13-MJ-2161-MBB

AFFIDAVIT OF SPECIAL AGENT SCOTT P. CIEPLIK

I, Scott P. Cieplik, being duly sworn, depose and state:

BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI") and have been so employed for more than three years. I have seven additional years of prior federal law enforcement experience in the United States Coast Guard. I am currently assigned to one of the Boston Field Office's Counter-terrorism Squads. Among other things, I am responsible for conducting national security investigations of potential violations of federal criminal laws as a member of the Joint Terrorism Task Force ("JTTF"). During my tenure as an agent, I have participated in numerous national security investigations. I have received training in the area of national security investigations, and those matters involving domestic and international terrorism.

2. During my employment with the FBI, I have conducted and participated in numerous investigations involving violations of United States laws relating to terrorism. I have participated in the execution of several federal search and arrest warrants in such investigations. I have had extensive training in many methods used to commit acts of terrorism contrary to United States law.

3. I am currently participating in the investigation of the two explosions that occurred on April 15, 2013 in Boston during the Boston Marathon. As set forth below, there is probable cause to believe that Dzhokhar Tsarnaev ("Tsarnaev") was one of the individuals who caused the explosions at the Marathon. There is also probable cause to believe that two friends of Tsarnaev's -- DIAS KADYRBAYEV ("KADYRBAYEV") and AZAMAT TAZHAYAKOV ("TAZHAYAKOV") -- intentionally obstructed justice in connection with the Marathon bombing investigation. Specifically, there is probable cause to believe that KADYRBAYEV and

TAZHAYAKOV conspired to violate 18 U.S.C. § 1519 by knowingly destroying, concealing, and covering up tangible objects belonging to Tsarnaev, namely, a laptop computer and a backpack containing fireworks, with the intent to impede, obstruct, and influence the criminal investigation of the Marathon bombings, in violation of 18 U.S.C. § 371. There is also probable cause to believe that ROBEL PHILLIPOS ("PHILLIPOS"), another friend of Tsarnaev's, knowingly and willfully made materially false statements to federal law enforcement investigators during a terrorism investigation, in violation of 18 U.S.C. § 1001. This affidavit is submitted in support of an application for a complaint charging the three men with these crimes.

4. This affidavit is based upon information supplied to me by other law enforcement officers, including other special agents employed by the FBI, task force officers of the JTTF, and the state and local law enforcement personnel who are participating in the investigation of these events. It is also based upon my personal involvement in this investigation and on my training and experience. In submitting this affidavit, I have not included each and every fact known to me about the investigation, but instead have included only those facts that I believe are sufficient to establish the requisite probable cause.

SUMMARY OF RELEVANT LAW

5. Based on my training, experience, and discussions with the U.S. Attorney's Office, I have learned the following: Title 18, United States Code, Section 1519 provides that, "Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States . . . shall be [punished]." Title 18, United States Code, Section 371 makes it a crime for two or more persons to conspire to commit any offense against the United

States. Title 18, United States Code, Section 1001 makes it illegal for anyone to knowingly and willfully make a materially false statement in any matter within the jurisdiction of the executive, legislative, or judicial branch of the United States Government.

FACTS AND CIRCUMSTANCES

A. The Boston Marathon Explosions

6. The Boston Marathon is an annual race that attracts runners from all over the United States and the world. According to the Boston Athletic Association, which administers the Marathon, over 23,000 runners participated in this year's race. The Marathon has a substantial impact on interstate and foreign commerce. For example, based on publicly available information, I believe that the runners and their families -- including those who travel to the Boston area from other states and countries -- typically spend tens of millions of dollars each year at local area hotels, restaurants and shops, in the days before, during, and after the Marathon. In addition, a number of the restaurants and stores in the area near the finish line have special events for spectators.

7. The final stretch of the Boston Marathon runs eastward along the center of Boylston Street in Boston from Hereford Street to the finish line, which is located between Exeter and Dartmouth Streets. Low metal barriers line both edges of the street and separate the spectators from the runners. Many businesses line the streets of the Marathon route. In the area near the finish line, businesses are located on both sides of Boylston Street, including restaurants, a department store, a hotel and various retail stores.

