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By Thomas Farragher

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It was impossible to know whether accused Boston Marathon bomber Dzhokhar Tsarnaev was indifferent or disturbed by what he heard this week as he slouched deeply into his chair at US District Court.

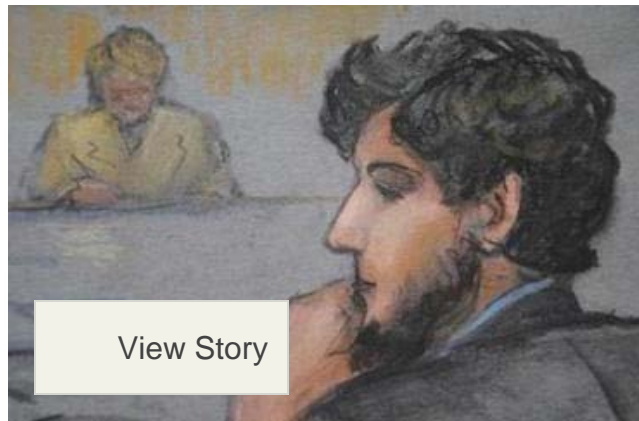
He played with his beard, tousled his hair, and generally used his team of lawyers to shield him from the men and women who may decide whether he is killed by government-issued lethal injection or spends the rest of his empty life locked away in a cage.

I'd hide my face, too, if the people who may hold my fate believed what most of these jurors so plainly do. Guilty. Guilty. Guilty.

"I feel that he's guilty and the punishment should be death," one potential juror, whose brother and brother-in-law are Boston police officers, told Judge George A. O'Toole Jr. on Friday at US District, where jury selection continued.

"I feel pretty strongly that he's guilty," another potential juror, a risk manager at a bank, said Thursday. "I would find it hard to believe at this point to find anything that would change my mind."

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Judge rejects new defense bid to move Tsarnaev trial

Judge George O'Toole had ruled twice previously that he could pick a fair jury and a change of venue was not necessary.

Coverage of the Dzhokhar Tsarnaev trial

O'Toole said it's not surprising that early impressions have been formed. He asked one potential juror whether she could set aside her belief in Tsarnaev's guilt and decide his fate based solely on courtroom evidence. The woman, whose family has close ties to Marathon organizers, didn't hesitate.

"I cannot forget what I know," she said.

Who can? Most potential jurors don't think Tsarnaev is guilty. They *know* he's guilty.

Who hasn't seen the images of the blood and death of Boylston Street? Or the surveillance video of Tsarnaev lurking in the crowd at the finish line? Or the confession he scribbled inside David Henneberry's shrink-wrapped boat, the Slip Away II, where he emerged bloodied after trying to elude the massive dragnet as a terrorized region was asked to shelter in place?

The Tsarnaev defense team's review of jury questionnaires shows that 85 percent of the prospective jurors think the guy's guilty, or have some visceral connection to the bombings.

"String him up," one potential juror wrote on his court-issued questionnaire.

It's time for Boston to say goodbye to Dzhokhar Tsarnaev. His defense has asked three times now for a change of venue. On Friday, O'Toole again said no. He should reconsider. An appeals court review is under way.

Tsarnaev's guilt is beyond question. The issue is whether he should be executed. The defense team is working to save his life, and their repeated motions to move the trial lay the groundwork for more delay and an expensive and potentially successful appeal. Why give the defense lawyers that chance?

"It's exceedingly difficult to win a change of venue, but there are some cases that just cry out for it and this one is up there," said Jonathan Shapiro, a veteran criminal defense and a visiting law professor at Washington and Lee University. He represented Beltway sniper John Allen Muhammad, who terrorized the Washington, D.C., area in 2002.

Muhammad's trial was moved to Virginia Beach. He was convicted and executed.

"Contrary to the defendant's assertions, the voir dire process is successfully identifying potential jurors who are capable of serving as fair and impartial jurors in this case," O'Toole wrote in his order Friday, denying the motion for a change of venue.

He agreed with federal prosecutors who said the Founding Fathers liked to keep trials local.

A decision to move the trial would provoke howls of protest from those who would argue that the court is coddling a cowardly criminal at the expense and inconvenience of his victims and a city shattered by the explosions on Boylston Street.

But in the name of judicial rigor and the interest of protecting the rights of a defendant — even a defendant this despicable — it's the proper and less risky thing to do.

O'Toole and the lawyers have now questioned nearly 160 prospective jurors over 12 days.

If O'Toole were to suddenly reverse course, it would surely be one of the most painful decisions in his long career. And perhaps his most courageous.

More coverage of the Tsarnaev trial →

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