

# Nichols's Life Was Saved By a Handful of Holdouts

By JAMES BROOKE

DENVER, Jan. 10 — In vote after vote, a majority of jurors raised their hands to sentence Terry L. Nichols to death, but they were blocked by a few determined holdouts, said two jurors in the second Oklahoma bombing trial.

"I pressed for the death penalty," Thomas Baker, a 41-year-old shipping clerk, said on Friday. "This was a crime that warranted the death penalty."

Three votes cast in two days of deliberation in a Federal courtroom here indicated a hard-core faction of 7 of the 12 jurors favored the death penalty, said Chris Seib, a bank employee who was one of them.

But they could not sway the others, and on Tuesday evening, the divided jury sent Judge Richard P. Matsch a note, saying, "We are 'hung.'" Fed-

## A defense lawyer's rapport with jurors seems to have been a major advantage.

eral law requires unanimity from jurors to recommend a death sentence.

In the deliberations, the leader of the opposition to the death sentence appeared to have been the jury's low-key forewoman, Niki Deutchman.

"Terry Nichols wasn't directly present or implicated with anything," Mrs. Deutchman, a 47-year-old registered nurse, said on Wednesday in her only public comments.

In a 75-minute news conference, Mrs. Deutchman criticized prosecutors, praised the defense lawyers, expressed understanding for people "unhappy with the Government," and occasionally referred to Mr. Nichols as "Terry."

The news conference, in a city park, outraged several jurors, prompting four of them to declare publicly that they had sought to sentence Mr. Nichols to death.

"I thought, 'Who is this person?'" a visibly angry Mrs. Seib said after watching Mrs. Deutchman's news conference, which was carried live here on television.

Mrs. Seib, who was the victim of a bank holdup a few weeks before she began serving on the jury, said of Mrs. Deutchman, "We were at two different ends of the spectrum."

Mr. Baker said his reaction to Mrs. Deutchman's news conference was, "Hey, slow down there." On Thursday, Mr. Baker, an Air Force veteran

who writes poetry, met with three survivors and then broke his vow of silence about the deliberations.

"I wanted to let the survivors, the bomb victims, know that we are not anti-Government, and that we cared about them," he said on Friday. "The day it was taken away from us, we were ready to go back and deliberate."

Holly Hanlin, a juror opposed to a death sentence, said of the dismissal that left some jurors crying, others laughing, "This experience has shown me that people can look at one thing and see two different things."

Now, it will be up to Judge Matsch to sentence Mr. Nichols, 42, who was convicted for conspiracy and involuntary manslaughter in the bombing of the Federal Building in Oklahoma City on April 19, 1995, in which 168 persons died. The most severe sentence that Judge Matsch can impose will be life without parole.

In the days after the jury deadlock, Mrs. Deutchman has become a lightning rod for dissatisfaction with the trial outcome. Not only have bomb victims bitterly criticized her comments, but, several hours after her news conference, a man called her at home three times, threatening to blow up her house, according to a police report.

A Gallup poll conducted this week for USA Today found that 45 percent of 1,105 adults surveyed believed that Mr. Nichols should be sentenced to death. Life in prison won the support of 42 percent. A lesser sentence was backed by 4 percent. The poll's margin of sampling error was plus or minus 3 percentage points.

Trial analysts credit Michael E. Tigar, the lead defense lawyer, with humanizing his client and with developing a rapport with Mrs. Deutchman. Mrs. Deutchman frequently smiled at Mr. Tigar when the jury entered the courtroom.

"Even if you have a few jurors humanizing someone accused of such a horrible crime," said Andrew Cohen, a trial lawyer who attended both Oklahoma bombing trials, "you have done a good job as a defense lawyer."

Asked about Mr. Tigar's assertion that "Terry Nichols was building a life, not a bomb," Mrs. Deutchman responded: "I think he was building a life. He may also have been building a bomb. I don't know."

As her husband, Mark, signaled from the sidelines to end the news conference, Mrs. Deutchman went on, saying, "I think that most of the jurors felt like Terry Nichols is someone who probably really cares very deeply for his family."

Some legal analysts said that the possibility of a death sentence had been lost in jury selection.

In that process, which began in late September, Mrs. Deutchman, a

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Photographs by Kevin Moloney for The New York Times

about the death penalty.

Signing death warrants, she said, "seems like people setting themselves in judgment over someone else, making a decision that isn't ours to make."

On Wednesday, she repeated her opposition to capital punishment, saying "as a general idea, it is a very bad idea."

Craig Silverman, a former Denver prosecutor, who attended much of the trial, said, "Here you have a woman dedicated to the birthing process, and now she is asked to decide on the death penalty."

From day one, Mr. Tigar sought to charm prospective jurors.

In his interrogation of Mrs. Deutchman, he chatted knowledgeably about the Lamaze childbirth method, then sympathized with the challenges facing Mrs.

Deutchman, the mother of a 13-year-old girl.

"Have you read a book called 'Get Out of My Life, But First, Would You Take Me and Cheryl to the Mall?'" he asked. When Mrs. Deutchman responded negatively, Mr. Tigar, the father of a teen-ager, said, "Well, we study that at our house."

Not knowing who would be on the jury, Mr. Tigar spread the charm evenly among all prospective jurors.

He was using little French references with the former French exchange student, he was talking about farming with farmers, talking about poetry with the poet," Mr. Cohen recalled. "He made connections with them that lasted throughout the trial. The prosecutors seemed to lack a little energy during jury selection."

Mr. Tigar managed to work into his summation indignation about the

"I pressed for the death penalty," said Thomas Baker, a juror in the trial of Terry L. Nichols, convicted of conspiracy in the bombing. "This was a crime that warranted the death penalty." The forewoman, Niki Deutchman, who apparently led the opposition to the death penalty, said, "Terry Nichols wasn't directly present or implicated with anything."

prosecution "suggesting to you that maybe there is something irresponsible about having a home birth with a midwife."

Before the prosecution had time to object, he quickly added: "Thirty-five years ago, when my son was born at home and the midwife attended, I didn't think I was doing anything wrong."

In the final minutes of his summation, Mr. Tigar cited the Old Testament, the Temple, the Pharaoh, and Joseph.

Knowing that Mrs. Deutchman had studied in Israel for six months before deciding to convert to Judaism, he argued: "Even the Supreme Court of Israel freed from a death sentence a man found to have no direct participation in the deaths of people he had been accused of killing."

Mr. Tigar's tactics seemed to have been successful.

In her news conference, Mrs. Deutchman criticized the Government for having "dropped the ball," called the Federal Bureau of Investigation "arrogant," twitted prosecutors for using "distortion and innuendo," and lectured the Federal Government "to be more respectful."

Asked for her impression of the lead defense lawyer, her tense demeanor lifted, she smiled broadly and said, "Michael Tigar is one heck of an attorney."