8. On April 15, 2013, at approximately 2:49 p.m., while the Marathon was still underway, two explosions occurred on the north side of Boylston Street along the Marathon's final stretch. The first explosion occurred in front of 671 Boylston Street and the second occurred

approximately one block away in front of 755 Boylston Street. The explosive devices were placed near the metal barriers where hundreds of spectators were watching runners approach the finish line. Each explosion killed at least one person, maimed, burned and wounded scores of others, and damaged public and private property, including the streets, sidewalk, barriers, and property owned by people and businesses in the locations where the explosions occurred. In total, three people were killed and over two hundred individuals were injured.

B. Surveillance Evidence

9. I have reviewed videotape footage taken from a security camera located on Boylston Street near the corner of Boylston and Gloucester Streets. At approximately 2:38 p.m. (based on the video's duration and timing of the explosions) -- i.e., approximately 11 minutes before the first explosion -- two young men can be seen turning left (eastward) onto Boylston from Gloucester Street. Both men are carrying large knapsacks. The first man, whom I refer to in this affidavit as Bomber One, is a young male, wearing a dark-colored baseball cap, sunglasses, a white shirt, dark coat, and tan pants. The second man, whom I refer to in this affidavit as Bomber Two, is a young male, wearing a white baseball cap backwards, a gray hooded sweatshirt, a lightweight black jacket, and dark pants. As set forth below, there is probable cause to believe that Bomber One is Tamerlan Tsarnaev and Bomber Two is his brother, Dzhokhar Tsarnaev.

10. After turning onto Boylston Street, Bomber One and Bomber Two can be seen walking eastward along the north side of the sidewalk towards the Marathon finish line. Bomber One is in front and Bomber Two is a few feet behind him. Additional security camera video taken from a location farther east on Boylston Street, as well as contemporaneous photographs taken from across the street, show the men continuing to walk together eastward along Boylston Street towards Fairfield Street.

11. I have also reviewed video footage taken from a security camera affixed above the doorway of the Forum Restaurant located at 755 Boylston Street, which was the site of the second explosion. This camera is located approximately midway between Fairfield and Exeter Streets and points out in the direction of Boylston and is turned slightly towards Fairfield. At approximately 2:41 p.m. (based on the video's duration and the timing of the explosions), Bomber One and Bomber Two can be seen standing together approximately one half-block from the restaurant.

12. At approximately 2:42 p.m. (i.e., approximately seven minutes before the first explosion), Bomber One can be seen detaching himself from the crowd and walking east on Boylston Street towards the Marathon finish line. Approximately 15 seconds later, he can be seen passing directly in front of the Forum Restaurant and continuing in the direction of the location where the first explosion occurred. His knapsack is still on his back.

13. At approximately 2:45 p.m., Bomber Two can be seen detaching himself from the crowd and walking east on Boylston Street toward the Marathon finishing line. He appears to have the thumb of his right hand hooked under the strap of his knapsack and a cell phone in his left hand. Approximately 15 seconds later, he can be seen stopping directly in front of the Forum Restaurant and standing near the metal barrier among numerous spectators with his back to the camera, facing the runners. He then can be seen apparently slipping his knapsack onto the ground. A photograph taken from the opposite side of the street shows the knapsack on the ground at Bomber Two's feet.

14. The Forum Restaurant video shows that Bomber Two remained in the same spot for approximately four minutes, occasionally looking at his cell phone and once appearing to take a picture with it. At some point he appears to look at his phone, which is held at approximately

waist level, and may be manipulating the phone. Approximately 30 seconds before the first explosion, he lifts his phone to his ear as if he is speaking on his cell phone, and keeps it there for approximately 18 seconds. A few seconds after he finishes the call, the large crowd of people around him can be seen reacting to the first explosion. Virtually every head turns to the east (towards the finish line) and stares in that direction in apparent bewilderment and alarm. Bomber Two, virtually alone among the individuals in front of the restaurant, appears calm. He glances to the east and then calmly but rapidly begins moving to the west, away from the direction of the finish line. He walks away without his knapsack, having left it on the ground where he had been standing. Approximately 10 seconds later, an explosion occurs in the location where Bomber Two had placed his knapsack.

