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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
vs.)
)
AZAMAT TAZHAYAKOV,) No. 1:13-cr-10238-DPW-2
)
Defendant.)
)

BEFORE: THE HONORABLE DOUGLAS P. WOODLOCK

EXCERPT FROM DAY SIX OF JURY TRIAL
TESTIMONY OF ANDREW DWINELLS

John Joseph Moakley United States Courthouse
Courtroom No. 1
One Courthouse Way
Boston, MA 02210
Tuesday, July 8, 2014

Valerie O'Hara, RPR, FCRR
Official Court Reporter
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EXCERPT:

MR. CAPIN: The government calls Andrew Dwinells, your Honor.

ANDREW DWINELLS, having been duly sworn by the Clerk, testified as follows:

THE CLERK: Please state your name spelling your last.

THE WITNESS: Andrew Dwinells, D-w-i-n-e-l-l-s.

THE COURT: Be seated, Mr. Dwinells.

DIRECT EXAMINATION

BY MR. CAPIN:

Q. Good afternoon, Mr. Dwinells. Could you please tell the jury how you're employed or what you do, how you spend your time?

A. I'm a full-time student at UMass-Dartmouth.

Q. And what year are you in school?

A. I'm currently going into my senior year.

Q. What's your major?

A. Electrical engineering.

Q. When did you declare your major as electrical engineering?

A. I declared it as I was entering my freshman year.

Q. And your freshman year was what year?

A. 2011.

Q. And were you living on campus at UMass-Dartmouth during your sophomore year?

A. Yes, I was.

1 Q. Was that the 2012-2013 academic year?

2 A. Yes.

3 Q. And where did you live that year?

4 A. I lived in the Pine Dale Residence Hall.

5 Q. Is that a dormitory on the UMass-Dartmouth campus?

6 A. Yes, it is.

7 Q. What room number were you in?

8 A. 7341.

9 Q. Did you share that room with anybody?

10 A. Yes, I had one roommate.

11 Q. Who was your roommate?

12 A. Jahar.

13 Q. Is Jahar's last name Tsarnaev?

14 A. Yes.

15 Q. When did you meet Jahar Tsarnaev?

16 A. Move-in day, early September.

17 Q. So you met him -- when you say move-day, the day that you
18 moved in to that dorm room is the day you met Jahar Tsarnaev?

19 A. Yes.

20 Q. You had not previously met him?

21 A. I did not.

22 Q. How did it come to be that he was your roommate?

23 A. Random selection.

24 Q. When you met Jahar Tsarnaev, was he alone or was he with
25 someone else?

1 A. He was with someone else.

2 Q. Did you meet the person he was with?

3 A. Yes, very briefly.

4 Q. Did you learn that person's name?

5 A. I was told the name, but I forgot.

6 MR. CAPIN: Let me show, if I may, Special Agent,
7 Exhibit 30.

8 Q. Do you see -- is there a photograph displayed on the
9 screen in front of you, Mr. Dwinells?

10 A. Yes.

11 Q. Tell the jury, please, who, if anyone, in that photograph
12 you recognize.

13 A. I recognize his friend Jahar and his friend that helped
14 move him in.

15 Q. Would you just circle with your fingernail the image of
16 Jahar or his face?

17 A. (Witness complies)

18 Q. And the friend that moved him in, for shorthand, I'm going
19 to call that move-in day friend. Would you circle move-in day
20 friend. Do you recognize anybody else from that photograph?

21 A. Not really.

22 Q. Describe, if you would, please, your relationship with
23 Jahar Tsarnaev during your sophomore year.

24 A. We shared a room, but we didn't talk much. We talked
25 about TV or movies, whatever was on, but that's about it, just

1 small talk. We were more acquaintances.

2 Q. Did you ever -- so, fair to say you were not friends?

3 A. Yes, that's fair to say.

4 Q. And fair to say you never socialized or hung out with him?

5 A. That's fair to say.

6 Q. Did you ever exchange text messages with him?

7 A. No, occasionally we would send text messages back and
8 forth.

9 Q. For what purpose?

10 A. Whenever one of us was locked outside the room.

11 Q. So you say that you met this person in the middle of
12 Exhibit 30 on move-in day. During the course of the time you
13 were Jahar Tsarnaev's roommate, did you meet other friends of
14 his?

