carrying large, heavy-laden, black backpacks with characteristic markings which the FBI crime lab material revealed. But these persons with black backpacks were never investigated by the FBI. Why not?

I contacted Maret Tsarnaeva, the paternal aunt of Dzhokhar living in Chechnya which is part of the Russian Federation, a lawyer trained in the old Russian school of law in the Kyrgyz Republic which was once part of the Russian Empire and the Soviet Union, but has been independent since the conclusion of the former Cold War. A very bright and interesting woman Maret turned out to be, and, from the beginning, she maintained that her nephew was not guilty. My conversations with her over Skype led me to conclude that Judy Clarke and her colleagues in the federal public defender's office in Boston could not stand up to the political pressure and thus threw the case instead of defending Dzhokhar.

Mme Tsarnaeva executed an affidavit on April 17, 2015, which explains events when representatives of the federal public defender's office in Boston met with Dzhokhar's family in Russia. For those interested in details, I attach a copy of her affidavit exactly as sent to me by Maret from Russia and later filed with the federal district court in Boston, except that the affidavit filed in the federal district court includes Maret's original signature in Russian script which I can verify with my business records.

Maret hoped to call exculpatory evidence to the attention of the presiding judge, because Dzhokhar's lawyers were not defending the accused and federal prosecutors were acting without probable cause. After diligent research on options was made, Maret decided to attempt an appearance before the federal district court in Boston as a friend of the court. She had to apply to the presiding judge for permission to appear in this capacity, and to make a motion asking the court to appoint me as her personal counsel for this purpose on special occasion. Normally, to be admitted to practice before the court on special occasion, I would need a motion from a member of the local bar. My paralegal assistant and I contacted many lawyers in Massachusetts. Some were sympathetic, but none dared to participate, lest their reputations be harmed. I had practiced before the federal district court in Boston some years previously, and then had no difficulty in securing the routine courtesy of a member of the local bar in sponsoring my appearance on special occasion. But not even the American Civil Liberties Union in Massachusetts dared to assist Maret or myself. I had to assist Maret in making an intervention pro se, representing herself, while she listed me as "of counsel" so as to signal that she was guided by a lawyer, and asked the presiding judge to admit me on special occasion without sponsoring motion of a member of the local bar, due to unusual circumstances. On instructions of court personnel, we could not proceed on the electronic record, and Maret's pro se motion with supporting documents was served upon the federal district attorney and the federal public defender in paper and by registered mail, and the papers had to be filed with the office of the clerk of the federal district court, again in paper and regular postal service. But our task was accomplished by May 29, 2015.

For your convenience, I attach herewith the formal argument made by Maret Tsarnaeva acting pro se with my guidance, exactly as filed in the federal district court in Boston, except that the copy served and filed included the signature of Maret Tsarnaeva in Russian script, as I can demonstrate from my business records. We showed by text and exhibits, and by reference to the trial record and FBI-generated evidence that Dzhokhar cannot be guilty, because the FBI determined and the indictment alleged that the culprits carried black backpacks, but the FBI's evidence showed that Dzhokhar was carrying a white backpack.

Maret expressed her grievances against the unethical misconduct of the federal prosecutors in proceeding when they knew they had no probable cause, and the unethical misconduct of court-appointed counsel in not defending in earnest. We enclosed the four most critical photo exhibits, including the results of the FBI crime lab investigation and the exculpatory third still-frame photo from the video used by the FBI to identify the culprits.

I am aware that many incredulous citizens cannot accept that the government of the United States would stage a show trial in Boston to convict an innocent young man and sentence him to death. But such events are not unusual in history. Judicial murder spoils the history of many nations. These incredulous citizens point to Dzhokhar's

alleged confession statements inside the boat in Watertown and at the time of sentencing. But contrary to the beliefs of the uninitiated, it has been clear from ancient times that confession statements are the weakest and most suspicious of all testimony, as is stated by legal scholars going back many centuries. Maret's pro se argument cited Sir William Blackstone, from whom the founding fathers of the United States learned the law, for this truth. False confessions are very common, and result from fabrication, artifice, duress, unfounded hopes, attempts to curry favor, even brainwashing. Hence, going back centuries the law has struggled to develop safeguards against false confessions.

The intervention by Maret Tsarnaeva in behalf of her nephew in the Boston marathon case is significant because, although denying her motion to appear as a friend of the court, the presiding judge entered an order, which appears on the electronic record, is numbered 1469, and directs that her filings be maintained by the office of the clerk of the federal district court in Boston. These documents should be accessible to those wishing to see and read them. Therefore, it is a matter of public record, not merely a matter of internet protest or gossip, that the federal prosecutors, the court-appointed lawyers for the accused, and the presiding judge are all aware of the FBI's own evidence which excludes Dzhokhar Tsarnaev as a suspect, and proves his actual innocence. It is also clear that the major news media of the United States, which orchestrated a false appearance that Dzhokhar was guilty of heinous crimes, and called for his execution, were aware that he was not guilty. They knew, as the report of CNN four days after marathon Monday makes plain, that Dzhokhar was in fact carrying a small, light-weight, white backpack, and that the government's own evidence shows that the culprits, whoever they were, carried large, heavy-laden, black backpacks.

John Remington Graham of the Minnesota Bar (#3664X)

*John Remington Graham is an attorney with decades of experience in the fields of constitutional, environmental, and criminal litigation. He served as a federal public defender; special counsel to Brainerd, Minnesota; and Crow Wing County attorney. He has a great many publishing credits in constitutional law and history, and also forensic medicine and science. He has lectured on constitutional law and legal history in the United States and Canada. Graham was also cofounding professor of law at Hamline University in Minnesota. As a young lawyer, he quickly realized an investigation into constitutional history was necessary to properly defend his clients against the judicial machine. Since then, Graham has been a diligent student of American, Canadian, and English constitutional history and law. He recognized that the American Constitution could not be understood without a thorough knowledge of its foundation in English Constitutional law and history. He has participated in major cases raising difficult questions of constitutional law, appearing before courts in sixteen jurisdictions within the United States. Additionally, in 1998 he was the advisor on British constitutional law and history for the amicus curiae for Quebec in the Canadian Supreme Court, a position that afforded him the opportunity of shaping Quebec's argument in its case for peaceable secession. Graham received both a bachelor of arts in philosophy and a law degree from the University of Minnesota. Graham, his wife, and children have lived in Minnesota and Quebec.*

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