15. I have observed video and photographic footage of the location where the second explosion occurred from a number of different viewpoints and angles, including from directly across the street. I can discern nothing in that location in the period before the explosion that might have caused that explosion, other than Bomber Two's knapsack.

C. Photographic Identifications

16. I have compared a Massachusetts Registry of Motor Vehicles ("RMV") photograph of Dzhokhar Tsarnaev with photographic and video images of Bomber Two, and I believe, based on their close physical resemblance, there is probable cause that they are one and the same person. Similarly, I have compared an RMV photograph of Tamerlan Tsarnaev with photographic and video images of Bomber One, and I likewise believe that they are one and the same person.

D. The Bombers Emerge

17. At approximately 5:00 p.m. on April 18, 2013, the FBI published video and photographic images of Bomber One and Bomber Two on its web site. Those images were

widely rebroadcast by media outlets all over the country and the world. The FBI asked the public's help in identifying the two men pictured in the video and photographs.

E. Dzhokhar Tsarnaev is Located

18. Based upon information that has been provided to me by fellow law enforcement officers, including members of the JTTF and state and local law enforcement who responded to the crime scenes, as well as on publicly available information that I deem reliable, on the evening of April 19, 2013, police investigation revealed that there was an individual in a covered boat located at 62 Laurel Street in Watertown. After a stand-off between the boat's occupant and the police involving gunfire, the individual was removed from the boat and searched. A University of Massachusetts at Dartmouth identification card, credit cards, and other forms of identification were found in his pockets. All of them identified the man as Dzhokhar Tsarnaev. He had visible injuries, including apparent gunshot wounds to the head, neck, legs, and hand. Tsarnaev's wounds were triaged and he was taken to an area hospital for treatment.

F. Background and Relationship to Tsarnaev

19. KADYRBAYEV and TAZHAYAKOV are both nationals of Kazakhstan who entered the United States on student visas. Until their arrest pending removal proceedings based on immigration violations on April 20, 2013, KADYRBAYEV and TAZHAYAKOV shared an apartment at 69A Carriage Drive, New Bedford, Massachusetts ("the Carriage Drive apartment"). PHILLIPOS is a United States citizen who lives in Cambridge, Massachusetts. KADYRBAYEV, TAZHAYAKOV, PHILLIPOS, and Tsarnaev all began attending the University of Massachusetts at Dartmouth ("UMASS-Dartmouth") at the same time in 2011.

20. During the fall 2012 and spring 2013 semesters, Tsarnaev and a roommate were assigned campus housing at Room 7341, Pine Dale Hall, on the UMASS-Dartmouth campus

("Tsarnaev's dormitory room"). KADYRBAYEV has informed investigators that Tsarnaev was living in his Pine Dale Hall dormitory room during the time period of the Marathon bombing. On April 21, 2013, the FBI searched Tsarnaev's dormitory room pursuant to a search warrant. The FBI seized from his room, among other things, BB's, a large pyrotechnic and a black jacket and white hat of the same general appearance as those worn by Bomber Two at the Boston Marathon on April 15, 2013. As described below, two days before the FBI executed their search, KADYRBAYEV and TAZHAKYAKOV removed items from Tsarnaev's dormitory room.

21. KADYRBAYEV, TAZHAYAKOV, and PHILLIPOS were each interviewed during this investigation. As set forth below, all three have admitted that on the evening of April 18, 2013, they removed Tsarnaev's backpack from Tsarnaev's dormitory room, and KADYRBAYEV and TAZHAYAKOV have admitted that they agreed to get rid of it after concluding from news reports that Tsarnaev was one of the Boston Marathon bombers.