15 A. A couple. They'd come and go, didn't really know any of
16 them well though.

17 Q. Did you ever know any of his other friends' names?

18 A. No.

19 Q. Now, I want to direct your attention to Thursday,
20 April 18th, 2013. Do you remember that day?

21 A. Yes.

22 Q. Do you remember that that was the Thursday after the
23 marathon bombing?

24 A. Yes.

25 Q. What were you doing that evening at approximately 7 p.m.?

1 A. I got back from dinner and started writing an essay with a
2 friend.

3 Q. Where were you writing that essay?

4 A. In a common room which was right next to my dorm room.

5 Q. Let's just orient the jury to some of the spaces we're
6 talking about.

7 MR. CAPIN: Can I please have Exhibit 24,
8 Special Agent.

9 Q. Andrew, I'm not going to dwell on these, I'm just going to
10 to walk us through to orient us. Can you please tell us what
11 we're looking at on the screen now, Exhibit 24?

12 MR. CAPIN: I would offer 24, 25 and 26 in evidence at
13 this time, your Honor.

14 THE COURT: All right.

15 MR. CAPIN: They are unopposed.

16 THE COURT: They are received.

17 (Exhibit Nos. 24, 25 and 26 were admitted into
18 evidence.)

19 Q. Please tell us Exhibit 24 what we're looking at?

20 A. This is the front entrance of the Pine Dale Hall.

21 Q. This is where you were living your sophomore year when you
22 shared a room with Jahar Tsarnaev?

23 A. Yes, that's true.

24 MR. CAPIN: Can we please have Exhibit 25.

25 Q. What are we looking at now?

1 A. That would be the front door to our room with name tags on
2 it.

3 Q. And those name tags are something prepared by somebody at
4 the school?

5 A. Yes, the residential advisors would put them on all the
6 doors.

7 Q. Am I correct in noting that each of the colorful post-its
8 or stickers has the number 7341 on it?

9 A. Yes.

10 Q. And that was your room number?

11 A. Yes.

12 MR. CAPIN: Could we please have Exhibit 26.

13 Q. What are we looking at now?

14 A. That would be the inside of the room from looking from the
15 doorway.

16 Q. So now that we sort have a little physical orientation,
17 tell us you said you were writing your essay on the evening of
18 April 18th in a common room. Is the common room depicted in
19 this photograph?

20 A. The common room is not in this photograph, but the wall on
21 the left is shared by the common room.

22 Q. So how would you get from -- so we're looking at a picture
23 of the dorm room you shared with Tsarnaev, correct?

24 A. What?

25 Q. We're looking at Exhibit 26 is a picture of the dorm room

1 you shared with Jahar Tsarnaev?

2 A. Yes, if you're standing in the doorway right then, to get
3 to the common room, you'd just go through a fire door on the
4 right, and that's it, you'd be in the common room.

5 Q. And who were you working -- who were you in that common
6 room with that evening?

7 A. I was in the common room working with a friend,
8 Steven Poulliot.

9 Q. What time did you start your work in the common room that
10 night?

11 A. Some time around seven.

12 Q. How long were you there?

13 A. Three hours or so.

14 Q. And after you were in the common room for about three
15 hours, what, if anything, happened next?

16 A. One of the Jahar's friend that helped move him in on
17 move-in day came and asked to be let into the room.

18 Q. So the person whose photograph you looked at, who you
19 referred to as move-in friend, that person approached you?

20 A. Yes.

21 Q. Tell the jury what you remember about that exchange with
22 that person.

23 A. He said he needed to get into the room to get something.

24 Q. Had he been in the room before?

25 A. Yes, he had hung out with Jahar in the room on multiple

1 occasions.

2 Q. And did you in fact let him into the room at that point
3 when he asked?

4 A. I did.

5 Q. Describe what he did when he got into the room.

6 A. He started looking around for something.

7 Q. At any point, did he use his phone?

8 A. At one point, he showed me his phone had a text from
9 Jahar.

10 Q. What do you recall the text saying?

11 A. The text said something about Jahar leaving the country
12 and he won't be back so he can go in and take what he wants.

