UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

Plaintiff,

V.

Criminal Action
No. 13-10200-GAO

DZHOKHAR A. TSARNAEV, also
known as Jahar Tsarni,

Defendant.

BEFORE THE HONORABLE GEORGE A. O'TOOLE, JR. UNITED STATES DISTRICT JUDGE

JURY TRIAL - DAY FORTY-FIVE

John J. Moakley United States Courthouse
Courtroom No. 9
One Courthouse Way
Boston, Massachusetts 02210
Wednesday, April 8, 2015
9:21 a.m.

Marcia G. Patrisso, RMR, CRR
Official Court Reporter
John J. Moakley U.S. Courthouse
One Courthouse Way, Room 3510
Boston, Massachusetts 02210
(617) 737-8728

Mechanical Steno - Computer-Aided Transcript

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     APPEARANCES:
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          OFFICE OF THE UNITED STATES ATTORNEY
          By: William D. Weinreb, Aloke Chakravarty and
 3
              Nadine Pellegrini, Assistant U.S. Attorneys
          John Joseph Moakley Federal Courthouse
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 4
          Boston, Massachusetts 02210
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          - and -
          UNITED STATES DEPARTMENT OF JUSTICE
 6
          By: Steven D. Mellin, Assistant U.S. Attorney
          Capital Case Section
 7
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          Washington, D.C. 20530
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          On Behalf of the Government
          FEDERAL PUBLIC DEFENDER OFFICE
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          By: Miriam Conrad, Federal Public Defender
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          51 Sleeper Street
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          Boston, Massachusetts 02210
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          - and -
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          By: Judy Clarke, Esq.
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          LAW OFFICE OF DAVID I. BRUCK
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16
          Lexington, Virginia 24450
          On Behalf of the Defendant
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1 PROCEEDINGS THE CLERK: All rise for the Court and the jury. 2 3 (The Court and jury enter the courtroom at 9:21 a.m.) THE CLERK: Be seated. 4 5 THE COURT: Good morning, jurors. 6 THE DELIBERATING JURORS: Good morning, your Honor. 7 THE COURT: The record will reflect that all deliberating jurors have returned as well as all the alternate 8 jurors. 00:08 10 I ask you again whether you can tell me whether you 11 have abided by my instructions to avoid any discussion of the 12 case outside of the confines of the jury room, for the 13 deliberating jury. 14 THE DELIBERATING JURORS: Yes, sir. 15 THE COURT: And avoided any news reports or other media reports of the case? 16 THE DELIBERATING JURORS: Yes. 17 18 THE COURT: Yes? All right. Thank you. 19 Now, just before we broke yesterday the jury had sent 00:09 20 in two questions, and I will now proceed to answer those 21 questions for you. 22 The first question has really two parts but -- and I I'll separate them in giving the answers so that it is clear. 23 24 The first part of the question is, "Can a conspiracy pertain to 25 a sequence of events over multiple days or a distinct event?"

As you've been instructed, a criminal conspiracy is an agreement between two or more people to commit an unlawful act or acts. What the scope of the conspiracy was -- that is, what the conspirators agreed to do jointly -- is a question of fact for you to determine from your consideration of all the evidence that you find may bear on that question. Similarly, the duration of a conspiracy, how long it was to continue, is also a question of fact for you to determine from all the pertinent evidence.

A conspiracy may be limited in scope or duration because that is what the conspirators agreed. Similarly, it may be unlimited in scope or duration because that is what the conspirators agreed.

For example, to return to our hypothetical crime of selling apparel without providing a certificate of origin, two or more persons might conspire to commit that offense. They might agree to unlawfully sell a truckload of apparel that was at hand and then be done with it, or they might agree to sell as many truckloads as they could get their hands on for an indefinite period of time into the future if that's what they agreed on.

So the scope and duration of the conspiracy is to be determined from your assessment of the evidence in the case as it pertains to the conspiracies.

Now, as you pointed out in your question there are

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three conspiracy counts: 1, 6 and 11. They each allege a different conspiracy. It's possible that your conclusions based on your evaluation of the evidence could be the same in terms of duration and scope or they could be different. You should give separate consideration to each of them.

I call your attention to the fact that in each of Counts 1, 6 and 11 the indictment alleges that the conspiracy existed from at least in or about February 2013 up to and including on or about April 19th, 2013. So that is what the allegation of the indictment is. You're not bound by that, of course. The question is for you to evaluate whether that is factually true on the evidence or not. But I just bring to your attention that is what is alleged in the indictment.