22. KADYRBAYEV was interviewed by investigators on April 19, 2013 and April 20, 2013. Pertinent statements he made during those interviews are summarized in Paragraphs 22 through 25. KADYRBAYEV first met Tsarnaev after entering UMASS-Dartmouth in fall 2011 and became better friends with him in spring 2012. They spent a great deal of time socializing, and KADYRBAYEV repeatedly visited Tsarnaev's home and met his family members. On the afternoon of April 17, 2013 (i.e., two days after the Marathon bombings), KADYRBAYEV drove to Tsarnaev's dormitory and texted him to come down and meet them. When Tsarnaev came down, KADYRBAYEV noticed that Tsarnaev appeared to have given himself a short haircut. They chatted while KADYRBAYEV smoked a cigarette; then Tsarnaev returned to his dormitory room.

23. I am aware that at approximately 5:00 p.m. on April 18, 2013, the FBI released

photographs of the Marathon bombers that were broadcast widely on local and national television stations. According to KADYRBAYEV, while he was driving home from Boston, he spoke on the telephone with PHILLIPOS. PHILLIPOS told KADYRBAYEV to put the news on when he got home because one of the suspects in the Marathon bombings looked familiar. KADYRBAYEV turned on the television when he got home and thought that one of the bombers looked like Tsarnaev. KADYRBAYEV then texted Tsarnaev and told him that he looked like the suspect on television. Tsarnaev's return texts contained "lol" and other things KADYRBAYEV interpreted as jokes such as "you better not text me" and "come to my room and take whatever you want." (An analysis of KADYRBAYEV's cell phone reflects that these texts were sent on April 18, 2013, between 8:43 p.m. and 8:48 p.m. EST.)

24. On April 18, 2013, between approximately 6:00 p.m. and 7:00 p.m., KADYRBAYEV, TAZHAYAKOV, and PHILLIPOS met at the UMASS-Dartmouth campus and went to Tsarnaev's dormitory room. Tsarnaev's roommate let them in, stating that Tsarnaev had left a couple of hours earlier. KADYRBAYEV, TAZHAYAKOV, and PHILLIPOS spent some time inside the room watching a movie. They noticed a backpack containing fireworks. The fireworks had been opened and emptied of powder. KADYRBAYEV knew when he saw the empty fireworks that Tsarnaev was involved in the Marathon bombing. KADYRBAYEV decided to remove the backpack from the room in order to help his friend Tsarnaev avoid trouble. He decided to take Tsarnaev's laptop as well because he did not want Tsarnaev's roommate to think he was stealing or behaving suspiciously by just taking the backpack.

25. After KADYRBAYEV, TAZHAYAKOV and PHILLIPOS returned to KADYRBAYEV's and TAZHAYAKOV's apartment with the backpack and computer, they watched news reports that featured photographs of a man later identified as Dzhokhar Tsarnaev

and that identified the man in the photographs as a suspect in the bombings. According to KADYRBAYEV, they then collectively decided to throw the backpack and fireworks into the trash because they did not want Tsarnaev to get into trouble. KADYRBAYEV placed the backpack and fireworks along with trash gathered from the apartment into a large black trash bag and then threw the trash bag into a dumpster near the Carriage Drive apartment. He remembers doing this at approximately 10:00 p.m. TAZHAYAKOV and PHILLIPOS did not participate in placing the trash into the dumpster but knew that KADYRBAYEV had done so.

26. Investigators interviewed TAZHAYAKOV on April 19, 2013 and April 20, 2013. Pertinent statements made by TAZHAYAKOV during those interviews are summarized in Paragraphs 26 through 28. TAZHAYAKOV became friends with Tsarnaev at UMASS-Dartmouth in fall 2011. They grew closer in fall 2012 when Tsarnaev began spending a lot of time at the Carriage Drive apartment. On April 17, 2013 (i.e., two days after the Marathon bombing), Tsarnaev was at the Carriage Drive apartment with TAZHAYAKOV until approximately midnight. On April 18, 2013, TAZHAYAKOV attended an afternoon class at UMASS-Dartmouth and was given a ride home by Tsarnaev, who dropped TAZHAYAKOV off at approximately 4:00 p.m. At approximately 9:00 p.m., while TAZHAYAKOV was out shopping, he received a text message from KADYRBAYEV that asked, "Have you seen the news?" KADYRBAYEV sent TAZHAYAKOV additional messages informing him that television news programs were airing photographs of Tsarnaev and identifying him as one of the Marathon bombers. TAZHAYAKOV returned to the Carriage Drive apartment and found KADYRBAYEV waiting for him outside. KADYRBAYEV showed TAZHAYAKOV photographs of Tsarnaev broadcast by CNN. KADYRBAYEV sent a text message to PHILLIPOS instructing him (PHILLIPOS) to go to Tsarnaev's dormitory room.

