

1 IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF COLORADO
 2
 3 Criminal Action No. 96-CR-68
 4 UNITED STATES OF AMERICA,
 5 Plaintiff,
 6 vs.
 7 TIMOTHY JAMES McVEIGH and TERRY LYNN NICHOLS,
 8 Defendants.

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9 REPORTER'S TRANSCRIPT
 10 (VOLUME VI - SUPPRESSION HEARING)

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12 Proceedings before the HONORABLE RICHARD P. MATSCH,
 13 Judge, United States District Court for the District of
 14 Colorado, commencing at 1:30 p.m., on the 28th day of June,
 15 1996, in Courtroom C-204, United States Courthouse, Denver,
 16 Colorado.

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24 Proceeding Recorded by Mechanical Stenography, Transcription
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1 APPEARANCES

2 PATRICK M. RYAN, United States Attorney for the
3 District of Oklahoma, appearing for the plaintiff.

4 JOSEPH H. HARTZLER, SEAN CONNELLY, LARRY A. MACKEY,
5 BETH WILKINSON, SCOTT MENDELOFF, and VICKI BEHENNA, Special
6 Attorneys to the U.S. Attorney General, 210 West Park Avenue,
7 Suite 400, Oklahoma City, Oklahoma, 73102, appearing for the
8 plaintiff.

9 STEPHEN JONES, ROBERT NIGH, JR., AMBER McLAUGHLIN,
10 RANDALL COYNE, and MANDY WELCH, Attorneys at Law, Jones, Wyatt
11 & Roberts, 114 East Broadway, Suite 100, Post Office Box 472,
12 Enid, Oklahoma, 73702-0472, and JERALYN MERRITT, 303 East 17th
13 Avenue, Suite 400, Denver, Colorado, 80203, appearing for
14 Defendant McVeigh.

15 MICHAEL E. TIGAR, RONALD G. WOODS, ADAM THURSCHELL,
16 and REID NEUREITER, Attorneys at Law, 1120 Lincoln Street,
17 Suite 1308, Denver, Colorado, 80203, appearing for Defendant
18 Nichols.

19 * * * * *

20 PROCEEDINGS

21 (In open court at 1:30.)

22 THE COURT: Please be seated.

23 MR. JONES: Your Honor, I don't know how to tell you
24 this, but before you came in, there was a person in the
25 courtroom without a coat, with a newspaper, and his pager went

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1 off.

2 THE COURT: Is that a confession?

3 MR. JONES: No, your Honor. It was Mr. Manspeaker.

4 THE COURT: Mr. Woods, you may proceed.

5 MR. WOODS: Thank you, your Honor.

6 DIRECT EXAMINATION CONTINUED

7 BY MR. WOODS:

8 Q. Ms. Nichols, when we broke for the lunch break, you were
9 describing the events when you were in the car leaving your
10 house and Mr. Thomeczek had shown you the inventory of the
11 items seized in the search warrant the day previously.

12 A. Yes.

13 Q. What did you say to him after reviewing the search warrant
14 log, the recovery log?

15 A. I told him that the money that I put under the bed didn't
16 found it.

17 Q. And what did he say to you?

18 A. Well, he didn't say anything, but I asked him if I could --
19 we could turn around and get my money back, and he said no, we
20 cannot do that.

21 Q. Okay. And what next happened with Mr. Thomeczek concerning
22 that money?

23 A. Well, when we get to Fort Riley, somewhere in Fort Riley or
24 Junction City hotel, I did still try to ask him if I could have
25 that money back. And he said no, we have to go to laboratory

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1 and have that test if Tim McVeigh's fingerprints is in that
2 money.

3 Q. All right. Let me back up just one minute. If you would,
4 look at G1 in the black volume.

5 A. G1.

6 Q. Do you recognize that document, Mrs. Nichols?

7 A. Yes.

8 Q. Is that your signature on the document?

9 A. Yes.

10 Q. And how is it entitled at the top?

11 A. Pardon?

12 Q. What's the title on the top of the document?

13 A. This is a consent to of Marife Nichols to search this

14 premises.

15 MR. JONES: Your Honor, may it please the Court, we

16 would offer into evidence G1, a consent to search. That's the

17 second consent to search signed on April the 23.

18 MR. MACKEY: No objection.

19 THE COURT: G1 is received.

20 BY MR. WOODS:

21 Q. Ms. Nichols, if you would just look at that a minute for a

22 note and the time and what you were consenting to.

23 A. Okay.

24 Q. And then look at the second page. Have you seen that

25 document before?

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1 A. Yes.

2 Q. All right. And does that refresh your memory as to what

3 happened before you went to Fort Riley, or did this happen

5 A. After.

6 Q. All right. Then when did Mr. Thomeczek present this form

7 to you to sign?