You go on in the question to ask about Counts 1, 6 and 11. You ask, "On Counts 1, 6 and 11" -- those counts ask you to find an answer to Subparts A, B, C and D -- "but we only have to be unanimous for one. Do we have to consider all?"

The first question that each of -- on the verdict form for each of Counts 1, 6 and 11 is whether you find the defendant guilty or not guilty of that charge. If the answer is guilty, then you are to proceed to answer all the subparts of the questions that follow. To answer any of those questions "yes," you must unanimously agree beyond a reasonable doubt on that answer. To answer any of those questions "no," you must unanimously agree. And if your answer to the first question is

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"not guilty," then you proceed to the next count and do not answer the subsidiary questions. You answer only if your answer to the first question is "guilty."

The second question you have: "What is the difference between aiding and abetting? Is there a differentiation between the two? If there is phrasing of aiding and abetting, it doesn't seem like there is evidence of both aiding and abetting, but rather only aiding or abetting. How can it be said that aiding and abetting took place?"

"Aiding and abetting" is a single concept. It is sometimes said as "aiding and abetting" or it is sometimes said as "aiding or abetting," but either formulation means exactly the same thing. To aid and abet means to intentionally help someone else commit a criminal offense. A person who aids and abets the commission of a criminal offense by another person is criminally responsible for the commission of that offense.

To prove -- as I instructed you, and as you have with you in the jury room, to prove guilt by aiding and abetting, the government must prove beyond a reasonable doubt, first, that someone other than the defendant committed the crime charged; and, second, that the defendant consciously shared the other person's knowledge of the underlying criminal act, intended to help him commit the crime, and willfully took part in the criminal endeavor in some way seeking to help it succeed. And again, of course, an act is done willfully if it

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         is done voluntarily and intentionally.
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                   So those are my answers to the questions you put.
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         ask you now to resume your deliberations. The clerk will
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         return to you the sealed envelope with the verdict slip in it
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         as well as your notebooks and other materials, all right?
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                  MS. CONRAD: Your Honor, may we be heard briefly at
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         sidebar?
                  THE COURT: Yes.
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                   (Discussion at sidebar and out of the hearing of the
         jury:)
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                  MS. CONRAD: I heard the government instruct as --
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         appropriately, as to they must find the scope and the duration.
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                  THE COURT: You mean me. You said the government.
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                  MS. CONRAD: Correct. Sorry. I meant the Court.
                  However -- and the Court also reminded them what was
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         charged in the indictment. But what the Court didn't say,
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         which we have requested and I thought the Court was going to
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         do -- it was somewhat incorporated but I can't find it right
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         now in the original instructions -- is that the government must
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         prove the conspiracy charged in the indictment.
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                   So it's not sufficient if they find some other
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         conspiracy of shorter scope or shorter duration where the
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         government has charged an overarching conspiracy. That's not
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         enough to support a conviction.
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                  THE COURT: Well, I'm not sure that's entirely
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         accurate. I think the answer is sufficient. Your objection is
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         noted.
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                  MS. CONRAD: Thank you.
                  THE COURT: All right. I'll ask the jurors to
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         withdraw.
                  THE CLERK: All rise for the Court and the jury.
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         Court will be in recess.
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                   (The Court and jury exit the courtroom and there is a
         recess in the proceedings at 9:29 a.m.)
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                  THE CLERK: All rise for the Court and the jury.
                   (The Court and jury enter the courtroom at 2:05 p.m.)
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                  THE CLERK: Will the deliberating jurors remain
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         standing, will the defense remain standing. Everyone else be
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         seated.
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                  Madam foreperson, has the jury agreed upon a verdict?
                  THE FOREPERSON: We have.
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                  THE CLERK: May I have the sheet, please.
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                   (The verdict form is handed to the clerk.)
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                  THE CLERK: Thank you.
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                  THE FOREPERSON: You're welcome.
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                   (The Court reviews the verdict form.)
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                  THE COURT: All right. You may announce the verdict.
                  THE CLERK: In Criminal No. 13-10200, United States of
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         America versus Dzhokhar A. Tsarnaev, the verdict:
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                  Count One: As to Count One of the indictment charging
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conspiracy to use a weapon of mass destruction, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty.