13 Q. At any point, did you see this move-in friend use his
14 phone to send a text message himself?

15 A. I believe he was texting while in the room, yes.

16 Q. After he texted -- did he text shortly after getting to
17 the room?

18 A. Yeah, within a couple minutes.

19 Q. After he texted, did anybody else show up in the room?

20 A. Within 10 minutes of entering the room, some more people
21 came in, two more.

22 Q. Do I understand the sequence, you let move-in friend into
23 the room, he shows you a text; is that correct?

24 A. Yes.

25 Q. He then sends a text you observed, correct?

1 A. Yes.

2 Q. And then a few minutes after that, two other people show
3 up?

4 A. Yes.

5 Q. Did you recognize the other two people who showed up?

6 A. I recognized them as hanging out with Jahar before.

7 Q. Are they people whose name you knew?

8 A. No.

9 Q. Are they people with whom you had any kind of
10 conversation?

11 A. Nothing deep, just hello.

12 Q. So what happens when these two other friends of Jahar's
13 show up in your room?

14 A. They sit down in the chair, and one sits on the bed, and
15 they turn on the TV.

16 Q. So I want you to describe what each of the people, the two
17 newcomers and the first guy, the move-in friend, what they're
18 doing for the next several minutes?

19 A. For the next several minutes, move-in friend is looking
20 around the room for something still, and the other two are just
21 watching TV.

22 Q. At some point, did move-in friend show something to the
23 two newcomers?

24 A. At one point, he looked in a drawer and pulled out a small
25 bag of pot.

1 Q. When you say a small bag of pot, describe what you mean,
2 how small?

3 A. Just a little, just a little bag, about that big maybe.
4 (indicating)

5 Q. Okay. He showed it to the two friends. Were there any
6 words exchanged?

7 A. Yeah, there were some words exchanged, I don't remember
8 what though.

9 Q. How long into the visit by these three men was this when
10 he pulled out a bag of pot and he shows it to the two friends?

11 A. Make like five minutes after they turn on the TV.

12 Q. Now, after he shows the bag of pot to the other two, does
13 his activity looking through Jahar's things stop?

14 A. He continues looking for something.

15 Q. How long does he continue looking through Jahar's things?

16 A. Ten minutes maybe.

17 Q. Now, had you seen Jahar Tsarnaev and this move-in friend,
18 the person who grabbed the pot, had you seen them handle
19 marijuana in that room before?

20 A. Yes.

21 Q. Had you seen move-in friend take the marijuana from a
22 particular location in that room?

23 A. Yes.

24 Q. From what location?

25 A. From the top right drawer in Jahar's desk.

1 Q. Where did he take the pot from the room in the night in
2 question on April 18th?

3 A. The same drawer.

4 Q. So, how many times before that had you seen move-in friend
5 take pot out of that drawer?

6 A. Multiple occasions, can't really count them.

7 Q. So, did any of the three individuals, move-in friend or
8 the other two guys, show you anything else that they were
9 taking or that they handled in that room that night?

10 A. One of them picked up a headphones case and said, "This
11 was mine, I let Jahar borrow it a while ago."

12 Q. Do you know the name of the person who picked up the
13 headphones case?

14 A. No.

15 Q. I want to show you just a few more exhibits, if I may.

16 MR. CAPIN: If I can have a moment with defense
17 counsel, your Honor?

18 THE COURT: Yes.

19 Q. So, I'm going to show you what I --

20 MR. CAPIN: Let me check my notes. I'm sorry, your
21 Honor, these exhibits are unmarked. Thank you. May I have,
22 Mr. Lovett, the Elmo.

23 Q. I show you what is marked for identification unopposed
24 Exhibit 139.

25 MR. CAPIN: I would offer Exhibit 139 at this time,

1 your Honor.

2 THE COURT: It's received.

3 (Exhibit No. 139 was admitted into evidence.)

4 Q. Did you look at this -- did you meet with someone in my
5 office yesterday?

6 A. Yes.

7 Q. Did you look at this yesterday?

8 A. Yes.

9 Q. Do you recognize what is depicted in Exhibit 139?

10 A. This would be the layout of my room.

11 Q. Of which room?

12 A. Of my room sophomore year.

13 Q. Why don't you use your talent as an engineering student
14 and walk the jury through what is depicted in Exhibit 139
15 starting with the doorway and tell us what we see explaining to
16 the extent that you or Jahar Tsarnaev sort of had primary
17 possession of one side of the room or the other where those
18 spaces are?

19 A. Basically --

20 Q. You can use your finger to sort of mark with an X as you
21 walk us through it.

22 A. If you walk in the door, the room is basically divided in
23 half with the left side is my side and Jahar's is the right
24 side.

25 Q. Just so I'm clear, you're saying -- I'm putting an X on

1 the Dwinells side?

2 A. Yes.

3 Q. Thank you.

4 A. On the right, Jahar had a fridge, and his desk had his TV
5 on it on this side, and then I had a desk with a TV on my side,
6 and then the bed was -- we each had a bed and a closet.