8 A. When we arrive in my hotel.

9 Q. All right. And what explanation did he give to you

10 concerning the form?

12 from the house and so they can take it to the laboratory.

13 Q. And was this your money?

14 A. Yes.

15 Q. And did you con -- consent to get your own money out of

16 your own house?

17 A. By signing this, I guess, yeah.

19 obtain this?

20 A. No.

21 Q. How many visits did you make to the house on that day,
22 April 23?

23 A. Just once.

24 Q. If you would, turn to W41, which'll be in the second black
25 volume.

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1 A. Okay.

2 Q. I'm sorry. 44. My apologies. And if you would, it's a
3 very short FBI 302. If you would look at W44 and read that,
4 and I want to ask you a question since it concerns you.

5 Now, Ms. Nichols, approximately what time was it on
6 that day, April 23, Sunday, when you were at your house in
7 Herington?

8 A. Afternoon. About 1:00 or 2:00.

9 Q. All right. Do you recall when you were at that house
10 that -- would you repeat to the Court who was there with you?

11 A. Mr. Thomeczek, Ms. Sheila Dobson, and there's always been
12 one guy from Herington police station, which I assume is in
13 FBI. I forget his name.

14 Q. And were there others there?

15 A. No.

16 Q. Do you know an FBI agent named Scott Williamson?

17 A. That name is familiar.

18 Q. Do you recall whether or not he was there that day in the
19 house with you?

20 A. I'm not sure.

21 Q. Do you know a female FBI agent, Mary Jasnowski?

22 A. That name is familiar, but --

23 Q. Do you know whether or not she was in that house that
24 Sunday afternoon with you?

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2 wasn't there?

3 A. No, she wasn't there.

4 Q. All right. Also, another female agent, Sonja Hernandez.

5 A. She wasn't there.

6 Q. And a photographer, Melinda Preston?

7 MR. MACKEY: Objection, Judge, unless we establish

9 THE WITNESS: She wasn't there.

10 MR. WOODS: Your Honor, may it please the Court, it

11 is -- it is the Government's representation that they conducted

12 a search the afternoon of April 23 in the presence of Marife

13 Nichols to satisfy the consent of Terry Nichols conditioned on

14 his wife being present. And it is -- what we're trying to

15 establish is when she was there that one time that afternoon,

16 there was not a group of people there conducting a search.

17 THE COURT: The point of the objection is if she

18 doesn't know the persons whose names you are giving her, she

19 cannot be telling us that they were not there.

20 MR. WOODS: All right.

21 BY MR. WOODS:

22 Q. Do you know if there were more than three agents there with

23 you, Ms. Nichols?

24 A. No. There's only three agents there with me.

25 Q. All right. Thank you. And during that afternoon, did they

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1 advise you that they were conducting a search?

2 A. No.

3 Q. How much money, Ms. Nichols, did you personally have in the
4 bed where you related it was?

5 A. \$5,000.

6 Q. And what did Mr. Thomeczek tell you concerning that money
7 after it was recovered?

8 A. Well, he said they have to send it to the laboratory. I
9 didn't ask him if they did already or not.

10 Q. Now, if you would, turn to W5 in that first black notebook.
11 If you would review that document. Is that your signature at
12 the bottom?

13 A. Yes.

14 Q. And it reflects a date and time?

15 A. Okay.

16 MR. WOODS: Your Honor, may it please the Court, we
17 would move to introduce into evidence W5, a consent signed by
18 Marife Nichols.

19 MR. JONES: The book we have doesn't have the tabs on
20 the side. Is there a Bates number? In other words, I can't
21 tell which is W5.

22 MR. WOODS: 554.

23 MR. JONES: Thank you.

24 THE COURT: Any objection to W5?

25 MR. MACKEY: No, your Honor.

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1 THE COURT: Received.

2 BY MR. WOODS:

3 Q. Ms. Nichols, after reviewing this document, does that
4 refresh your memory as to what happened later that night on
5 Sunday, the 23rd?

6 A. Yes.
7 Q. All right. When were you first given this document, if you
8 were?
9 A. Pardon?
11 give it to you?
12 A. Mr. Thomeczek give it to me.
13 Q. What did he say when he gave it to you?
14 A. That they need to search the garage behind my residence and
15 they have to get the padlock, which I have no idea which one --
16 or I don't know if there's any padlock.
18 to consent to that?
19 A. No.
20 Q. Now, there's a notation above your signature, "without
21 prejudice. UCC 1-207."
22 A. Yes.
23 Q. Did you put that on there?
25 Q. What do you understand that to mean?