As to whether the conspiracy charged in Count One of the indictment resulted in at least one of the four deaths alleged in Count One, we unanimously find:

As to the death of Krystle Marie Campbell: Yes.

As to the death of Officer Sean Collier: Yes.

As to the death of Lingzi Lu: Yes.

As to the death of Martin Richard: Yes.

Count two: As to Count Two of the indictment charging the use of a weapon of mass destruction (Pressure Cooker Bomb No. 1) on or about April 15, 2013, in the vicinity of 671 Boylston Street in Boston, Massachusetts, and aiding and abetting, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty.

As to whether the offense charged in Count Two resulted in the death of Krystle Marie Campbell, we unanimously find: Yes.

Count Three: As to Count Three of the indictment charging that the defendant used or carried a firearm (Pressure Cooker Bomb No. 1) during and in relation to a crime of violence, namely, use of a weapon of mass destruction as charged in Count Two of this indictment, and aiding and abetting, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty.

1 As to whether the firearm charged in Count Three, (Pressure Cooker Bomb No. 1) was discharged, we unanimously 2 find: 3 Yes. As to whether the firearm charged in Count Three 4 5 (Pressure Cooker Bomb No. 1) was a destructive device, we unanimously find: Yes. 7 As to whether the defendant in the course of 8 committing the violation alleged in Count Three caused the death of Krystle Marie Campbell through the use of a firearm, 04:58 10 and the killing was a murder, or aided or abetted another in 11 causing the death of Krystle Marie Campbell through the use of 12 a firearm, and the killing was a murder, we unanimously find: 13 Yes. 14 Count Four: As to Count Four of the indictment charging use of a weapon of mass destruction (Pressure Cooker 15 Bomb No. 2) on or about April 15, 2013, in the vicinity of 755 16 Boylston Street in Boston, Massachusetts, and aiding and 17 18 abetting, we unanimously find the defendant, Dzhokhar A. 19 Tsarnaev: Guilty. 04:59 20 As to whether the offense charged in Count Four of the indictment resulted in at least one of the two deaths alleged 21 22 in count four, we unanimously find: 23 As to the death of Lingzi Lu: As to the death of Martin Richard: Yes. 24

As to Count Five of the indictment charging that the

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defendant used or carried a firearm (Pressure Cooker Bomb No. 2) during and in relation to a crime of violence, namely, use of a weapon of mass destruction as charged in Count Four of this indictment, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty. As to whether the firearm charged in Count Five was discharged, we unanimously find: Yes. As to whether the firearm charged in Count Five was a destructive device, we unanimously find: Yes. As to whether the defendant, in the course of committing the violation alleged in Count Five, caused one of the two deaths alleged in Count Five, and the killing was a murder, or aided or abetted another in causing one of the two deaths alleged in Count Five, and the killing was a murder, we unanimously find: As to the death of Lingzi Lu: As to the death of Martin Richard: Yes. Count Six: As to Count Six of the indictment charging conspiracy to bomb a place of public use, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty. As to whether the conspiracy charged in Count Six of the indictment resulted in at least one of the deaths alleged in Count Six, we unanimously find: As to the death of Krystle Marie Campbell: Yes. As to the death of Officer Sean Collier: Yes.

1 As to the death of Lingzi Lu: As to the death of Martin Richard: Yes. 2 Count Seven: As to Count Seven of the indictment 3 charging the bombing of a place of public use (Pressure Cooker 4 5 Bomb No. 1) on or about April 15, 2013, in the vicinity of 671 Boylston Street, Boston, Massachusetts, and aiding and 7 abetting, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty. As to whether the offense charged in Count Seven 9 05:01 10 resulted in the death of Krystle Marie Campbell, we unanimously 11 find: Yes. 12 Count Eight: As to Count Eight of the indictment 13 charging that the defendant used or carried a firearm (Pressure 14 Cooker Bomb No. 1) during and in relation to a crime of violence, namely, the bombing of a place of public use as 15 charged in Count Seven of this indictment, we unanimously find 16 the defendant, Dzhokhar A. Tsarnaev: Guilty. 17 18 As to whether the firearm charged in Count Eight 19 (Pressure Cooker Bomb No. 1) was discharged, we unanimously find: Yes. 05:02 20 21 As to whether the firearm charged in Count Eight 22 (Pressure Cooker Bomb No. 1) was a destructive device, we unanimously find: Yes. 23 24 As to whether the defendant, in the course of 25 committing the violation alleged in Count Eight, caused the

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death of Krystle Marie Campbell through the use of the firearm, and the killing was a murder, or aided or abetted another in causing the death of Krystle Marie Campbell through the use of the firearm, and the killing was a murder, we unanimously find: Yes.