27. TAZHAYAKOV, KADYRBAYEV, and PHILLIPOS went to Tsarnaev's dormitory room and were let in by Tsarnaev's roommate. Before they went in, KADYRBAYEV showed TAZHAYAKOV a text message from Tsarnaev that stated, "I'm about to leave if you need something in my room take it." When TAZHAYAKOV learned of this message, he believed he would never see Tsarnaev alive again. Once inside the dormitory room, KADYRBAYEV located a backpack that contained an emptied-out cardboard tube that TAZHAYAKOV described as fireworks. (A couple of months earlier, TAZHAYAKOV had seen Tsarnaev with fireworks, which TAZHAYAKOV, Tsarnaev and others had set off along the banks of the Charles River in Boston.) This discovery frightened TAZHAYAKOV because the powder had been emptied from the tube. KADYRBAYEV also found a jar of Vaseline in the room and told TAZHAYAKOV that he believed Tsarnaev had used the Vaseline "to make bombs."[1] At that point, TAZHAYAKOV believed that Tsarnaev was involved in planting the bombs at the Boston Marathon. KADYRBAYEV and TAZHAYAKOV removed the backback, Vaseline, and Tsarnaev's laptop from the dormitory room and, together with PHILLIPOS, took those items back to the Carriage Drive apartment.

28. At approximately 6:00 a.m. on April 19, 2013, KADYRBAYEV, TAZHAYAKOV and PHILLIPOS saw news reports that identified Dzhokhar Tsarnaev and Tamerlan Tsarnaev as the Marathon bombers and stated that Tamerlan Tsarnaev was dead. KADYRBAYEV decided to throw away the backpack with the fireworks inside and TAZHAYAKOV agreed. KADYRBAYEV was the one who threw the backpack in the garbage; the last time TAZHAYAKOV actually saw the backpack was on the night of April 18. On the afternoon of

[1] During these interviews, TAZHAYAKOV also informed the FBI agents that while eating a meal with Dzhokhar and KADYRBAYEV approximately one month prior to the Marathon bombing, Dzhokhar had explained to KADYRBAYEV and TAZHAYAKOV that he knew how to make a bomb.

April 19, TAZHAYAKOV saw a garbage truck come to their apartment complex to empty the dumpster where KADYRBAYEV had discarded the backpack.

29. PHILLIPOS was interviewed by federal agents on April 19, April 20, April 25, and April 26, 2013. During the first interview, conducted on April 19, 2013, PHILLIPOS concealed the fact that he, KADYRBAYEV and TAZHAYAKOV went to Tsarnaev's dormitory room on the evening of April 18, 2013. PHILLIPOS told investigators that he slept at the Carriage Drive apartment from 8:00 to 10:00 p.m. and then watched television with TAZHAYAKOV until 4:00 a.m. on April 19, 2013. He said that he and TAZHAYAKOV were shocked when they saw photographs of Tsarnaev on the news linking him to the Boston Marathon bombing and that he (PHILLIPOS) attempted to send Tsarnaev a text message but it would not go through.

