

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
)
 v.)
)
 DZHOKHAR TSARNAEV)

Crim. No. 13-10200-GAO

**DEFENDANT’S OPPOSITION TO GOVERNMENT’S
RENEWED MOTION FOR LIST OF MITIGATING FACTORS**

Defendant, Dzhokhar Tsarnaev, by and through counsel, respectfully files his response to the Government’s Renewed Motion for List of Mitigating Factors, DE 529.

The government offers no legal authority in support of the renewed motion, and advances no reason to grant it not already contained in its initial pleading. DE 294. Accordingly, the defendant will respectfully rely on his earlier response, DE 315, in which he explained why the Court should deny the virtually unprecedented relief that the government seeks. He would add only that the government’s claim of a “pressing” need for “basic notice about [the defendant’s] mitigation case” is overblown. Some nine months ago, the defense provided the government a written summary of the basic reasons emerging from the government’s own case why death is an inappropriate punishment for Mr. Tsarnaev. As for additional mitigating factors that only thorough investigation is likely to uncover, that investigation is still far from complete, *see* DE 518, 549, and so the defense could not enumerate those factors now even if the law required it to. In any event, the government has long been aware of the major sentencing issues in this case, and will not be unfairly disadvantaged by being required to adhere to the provisions of the Federal Death Penalty Act as Congress enacted them.

motion to require the defendant to file, in advance of trial, notice of the mitigating factors on which he proposes to rely if convicted.

Dated: September 16, 2014

Respectfully Submitted,

DZHOKHAR TSARNAEV

By his attorneys

/s/ David I. Bruck

Judy Clarke, Esq. (CA Bar# 76071)

CLARKE & RICE, APC

1010 Second Avenue, Suite 1800

San Diego, CA 92101

(619) 308-8484

JUDYCLARKE@JCSRLAW.NET

David I. Bruck, Esq. (SC Bar # 967)

220 Sydney Lewis Hall

Lexington, VA 24450

(540) 458-8188

BRUCKD@WLU.EDU

Miriam Conrad, Esq. (BBO # 550223)

Timothy Watkins, Esq. (BBO # 567992)

William Fick, Esq. (BBO # 650562)

FEDERAL PUBLIC DEFENDER OFFICE

51 Sleeper Street, 5th Floor

(617) 223-8061

MIRIAM_CONRAD@FD.ORG

TIMOTHY_WATKINS@FD.ORG

WILLIAM_FICK@FD.ORG

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on September 16, 2014.

/s/ David I. Bruck