

IS CARMEN ORTIZ SUBJECTING DZHOKHAR TSARNAEV TO SOLITARY TO PREVENT HIM FROM LEARNING ABOUT DEVELOPMENTS IN FLORIDA?

On August 27, Attorney General Eric Holder imposed Special Administrative Measures on Dzhokhar Tsarnaev at the request of US Attorney Carmen Ortiz. Yesterday, Dzhokhar's lawyers challenged the SAMs.

Josh Gerstein provides a good overview of the SAMs, but they basically amount to inching Dzhokhar closer to full solitary confinement, as well as reviewing even legal materials his lawyers bring into the prison and prohibiting lawyers and other defense staff from passing on messages from third parties.

The big question is why they're doing this. The government's excuses – that Dzhokhar employed “tradecraft” by (in part) throwing away a detonator in the trashcan outside of Gerry's Italian Kitchen, to which Dzhokhar and his brother had interesting ties; that Dzhokhar's mother released a recording of a call they had back on May 24 “to generate sympathy;” and that Dzhokhar has received 1,000 pieces of mail – are all absurd. I find it non credible that DOJ considers it “tradecraft” to throw criminal evidence away in a place that should offer up more clues. The call with Dzhokhar's mother was 3 months before the imposition of the SAMs – and she has obeyed instructions not to repeat it. And, as Dzhokhar's defense points out, he has not responded to any of that mail, and while some of it consists of people telling him they believe him to be innocent, none of it is

“jihadist,” and some even consists of people imploring him to convert to Christianity.

The stated explanations are all ridiculous.

So why did Carmen Ortiz (and not, Dzhokhar’s lawyers point out, prison officials) impose these SAMs over 4 months after Dzhokhar got arrested?

It may be the government just wants to subject Dzhokhar to solitary to make him less defiant in case of any public appearances – to “break” him, just as the US government has used other torture methods for. (Still, if that was the purpose, why not impose them back in April and May, before his arraignment?)

But I’m particularly interested in the way this happened as things have heated up in Florida in the aftermath of FBI’s killing of Ibragim Todashev.

I’ve put the relevant dates below. And while they don’t match exactly, during the same time as Dzhokhar has been subjected to these new measures, the FBI, local authorities, and other federal agencies have been trying to investigate Florida’s Russian immigrant community that had ties to Todashev. While I have no idea why the government would want to prevent Dzhokhar from learning of any of that (nor am I aware of any evidence he knew Todashev or any of the others, though he may have known Todashev from when he lived in MA), I do find the parallel developments to be of interest.

Some of the emphasis, thus far, in how the SAMs have been applied is also of interest. The government won’t let the Defense show Dzhokhar pictures of his family (remember, he has a spooked up uncle). The government will decide what kinds of extremist literature it deems discovery relevant to Dzhokhar’s defense and therefore admissible as legal material.

The latter detail, especially, suggests another possible explanation (and it is just a theory, not one I’m ready to fully support): the

government doesn't want the Defense team to be able to substantiate any other motive for the Boston attack besides the Islamic extremism they've publicly claimed and highlight even in the SAM memo.

But I would love to know the real reason they are doing this.

April 15: Boston Marathon attack

April 19: Dzhokhar in custody

May 22: News of Ibragim Todashev's killing released; Tatiana Gruzdeva, who had been detained earlier in May on immigration charges, put into solitary confinement for 5 days

May 24: Conversation between Dzhokhar and his mother that she later released in part

May 30: Gruzdeva is ordered deported but has since been granted one more year and permitted to work

August 8: 2 of Dzhokhar's friends from school indicted for obstruction; FL Prosecuting Attorney announces he will investigate Todashev death; Gruzdeva released from custody

August 13: Todashev's father (who is a Chechen government official) gives a press conference pointing to suspicious details about his son's death and claiming the FBI asked to question him

August 20: Todashev's father meets with FL State and Federal investigators

August 27: Holder imposes SAMs

August 30: Dzhokhar's lawyers learn about the SAMs when they arrive for a previously scheduled visit

September 17: Status report indicates the government believes it has completed discovery; the defense disagrees

September 18: Ashurmamad Miraliev arrested for

alleged tampering with witness to assault (possibly involving Todashev) 14 months earlier; he is refused a lawyer during 6 hours of questioning; Todashev girlfriend and Miraliev roommate Gruzdeva talks to Boston Magazine writer (who has ties to one of the Waltham victims) who had previously tried to contact her

September 23: Judge George O'Toole continues speedy trial based on complexity of case (this is not tied in the docket to any unsealed request, though seems to respond, at least in part, to issues regarding discovery and death penalty determination)

September 24: CAIR-FL first gets to meet with Miraliev and learn his 6-hour questioning without representation focused on Todashev

September 25: CAIR-FL claims a number of Todashev's friends have been coerced to become informants