Count Nine: As to Count Nine of the indictment charging the bombing of a place of public use (Pressure Cooker Bomb No. 2) on or about April 15, 2013, in the vicinity of 755 Boylston Street, Boston, Massachusetts, and aiding and abetting, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty.

As to whether the offense charged in Count Nine of the indictment resulted in the death of at least one of the two persons alleged in Count Nine, we unanimously find:

As to the death of Lingzi Lu: Yes.

As to the death of Martin Richard: Yes.

Count Ten: As to Count Ten of the indictment charging that the defendant used or carried a firearm (Pressure Cooker Bomb No. 2) during and in relation to a crime of violence, namely, the bombing of a place of public use as charged in Count Nine of this indictment, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty.

As to whether the firearm charged in Count Ten (Pressure Cooker Bomb No. 2) was discharged, we unanimously find: Yes.

1 As to whether the firearm charged in Count Ten 2 (Pressure Cooker Bomb No. 2) was a destructive device, we unanimously find: Yes. 3 As to whether the defendant, in the course of 4 5 committing the violation alleged in Count Ten of the indictment, caused the death of one of the two persons alleged 7 in Count Ten through the use of the firearm, and the killing was a murder, or aided or abetted another in causing the death 8 of one of the two persons alleged in Count Ten through the use 05:05 10 of the firearm, and the killing was a murder, we unanimously 11 find: 12 As to the death of Lingzi Lu: 13 As to the death of Martin Richard: Yes. 14 Count Eleven: As to Count Eleven of the indictment 15 charging conspiracy to maliciously destroy property, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty. 16 As to whether the conspiracy charged in Count Eleven 17 of the indictment resulted in at least one of the four deaths 18 19 alleged in Count Eleven, we unanimously find: 05:05 20 As to the Krystle Marie Campbell: Yes. As to the death of Officer Sean Collier: 21 22 As to the death of Lingzi Lu: Yes. 23 As to the death of Martin Richard: Yes. 24 Count Twelve: As to Count Twelve of the indictment 25 charging malicious destruction of property by means of an

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explosive (Pressure Cooker Bomb No. 1) on or about April 15, 2013, in the vicinity of 671 Boylston Street in Boston, Massachusetts, and aiding and abetting, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty.

As to whether the offense charged in Count Twelve of the indictment resulted in personal injury to at least one person, we unanimously find: Yes.

As to whether the offense charged in Count Twelve of the indictment resulted in the death of Krystle Marie Campbell, we unanimously find: Yes.

Count Thirteen: As to Count Thirteen of the indictment charging that the defendant used or carried a firearm (Pressure Cooker Bomb No. 1) during and in relation to a crime of violence, namely, malicious destruction of property as charged in Count Twelve of this indictment, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty.

As to whether the firearm charged in Count Thirteen was discharged, we unanimously find: Yes.

As to whether the firearm charged in Count Thirteen was a destructive device, we unanimously find: Yes.

As to whether the defendant in the course of committing the violation alleged in Count Thirteen caused the death of Krystle Marie Campbell through the use of the firearm, and the killing was a murder, or aided or abetted another in causing the death of Krystle Marie Campbell through the use of

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a firearm, and the killing was a murder, we unanimously find:
Yes.

Count Fourteen: As to Count Fourteen of the indictment charging malicious destruction of property by means of an explosive (Pressure Cooker Bomb No. 2) on or about April 15, 2013, in the vicinity of 755 Boylston Street in Boston, Massachusetts, and aiding and abetting, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty.

As to whether the offense charged in Count Fourteen resulted in personal injury to at least one person, we unanimously find: Yes.

As to whether the offense charged in Count Fourteen of the indictment resulted in at least one of the two deaths alleged in Count Fourteen, we unanimously find:

As to the death of Lingzi Lu: Yes.

As to the death of Martin Richard: Yes.