7 Q. So the photograph we were looking at a moment ago --

8 MR. CAPIN: And if I could have Exhibit 26 for a
9 moment, Agent, and, Mr. Lovett, if I could have the computer
10 for a moment.

11 Q. Is the orientation of this photograph pretty much the same
12 looking from the doorway toward the window?

13 A. Yes, that's the same orientation.

14 Q. And I'm circling what looks like two pieces of furniture
15 side-by-side. What are they?

16 A. Those would be the closets we each get.

17 Q. So, is the one I'm putting an X on, the left one, whose
18 closet is that?

19 A. That would be my closet.

20 Q. The one I'm putting a zero on, whose closet is that?

21 A. That would be Jahar's.

22 Q. On the right side?

23 A. Yes.

24 Q. And are those closets pushed up against the windowsill?

25 A. Yes, they're as close to the windowsill as we could get

1 them.

2 MR. CAPIN: This is Exhibit 151B, your Honor, which is
3 unopposed, so I would move it into evidence at this time.

4 THE COURT: All right. It's received. B as in boy?

5 MR. CAPIN: B as in boy, thank you, yes, your Honor.

6 (Exhibit No. 151B was admitted into evidence.)

7 Q. Tell us if you recognize the items that are depicted in
8 Exhibit 151B?

9 A. Those would be the items in a standard lab kit for
10 electrical or mechanical engineers.

11 Q. What's a standard lab kit?

12 A. Just a little kit of tools and stuff that we can use for
13 building circuits or testing equipment for class.

14 Q. Do you recognize this particular lab kit?

15 A. I believe that is my lab kit.

16 Q. And was this lab kit in your room on the night of
17 April 18th when the three men came to the room?

18 A. Yes, it was.

19 Q. Was it in plain sight?

20 A. Yeah, I believe I had it on my bookshelf under the TV.

21 Q. And on which side of the room was it?

22 A. Left side, my side.

23 Q. So it was -- and, again, I'm going to go back. Actually
24 it's right here, so just put an X on where the lab kit was.

25 A. It would be right about there.

1 Q. And while the three men were in the room and move-in
2 friend was searching through Tsarnaev's things, did move-in
3 friend ever search in this part of the room?

4 A. No, he did not.

5 Q. Did you stay in the room on your side the entire time they
6 were there?

7 A. Yes, I was.

8 Q. Did you ever see Tsarnaev to be in possession of anything
9 like what is depicted in Exhibit 151B, any wire cutters, any
10 wires, anything of that sort?

11 A. I don't believe I did.

12 Q. I show you Exhibit -- before I show you this, did you ever
13 see Tsarnaev in the possession of any fireworks in the room?

14 A. No.

15 Q. Did you ever see Tsarnaev in the possession of any BBs in
16 the room?

17 A. No.

18 MR. CAPIN: I'm going to show you Exhibit 152T, as in
19 Thomas, your Honor, which is again unopposed. I would move it
20 into evidence at this time.

21 THE COURT: 152 or 151?

22 MR. CAPIN: My apologies, thank you. 151T.

23 THE COURT: It's received.

24 MR. CAPIN: Thank you, your Honor.

25 (Exhibit No. 151T was admitted into evidence.)

1 Q. Have you ever seen this cap before depicted in 151T?

2 A. I believe I've seen Jahar wear it a couple of times.

3 Q. When in relation to April 18th, 2013 is the last time you
4 had seen Jahar wearing this hat?

5 A. I'm not sure. I don't really remember.

6 Q. To the best of your memory, was this cap in plain sight in
7 any way visible in the room when move-in friend and the two
8 other guys spent the time there that evening?

9 A. I don't remember.

10 Q. Did Jahar Tsarnaev own a computer?

11 A. Yes, he did, he had a laptop.

12 Q. Do you know what make or model it was?

13 A. I don't.

14 Q. Can you describe it?

15 A. Just a folding laptop.

16 Q. And did he own a backpack?

17 A. Yes, he did.

18 Q. Did he own more than one backpack?

19 A. He had two backpacks, one was gray and one was black.

20 Q. Did you see any of the three men in the room on April 18th
21 touch Jahar Tsarnaev's backpack?

22 A. I don't believe so.

23 Q. Did you see any of them touch his computer?

24 A. I don't believe so.

25 Q. Did you see any of them touch a jar of Vaseline?

1 A. No.

2 Q. Did you see any of them touch a thumb drive?

3 A. I don't believe so.

4 Q. How long after -- just to set the time frame, going back
5 to the moment when move-in friend found the bag of pot, the bag
6 of marijuana, how long after that did he continue searching
7 through Jahar Tsarnaev's things?

