



3. Homeland Security has notified the defense that paroled witnesses will be under 24/7 supervision of FBI agents (two agents *per witness*) and subject to electronic monitoring.

4. On April 16, 2015, notwithstanding these extremely restrictive conditions, the defense team received notice that Mr. Khozhugov would be denied parole due to “security concerns.”

5. Subsequently, a member of the defense team was informed that the nature of the “security concerns” was that some type of conflict might arise between Mr. Khozhugov and Ailina Tsarnaeva that could be “embarrassing” to Homeland Security and/or the FBI.

6. These concerns are unfounded for several reasons. First, Ailina Tsarnaeva is not a trial witness, nor is she expected to attend any part of the trial. The likelihood that she would encounter Mr. Khozhugov is very low. Second, years have passed since the 2008 domestic incident between Ms. Tsarnaeva and Mr. Khozhugov, both of whom were very young at the time. They have both since matured substantially and both have now formed new families with children. Third, while Ms. Tsarnaeva previously filed some kind of complaint against Mr. Khozhugov for taking their son from the United States to live with him in Almaty, defense counsel understand that there was no custody order in place that would have prohibited him from doing so. Moreover, defense counsel understand that Ms. Tsarnaeva and Mr. Khozhugov have since reached an amicable agreement regarding custody of their son and hope to formalize that agreement with appropriate authorities when they are able to do so.

7. By e-mail on April 20, 2015, undersigned counsel requested that Homeland Security and/or the FBI reconsider the decision to deny parole to Mr. Khozhugov, explaining why the “security concerns” are misplaced. On April 21, 2015, the defense requested to reconsider was denied. A copy of the e-mail exchange is attached hereto as Exhibit A.

8. Refusal to parole Mr. Khozhugov into the United States to testify violates the defendant’s constitutional rights. *See, e.g., United States v. Filippi*, 918 F.2d 244, 247 (1st Cir. 1990) (holding that failure to assist in obtaining parole for foreign witnesses would violate 5th and 6th Amendments). Accordingly, the Court should compel Homeland Security to parole Mr. Khozhugov into the United States.

Respectfully submitted,

DZHOKHAR TSARNAEV  
by his attorneys



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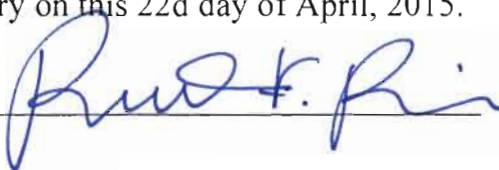
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**Certificate of Service**

I hereby certify that I have caused a copy of this document to be served upon counsel for the United States by hand delivery on this 22d day of April, 2015.



A handwritten signature in blue ink, appearing to read "W. Fick", is written over a horizontal line.



RE: Tsarnaev foreign witnesses; Elmirza Khozhugov parole  
Andersen, Thomas B

to:

William Fick

04/21/2015 06:47 PM

Hide Details

From: "Andersen, Thomas B" <Thomas.B.Andersen@ice.dhs.gov>

To: William Fick <William\_Fick@fd.org>

History: This message has been forwarded.

Mr. Fick,

The denial of Elmirza KHOZHUGOV's application was based upon security concerns. As I previously stated, the decision concerning the parole of Elmirza KHOZHUGOV has been conveyed to you (the defense team) and I am not able to discuss the decision-making process further.

No new information has come to light that would change the decision concerning parole.

Respectfully,

Brian Andersen  
HSI Boston

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**From:** William Fick

**Sent:** Monday, April 20, 2015 1:24:04 PM

**To:** daniel.einhaus@ic.fbi.gov; Andersen, Thomas B

**Cc:** Alicia Hutton; Debra Garvey; Jennifer Davis; 'Judy Clarke'; Bruck, David; Miriam Conrad; Timothy Watkins

**Subject:** Tsarnaev foreign witnesses; Elmirza Khozhugov parole

Dear Agent Einhaus and Agent Andersen,

I am one of the counsel of record for Dzhokhar Tsarnaev. I want to thank you for your assistance in arranging attendance of foreign defense witnesses. My colleague, Alicia Hutton, has filled me in on the developing logistics and I trust we will be able to work together constructively and flexibly to ensure that everything goes smoothly.

I write principally to request that your respective agencies reconsider the decision not to grant parole to Elmirza Khozhugov of Almaty, Kazakhstan. Among all of the foreign witnesses, Mr. Khozhugov is the most important to the defense because he actually lived in the Tsarnaev household here in the United States and has first-hand knowledge about family history and relationships.

We understand that the basis for denial of parole was a concern that a confrontation might erupt between Mr. Khozhugov and his estranged wife, Ailina Tsarnaeva, the defendant's sister. We believe that this concern is misplaced for several reasons:

First, Ailina Tsarnaeva is not a trial witness, nor is she expected to attend any part of the trial. The likelihood that she would encounter Mr. Khozhugov is very low.

Second, years have passed since the domestic incident between Ms. Tsarnaeva

and Mr. Khozhugov, both of whom were very young at the time. They have both since matured substantially and both have now formed new families with children.

Third, while Ms. Tsarnaeva previously filed some kind of complaint against Mr. Khozhugov for taking their son from the United States to live with him in Almaty, our understanding is that there was no custody order in place that would have prohibited him from doing so. Moreover, we understand that Ms. Tsarnaeva and Mr. Khozhugov have since reached an amicable agreement regarding custody of their son and hope to formalize that agreement with appropriate authorities when they are able to do so.

If necessary, we would be happy to obtain a letter or affidavit from Ms. Tsarnaeva confirming the above information.

We would appreciate a response to this request as soon as possible. Because the trial is moving quickly, and because Mr. Khozhugov's testimony is very important to the defense, we will need to bring this issue to the Court's attention promptly if we are unable to resolve it administratively.

Thanks,  
Bill Fick

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