Count Fifteen: As to Count Fifteen of the indictment charging that the defendant used or carried a firearm (Pressure Cooker Bomb No. 2) during and in relation to a crime of violence, namely, malicious destruction of property as charged in Count Fourteen of this indictment, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty.

As to whether the firearm charged in Count Fifteen (Pressure Cooker Bomb No. 2) was discharged, we unanimously find: Yes.

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As to whether the firearm charged in Count Fifteen (Pressure Cooker Bomb No. 2) was a destructive device, we unanimously find: Yes.

As to whether the defendant, in the course of committing the violation alleged in Count Fifteen of the indictment, caused the death of one of the two persons alleged in Count Fifteen, and the killing was a murder, or aided or abetted another in causing the death of one of the two persons alleged in Count Fifteen, and the killing was a murder, we unanimously find:

As to the death of Lingzi Lu: Yes.

As to the death of Martin Richard: Yes.

Count Sixteen: As to Count Sixteen of the indictment charging that on or about April 18, 2013, the defendant used or carried a firearm (Ruger P95 9 mm semiautomatic handgun) during and in relation to a crime of violence, namely, conspiracy to use a weapon of mass destruction as charged in Count One of this indictment, and aiding and abetting, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty.

As to whether the firearm charged in Count Sixteen (Ruger P95 9 mm semiautomatic handgun) was discharged, we unanimously find: Yes.

As to whether the defendant, in the course of the violation charged in Count Sixteen, caused the death of Officer Sean Collier, and the killing was a murder, or aided or abetted

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another in causing the death of Officer Sean Collier, and the killing was a murder, we unanimously find: Yes.

Count Seventeen: As to Count Seventeen of the indictment charging that on or about April 18, 2013, the defendant used or carried a firearm (Ruger P95 9 mm semiautomatic handgun) during and in relation to a crime of violence, namely; conspiracy to bomb a place of public use as charged in Count Six of this indictment, and aiding and abetting, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty.

As to whether the firearm charged in Count Seventeen was discharged, we unanimously find: Yes.

As to whether the defendant, in the course of committing the violation charged in Count Seventeen of the indictment, caused the death of Officer Sean Collier, and the killing was a murder, or aided or abetted another in causing the death of Officer Sean Collier, and the killing was a murder, we unanimously find: Yes.

Count Eighteen: As to Count Eighteen of the indictment charging that on or about April 18, 2013, the defendant used or carried a firearm (Ruger P95 9 mm semiautomatic handgun) during and in relation to a crime of violence, namely, conspiracy to maliciously destroy property as charged in Count Eleven of this indictment, and aiding and abetting, we unanimously find the defendant, Dzhokhar A.

Tsarnaev: Guilty.

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As to whether the firearm charged in Count Eighteen was discharged, we unanimously find: Yes.

As to whether the defendant, in the course of committing the violation charged in Count Eighteen, caused the death of Officer Sean Collier, and the killing was a murder, or aided or abetted another in causing the death of Officer Sean Collier, and the killing was a murder, we unanimously find:

Yes.

Count Nineteen: As to Count Nineteen of the indictment charging carjacking and aiding and abetting, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty.

As to whether the offense charged in Count Nineteen resulted in serious bodily injury to Officer Richard Donohue, we unanimously find: Yes.

Count Twenty: As to Count Twenty of the indictment charging that on or about April 18, 2013, the defendant used or carried a firearm (Ruger P95 9 mm semiautomatic handgun) during and in relation to a crime of violence, namely, carjacking as charged in Count Nineteen of this indictment, and aiding and abetting, we unanimously find the defendant, Dzhokhar A.

Tsarnaev: Guilty.

As to whether the firearm charged in Count Twenty (Ruger P95 9 mm semiautomatic handgun) was brandished, we unanimously find: Yes.

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Count Twenty-One: As to Count Twenty-One of the indictment charging interference with commerce by threats or violence on or about April 18, 2013, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty.

Count Twenty-Two: As to Count Twenty-Two of the indictment charging that on or about April 18, 2013, the defendant used or carried a firearm (Ruger P95 9 mm semiautomatic handgun) during and in relation to a crime of violence, namely, interference with commerce by threats and violence as charged in Count Twenty-One of this indictment, and aiding and abetting, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty.

As to whether the firearm charged in Count Twenty-Two was brandished, we unanimously find: Yes.