8 A. Probably seven minutes.

9 Q. And after he searched for seven more minutes, what
10 happened next?

11 A. They -- move-in friend said all right, let's go, and then
12 they all turned off the TV and left.

13 Q. And after they left, did you leave with them?

14 A. I left with them, yes.

15 Q. Where did you go?

16 A. I went back to the common room to continue writing.

17 Q. Where did they go?

18 A. They went down the stairs.

19 Q. What time was that?

20 A. That was 10:39 or so.

21 Q. And what did you do when you got out to the common room?

22 A. I sent a text to Jahar.

23 Q. Why did you send Jahar a text?

24 A. I was just wondering what's going on since this was a
25 little bit abnormal.

1 Q. And is there a reason that you remember so precisely that
2 it was 10:39 that you went back to the common room?

3 A. I had looked at the text recently.

4 Q. And the time stamp on the text indicated that you sent the
5 text at 10:39?

6 A. Yes.

7 Q. And that was the first thing you did when you walked out
8 of the dorm room and went back to the common space?

9 A. Correct.

10 MR. CAPIN: Can I have a moment, your Honor? I have
11 nothing further, your Honor.

12 MS. FERRONE: Your Honor, would you like me to start?

13 THE COURT: Yes.

14 CROSS-EXAMINATION

15 BY MS. FERRONE:

16 Q. Hello, Mr. Dwinells. My name is Diane Ferrone, and I
17 represent Azamat Tazhayakov. How are you today?

18 A. Good, you?

19 Q. I'm well, thank you. You and I have never met before,
20 correct?

21 A. No.

22 Q. I'm going to ask you a series of questions, most of which
23 you should be able to answer yes or no. As we know, you just
24 testified Jahar was your roommate sophomore year, correct?

25 A. Correct.

1 Q. And you had regular contact with him as roommates from
2 September, 2012 to April, 2013, correct?

3 A. Correct.

4 Q. So I want to jump ahead, and I want to focus on the week
5 of April 15th, 2013. You had gone home the weekend before for
6 the three-day holiday; is that correct?

7 A. Correct.

8 Q. And you believe Jahar also went away that weekend,
9 correct?

10 A. I believe so, yes.

11 Q. But before that weekend, you saw Jahar on the morning of
12 Thursday, April 11th, correct?

13 A. Yes.

14 Q. And then you didn't see him again until Tuesday,
15 April 16th, correct?

16 A. Yes.

17 Q. So after the Boston Marathon bombing on the 15th, you in
18 fact saw Jahar Tuesday, April 16th, Wednesday, April 17th and
19 Thursday, April 18th, correct?

20 A. Correct.

21 Q. And you and he had the same interactions as you had the
22 months before, correct?

23 A. Correct.

24 Q. And you would agree that Jahar was acting the same as he
25 had always acted, which involves sleeping, texting, going on

1 his computer; is that correct?

2 A. Correct.

3 Q. So you would agree with me that in the days following the
4 Boston Marathon, Jahar was acting normal, as we just described,
5 sleeping, texting?

6 A. Yes.

7 Q. And you didn't observe any change in Jahar's behavior?

8 A. He slept a little bit more, but that was it.

9 Q. He didn't seem agitated?

10 A. No.

11 Q. He didn't seem nervous?

12 A. No.

13 Q. After Jahar returned from the three-day weekend, did it
14 appear to you that he introduced any new items into the room?

15 A. Not that I know of.

16 Q. You didn't notice any new backpacks?

17 A. No.

18 Q. You didn't notice any fireworks?

19 A. No.

20 Q. Turning our attention to the night of Thursday,
21 April 18th, you just testified that you were in the common room
22 typing an essay?

23 A. Yes.

24 Q. And you testified that you were with another student,
25 Steven Poulliot; did I say that right?

1 A. Yes.

2 Q. You two were the only two in the room, the common room,
3 correct?

4 A. Correct.

5 Q. And you recall that toward the end of your stay in the
6 common room at about 10:00, you recognized one of Jahar's
7 friends come in the room; is that correct?

8 A. Correct.

9 Q. While I understand that you didn't know the individual's
10 name at the time you've now come to learn that that's an
11 individual by the name of Dias Kadrybayev; is that correct?