30. During the second interview, conducted on April 20, 2013, PHILLIPOS initially said that he did not remember going to Tsarnaev's dormitory room on the evening of April 18. He then changed his story and said that he did remember going to the door of Tsarnaev's room with KADYRBAYEV and TAZHAYAKOV at approximately 10:00 p.m. in order to see if the photographs of the bombing suspect they had viewed on the news were really of Tsarnaev. When PHILLIPOS was asked whether the men had entered Tsarnaev's dormitory room and removed a laptop or any other items, PHILLIPOS initially claimed that he did not remember their doing so, and then denied that they had entered the room at all. PHILLIPOS explained that when they arrived at the dormitory room it was locked and no one answered their knock, so they simply left the area. During the third interview, conducted on April 25, 2013, PHILLIPOS essentially repeated these statements.

31. During the fourth interview, conducted on April 26, 2013, PHILLIPOS eventually confessed that he had lied to the agents during his previous interviews. He was then

re-interviewed, and an agent prepared a written statement based on the interview. PHILLIPOS read the written statement, had it read aloud to him, and then signed it. In this statement, PHILLIPOS admitted that he, KADYRBAYEV and TAZHAYAKOV had entered Tsarnaev's dormitory room on April 18, 2013, and had removed Tsarnaev's backpack from the room. Specifically, PHILLIPOS stated that at approximately 9:00 p.m., he had received a text message from KADYRBAYEV asking him "to go to Jahar's room." (PHILLIPOS knew Tsarnaev as "Jahar.") After Tsarnaev's roommate let PHILLIPOS, KADYRBAYEV, and TAZHAYAKOV into the room, KADYRBAYEV "went through Jahar's belongings" and found "a dark backpack." PHILLIPOS stated that KADYRBAYEV opened the backpack, "at which point I observed approximately seven red tubular fireworks, approximately 6 to 8 inches in length."

32. PHILLIPOS stated that KADYRBAYEV removed Tsarnaev's backpack from the dormitory room and drove PHILLIPOS and TAZHAYAKOV back to the Carriage Drive apartment. PHILLIPOS stated that, "Once at the apartment," he, KADYRBAYEV, and TAZHAYAKOV "started to freak out, because it became clear from a CNN report that we were watching that Jahar was one of the Boston Marathon bombers." PHILLIPOS stated that he did not understand the "majority" of what KADYRBAYEV and TAZHAYAKOV "were saying . . . because they were speaking in Russian," but he recalled that at approximately 11:00 p.m., he, KADYRBAYEV, and TAZHAYAKOV "had a discussion about what to do with the backpack and fireworks." PHILLIPOS stated that KADYRBAYEV asked "if he should get rid of the stuff" (or words to that effect) and PHILLIPOS replied that KADYRBAYEV should "do what you have to do." PHILLIPOS stated that he then took a two hour nap, and when he awoke, the backpack was gone. PHILLIPOS stated that he "did not know for sure who took it from the apartment."

33. On April 26, 2013, law enforcement agents recovered Tsarnaev's backpack from a

landfill in New Bedford where they believed it to have been dumped by the service that removes garbage from the Carriage Drive apartment complex. The backpack was partially enclosed in a black garbage bag with red drawstring handles. Inside the backpack, the agents recovered fireworks (a picture of which is attached), a jar of Vaseline, and a UMASS-Dartmouth homework assignment sheet, among other things. I have determined that the homework assignment sheet is from a class in which Tsarnaev is currently enrolled.

CONCLUSION

34. Based on the foregoing, there is probable cause to believe that between on or about April 18, 2013 and April 19, 2013, DIAS KADYRBAYEV and AZAMAT TAZHAYAKOV conspired with each other, in violation of 18 U.S.C. § 371, to obstruct justice in violation of 18 U.S.C. § 1519, and that between on or about April 19, 2013 and April 25, 2013, ROBEL PHILLIPOS knowingly and willfully made materially false statements to federal investigators during a terrorism investigation in violation of 18 U.S.C. § 1001(a)(2). Accordingly, I respectfully request that the Court issue a complaint charging the named individuals with those crimes.

Scott P. Cieplik

SCOTT P. CIEPLIK
Special Agent
Federal Bureau of Investigation

Sworn and subscribed before me this 1st day of May 2013.

Marianne B. Bowler USMJ

MARIANNE B. BOWLER
UNITED STATES MAGISTRATE JUDGE