Count Twenty-Three: As to Count Twenty-Three of the indictment charging use of a weapon of mass destruction (Pressure Cooker Bomb No. 3) on or about April 19, 2013, in the vicinity of Laurel Street and Dexter Avenue in Watertown, Massachusetts, and aiding and abetting, we unanimously find the defendant, Dzhokhar A. Tsarnaev: Guilty.

Count Twenty-Four: As to Count Twenty-Four of the indictment charging that the defendant used or carried a firearm (Ruger P95 9 mm semiautomatic handgun and Pressure Cooker Bomb No. 3) during and in relation to a crime of violence, namely, use of a weapon of mass destruction, as

1 charged in Count Twenty-Three of this indictment, we 2 unanimously find the defendant, Dzhokhar A. Tsarnaev: A. As to the Ruger P95 9 mm semiautomatic handgun: 3 4 Guilty. 5 B. As to Pressure Cooker Bomb No. 3: Guilty. 6 As to whether the Ruger P95 9 mm semiautomatic handgun 7 charged in Count Twenty-Four was discharged, we unanimously 8 find: Yes. As to whether Pressure Cooker Bomb No. 3 charged in 9 05:17 10 Count Twenty-Four was discharged, we unanimously find: Yes. As to whether Pressure Cooker Bomb No. 3 was a 11 destructive device, we unanimously find: Yes. 12 13 Count Twenty-Five: As to Count Twenty-Five of the 14 indictment charging use of a weapon of mass destruction (Pipe Bomb No. 1) on or about April 19, 2013, in the vicinity of 15 Laurel Street and Dexter Avenue in Watertown, Massachusetts, 16 and aiding and abetting, we unanimously find the defendant, 17 18 Dzhokhar A. Tsarnaev: Guilty. 19 Count Twenty-Six: As to Count Twenty-Six of the 05:18 20 indictment charging that the defendant used or carried a firearm (Ruger P95 9 mm semiautomatic handgun and Pipe Bomb No. 21 1) during and in relation to a crime of violence, namely, use 22 of a weapon of mass destruction as charged in Count Twenty-Five 23 of this indictment, and aiding and abetting, we unanimously 24 25 find the defendant, Dzhokhar A. Tsarnaev:

1 Α. As to the Ruger P95 9 mm semiautomatic handgun: 2 Guilty. 3 As to Pipe Bomb No. 1: Guilty. As to whether the Ruger P95 9 mm semiautomatic handgun 4 5 charged in Count Twenty-Five was discharged, we unanimously find: Yes. 7 As to whether Pipe Bomb No. 1 charged in Count 8 Twenty-Five was discharged, we unanimously find: Yes. 9 As to whether Pipe Bomb No. 1 was a destructive 05:19 10 device, we unanimously find: Yes. 11 Count Twenty-Seven: As to Count Twenty-Seven of the indictment charging use of a weapon of mass destruction (Pipe 12 13 Bomb No. 2) on or about April 19, 2013, in the vicinity of 14 Laurel Street and Dexter Avenue in Watertown, Massachusetts, and aiding and abetting, we unanimously find the defendant, 15 Dzhokhar A. Tsarnaev: Guilty. 16 Count Twenty-Eight: As to Count Twenty-Eight of the 17 indictment charging that the defendant used or carried a 18 19 firearm (Ruger P95 9 mm semiautomatic handgun and Pipe Bomb 05:20 20 No. 2) during and in relation to a crime of violence, namely, 21 use of a weapon of mass destruction as charged in Count Twenty-Seven of this indictment, and aiding and abetting, we 22 23 unanimously find the defendant, Dzhokhar A. Tsarnaev: A. As to Ruger P95 9 mm semiautomatic handgun: 24 25 Guilty.