12 A. I'm still not sure of the name.

13 Q. That's fair, that's fair. The individual who came into
14 the room, is it my client sitting right here?

15 MS. FERRONE: Aza, can you stand up.

16 Q. Is this the individual who came and found you in the
17 common room?

18 A. I believe so.

19 Q. You believe so? Okay. I'm going to --

20 MS. FERRONE: You can sit down.

21 Q. I'm going to show you a picture if you bear with me for
22 one moment. Do you remember meeting with the FBI I believe it
23 was on April -- bear with me for one moment. You met with the
24 FBI on -- so you met with the FBI several times, correct?

25 A. Yes.

1 Q. And on one of those times, did they show you a series of
2 12 pictures and ask you if you could identify anybody?

3 A. Yes.

4 Q. Okay. I'm going to show you -- would you recognize
5 pictures if I showed them to you as the individual that you
6 identified coming into the common room?

7 A. Yes.

8 MS. FERRONE: May I approach, your Honor?

9 THE COURT: You may.

10 Q. Let me show you a series of pictures. Feel free to flip
11 through them. Take your time, and when you see the individual
12 that came, just look up.

13 Do you see the individual that came into the common
14 room?

15 A. Into the common room, yes.

16 Q. Okay. I'm going to come back over. If you could point to
17 that picture for me.

18 A. This one.

19 Q. Can you flip it over and tell me if there's a number on
20 the back of that picture.

21 A. 2.

22 Q. Thank you.

23 MS. FERRONE: Your Honor, I'd like to introduce into
24 evidence the picture that Mr. Dwinells just identified to the
25 FBI on April 21st. I believe it's going to be Defense

1 Exhibit 168.

2 MR. CAPIN: May I see it?

3 MS. FERRONE: Of course you may.

4 THE COURT: Any objection?

5 MR. CAPIN: No, your Honor.

6 THE COURT: It's received.

7 (Exhibit No. 168 was admitted into evidence.)

8 Q. Mr. Dwinells, is that the picture you just identified?

9 A. Yes.

10 Q. Can I ask you again do you believe this is the individual
11 that came into the room?

12 A. No.

13 Q. Thank you.

14 THE COURT: Ms. Ferrone, how long do you think you'll
15 be?

16 MS. FERRONE: Longer, maybe 20 minutes.

17 THE COURT: So we'll break for the day, ladies and
18 gentlemen. Bear in mind my instruction not to talk to anyone,
19 enjoy the afternoon. We'll see you tomorrow morning around
20 9:00.

21 THE CLERK: All rise for the jury.

22 (JURORS ENTERED THE COURTROOM.)

23 THE COURT: So anything else before we break?

24 MR. CAPIN: One minor thing since we have the Court's
25 attention. It doesn't involve this witness.

1 THE COURT: Okay.

2 MR. CAPIN: There's a Rule 15 deposition, the witness
3 is the next witness after this gentleman. I think the
4 government thinks it would be appropriate to allow not as an
5 exhibit but for an aid to the jury to give them the transcript
6 of the -- so they could follow along simply because it's not
7 the same immediacy that we have the benefit of in the courtroom
8 the same way you would do it with an undercover call or
9 something of that nature.

10 THE COURT: Not quite the same.

11 MR. CAPIN: Sorry.

12 THE COURT: Not quite the same. This is another
13 witness that happens to be testifying through a box.

14 MR. CAPIN: Correct.

15 THE COURT: So I don't see a transcript coming in.

16 MR. CAPIN: I wasn't offering it into evidence.

17 THE COURT: Or being used as an aid to recollection
18 unless we were doing that with everyone, but we're not. Okay.

19 MR. CAPIN: I understand. Thank you, your Honor.

20 THE COURT: I'll see counsel at sidebar, but we'll be
21 in recess.

22 MR. CAPIN: Can Mr. Dwinells be excused, told to come
23 back tomorrow?

24 THE COURT: Yes, Mr. Dwinells, you're going to have to
25 come back tomorrow morning at 9:00, 8:30 to be safe, and you'll

1 understand that you're not supposed to talk to anybody at this
2 point about your testimony, okay.

3 (Sidebar held; whereupon, the hearing was adjourned at
4 1:04 p.m.)

5 (End of requested excerpt)

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C E R T I F I C A T E

I, Valerie O'Hara, Official Court 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 *United States v. Tazhayakov*, No. 1:13-cr-10238-DPW-2.

Date: July 8, 2014

/s/ Valerie O'Hara
Valerie A. O'Hara, FCCR, RPR
Official Court Reporter