



Civics is all around us. The United States Supreme Court is the highest court in the land. Through its power of judicial review, its decisions have a lasting impact on "We the People". So what is the Court hearing this session and how might the justices rule? Let's help each other expand our civic literacy.

The Case of the Boston Marathon Bomber

The Facts of *United States v. Tsarnaev*:

April 15, 2013, [Dzhokhar Tsarnaev and his brother, Tamerlan](#), carried backpacks containing improvised pressure cooker bombs, and placed them at the finish line of the Boston Marathon. As runners were crossing the finish line, and with crowds of people standing and cheering from the sidewalk, the bombs detonated, killing three people and wounding hundreds of others.



In the days that followed, the Tsarnaev brothers continued their terror, killing a Massachusetts Institute of Technology (MIT) police officer, carjacking an SUV from a graduate student, and attacking pursuing police officers with guns and bombs. Tamerlan Tsarnaev was killed when his brother ran him over with the carjacked SUV while fleeing from the police.

Dzhokhar Tsarnaev then abandoned the SUV and hid in a shrink wrapped boat in a yard behind someone's house. When the owner of the boat noticed the boat shrink wrapping had been torn, he notified police. Shortly after, Dzhokhar was [captured, arrested, and charged](#) with committing the bombings.

Media coverage of the search was widespread. News outlets across the country covered the story as it unfolded. Given that the media coverage of the bombings and subsequent capture was extensive, during pre-trial hearings, Tsarnaev's lawyers asked for a [change of venue](#). The U.S. District Court for the District of Massachusetts denied the request, stating the coverage did not include the kind of "blatantly prejudicial information that prospective jurors could not reasonably be expected to...ignore." The district court decided it would address the media's coverage during jury selection.

During [jury selection](#), 1373 people were called. They were asked to fill out a 100 question questionnaire. Some of the questions asked prospective jurors about their social media habits, views on the death penalty, and their exposure to pre-trial media publicity. Based on the answers to this questionnaire, the jury pool was reduced to 256 people.

During the [voir dire](#) process, members of the district court asked the prospective jurors about their answers regarding the pre-trial media coverage. The defense team wanted content-specific questions asked of prospective jurors about the pre-trial media coverage. But the district court rejected this request, stating the defense team already had detailed answers regarding media exposure from the questionnaires and that asking of additional content-specific questions would generate "unmanageable data" without producing "reliable answers." But, the district court did allow the defense team to ask questions pertaining to prospective jurors' [impartiality](#) during the [voir dire](#) phase.

Additionally, the defense team requested it be allowed to introduce evidence documenting Tamerlan Tsarnaev's involvement in three murders two years before the bombings. They wanted to show Tamerlan's propensity for violence, therefore making him more culpable for the bombings than Dzhokhar. The district court denied this request; there was insufficient evidence describing Tamerlan's involvement in the murders.

Nearly two years to the day of the bombings, Dzhokhar Tsarnaev's trial began in the U.S. District Court for the District of Massachusetts. He was found guilty. and in the penalty phase of the trial, sentenced to death for his role in the Boston Marathon bombings and its aftermath.

Tsarnaev's lawyers appealed to the U.S. Court of Appeals for the First Circuit. The Court sided with Tsarnaev and [vacated](#) his death sentence because it determined that the district court abused its power by denying Tsarnaev's lawyers' request to ask potential jurors specific questions about their media consumption before the trial.



The United States Government, as the petitioner in the case, appealed to the United States Supreme Court and on March 22, 2021, the Court granted [certiorari](#). Oral argument is scheduled for October 13, 2021. The Government is asking the court to answer two questions:

1. "Whether the court of appeals erred in concluding that respondent's capital sentences must be vacated on the ground that the district court, during its 21-day voir dire, did not ask each prospective juror for a specific accounting of the pretrial media coverage that he or she had read, heard, or seen about respondent's case."
2. "Whether the district court committed [reversible error](#) at the penalty phase of respondent's trial by excluding evidence that respondent's older brother was allegedly involved in different crimes two years before the offenses for which respondent was convicted."

Federal Statute, Appeals Court and Supreme Court Precedent Used in this Case:

- [Patriarca v. United States](#), (1st Cir. 1968): The First Circuit ruled when pre-trial publicity is significant, district courts, when requested by counsel, must examine each prospective juror to the extent possible that any pre-trial publicity would prevent them from being fair and impartial based on the evidence presented at trial.
- [Mu'Min v. Virginia](#) (1991): The Court ruled that a defendant's [Sixth](#) and [Fourteenth](#) Amendment rights are not violated when a trial judge refuses to ask potential jurors about their exposure to specific content of the news.
- [18 U.S.C. 3593\(c\)](#) Special Hearing to Determine Whether a Sentence of Death is Justified : "permits the exclusion of potential mitigating evidence whose "probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury."

To Think and To Do: To Think To Do: The Sixth Amendment to the U.S. Constitution guarantees the right to an impartial jury in all criminal prosecutions. Both the Fifth and Fourteenth Amendments guarantee no person shall be deprived of life, liberty, or property without [due process](#) of law. Given the precedents and statute cited in this case, how do you think the United States Supreme Court will rule? Explain.