1 As to Pipe Bomb No. 2: Guilty. As to whether the Ruger P95 9 mm semiautomatic handgun 2 charged in Count Twenty-Eight was discharged, we unanimously 3 find: Yes. 5 As to whether Pipe Bomb No. 2 charged in Count 6 Twenty-Eight was discharged, we unanimously find: 7 As to whether Pipe Bomb No. 2 was a destructive 8 device, we unanimously find: Yes. 9 Count Twenty-Nine: As to Count Twenty-Nine of the 05:21 10 indictment charging use of a weapon of mass destruction (Pipe 11 Bomb No. 3) on or about April 19, 2013, in the vicinity of Laurel Street and Dexter Avenue in Watertown, Massachusetts, 12 13 and aiding and abetting, we find the defendant, Dzhokhar A. 14 Tsarnaev: Guilty. 15 Count Thirty: As to Count Thirty of the indictment charging that the defendant used or carried a firearm (Ruger 16 P95 9 mm semiautomatic handgun and Pipe Bomb No. 3) during and 17 in relation to a crime of violence, namely, use of a weapon of 18 19 mass destruction as charged in Count Twenty-Nine of this 05:21 20 indictment, and aiding and abetting, we unanimously find the 21 defendant, Dzhokhar A. Tsarnaev: 22 A. As to the Ruger P95 9 mm semiautomatic handgun: 23 Guilty. 24 B. As to Pipe Bomb No. 3: Guilty.

As to whether Pipe Bomb No. 3 charged in Count Thirty

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1 was brandished, we unanimously find: Yes. As to whether the Ruger P95 9 mm semiautomatic handgun 2 charged in Count Thirty was discharged, we unanimously find: 3 Yes. 5 As to whether Pipe Bomb No. 3 was a destructive 6 device, we unanimously find: Yes. 7 Madam foreperson, is that your verdict? 8 THE FOREPERSON: Yes. 9 THE CLERK: And so say you all? 05:22 10 THE DELIBERATING JURORS: Yes. 11 THE COURT: Be seated for a moment, please. 12 Jurors, as you know, because the defendant is 13 convicted now on your verdict of capital offenses for which the 14 penalty of death may be imposed, we will proceed to a second phase of the trial which we have colloquially referred to as 15 the "penalty phase." 16 You are still an active jury subject to your oath and 17 18 all the obligations that an active jury has. Those include 19 avoiding any discussion, of course, of the case. You may not 05:23 20 discuss your deliberations that have just concluded with 21 anyone, including each other. That is now in the past. There 22 is a task ahead of you that we have to look forward to. Leave 23 everything related to the deliberations behind.

If anyone tries to engage you about what the

deliberations involved, you are to respond that you're unable

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under the law and the penalties that can be imposed -- to refrain from any discussion of it whatsoever. Sometimes people think because you have rendered a verdict, that your job is over and they're free to ask you about that. That is not the case under these circumstances. If anybody does try to interview you or press you for information, and persists after you tell them that you can't provide it, then report it to one of the court officials immediately.

It's important now that you also avoid any discussion of deliberations with the alternate jurors who now will rejoin you as participants in the evidence phase of the penalty part of the trial. The alternates will resume their position in the box and hear the evidence going forward just as everybody else will and, of course, stand ready, if necessary, to be substituted for one of the first 12 jurors, if that should happen to occur.

So I give you, as we break -- well, let me just say we will proceed to the next phase. The schedule is as yet undetermined. We will do it rather expeditiously. It will not be tomorrow or the next day. It could be early next week, and so you should hold yourselves ready to return as directed. The jury clerk will get in touch with each of you individually to tell you with as much notice as we can give you when you should return. That applies again to everybody.

So I now repeat my usual cautions: No communications

with anyone about the case. Avoid news reports about the case. 1 2 There will probably be some today. Don't be tempted to look at 3 You're still under that restriction. And I think the people that you live and associate with will understand that 5 under these circumstances, and we appreciate that. 6 And, of course, avoid any temptations to use social 7 media of any kind to talk in any way about your experience or to do any investigating or anything else. You understand those instructions and you've been very good about abiding by them. 05:26 10 I just continue to remind you of them. 11 All right. With that, we'll stand in recess. THE CLERK: All rise for the Court and the jury. The 12 Court will be in recess. 13 14 (The Court and jury exit the courtroom and the proceedings adjourned at 2:39 p.m.) 15 16 17 18 19 20 21 22 23 24 25

CERTIFICATE I, Marcia G. Patrisso, RMR, CRR, Official Reporter of the United States District Court, do hereby certify that the foregoing transcript constitutes, to the best of my skill and ability, a true and accurate transcription of my stenotype notes taken in the matter of Criminal Action No. 13-10200-GAO, United States of America v. Dzhokhar A. Tsarnaev. /s/ Marcia G. Patrisso MARCIA G. PATRISSO, RMR, CRR Official Court Reporter Date: 10/29/15