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1 A. As far as I understand it from the book and from Terry
2 Nichols, that if you don't understand what you're signing, you
3 just put "without prejudice, UCC 1-207." That protects your
4 right, I guess.
5 Q. All right. You mentioned that from what you understand
6 from the book. Which book are you --
7 A. Black's Law Dictionary.
8 Q. Did you read this in Black's Law Dictionary?
9 A. Before, yes, when we were in Michigan.
10 Q. Okay. What did you think you were doing then by putting
11 this reservation on your signature?
12 A. I don't know. I was just -- on that time, I was mainly
13 confused. I don't even know what to do, and I feel like I've

14 been abandoned.

15 Q. At that time on April the 23rd, that evening at 9:10, where

16 were you?

17 A. Somewhere in Fort Riley or Junction City's hotel.

18 Q. Had you moved from Abilene?

19 A. Yes. From Abilene. Kansas City.

20 Q. Was that your choice to go to another city?

21 A. No.

22 Q. Was that your choice to go to a hotel?

23 A. No.

24 Q. On that Sunday, where did you want to go?

25 A. I want to go home most of the time.

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1 Q. Now, if you'll look at the next page on W5. Had you seen

2 that document? Did they give that to you later?

3 A. I'm not sure. They must have. I forget.

4 Q. Do you recall one way or the other whether or not anything

5 was found on that search?

6 A. I have no idea.

7 Q. If you would go to the next document, which is H1.

8 A. Yes, I got it.

9 Q. And if you would review the bottom of that. Is that your

10 signature?

11 A. Yes.

12 Q. And what date is next to your signature?

13 A. April 24, '95.

14 MR. WOODS: Your Honor, may it please the Court, we

15 would offer into evidence H1, a consent to search signed on

16 April the 24th.

17 MR. MACKEY: No objection.

18 THE COURT: H1 received.

19 BY MR. WOODS:

20 Q. Ms. Nichols, if you would look at the next page of that
21 document. I'm sorry. It's H2. It would be -- H2 is the next
22 document.

23 A. Okay.

24 Q. Does that refresh your memory as to what the subject matter
25 was on the consent that was signed that day, April 24?

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1 A. Yes.

2 MR. WOODS: Your Honor, may it please the Court, we
3 would offer into evidence H2, the evidence recovery log for
4 that consent.

5 MR. MACKEY: No objection.

6 THE COURT: H2 received.

7 BY MR. WOODS:

8 Q. Ms. Nichols, what do you recall about this form that you
9 signed? Who presented it to you and what did they say? That
10 would be H1.

11 A. Yes. Ms. Sheila Dobson presented -- give it to me and that
12 she -- she asked me if we -- earlier before, she asked me we
13 have a vacuum cleaner. I said we do. It was in the house.

14 Now she's referring to a big vacuum cleaner. I don't know.

15 Something that you use in a car. I said I haven't seen any or
16 we might have, but I just didn't have known about it. And then
17 that day, she came over and she want me to sign this so that
18 she can get the vacuum cleaner.

19 Q. All right. What did she say to you when she gave it to you
20 to sign?

21 A. Well, I think -- I forgot what she said.

22 Q. All right. Can you recall what your response was when it

23 was given to you?

24 A. My response is like I just want to sign it. I want to

25 cooperate.

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1 Q. Did you feel you had a choice one way or the other?

2 A. I feel like it's -- I don't have any choice of it.

3 Q. On the 24th, how long had you been with the FBI?

4 A. Approximately three days.

5 Q. Did you have any money at that time?

6 A. Terry gave me money.

7 Q. How much did he give to you?

8 A. 200.

9 Q. Okay. And had you spent some of that money during those
10 three days?

11 A. Yes. I spent that for my clothes and some of my foods and
12 Nicole's.

13 Q. So you had to buy your clothes while you were kept out of
14 your house?

15 A. Yes. Sheila Dobson told me that she could pay for it
16 because she's been instructed to, you know, pay for my meals
17 and my food, but I preferred to pay for it because I don't want
18 to be burden to everybody.

19 Q. Okay. On the 24th, where did you want to live at that
20 time?

21 A. All the time, I want to be in my house, but I assumed that
22 they won't let me. I did ask, but they won't let me because
23 the media is going to be around there. There's going to be a
24 lot of bills, too, is what they told me.

25 Q. All right. So you can't go home because the media will be

- 1 there and there will be bills?
- 2 A. Yes.
- 3 Q. Did you have money to pay the bills?
- 4 A. I don't have enough.
- 5 Q. Was that the reason that they gave you why you couldn't go
- 6 home?
- 7 A. Yes.
- 8 Q. If you would go to the next item, which is I-1.
- 9 A. Okay.
- 10 Q. Do you have I-1?
- 11 A. Yes.
- 12 Q. And is that your signature at the bottom?
- 13 A. Yes.
- 14 Q. And again, are you saying "without prejudice, UCC 1-207"?
- 15 A. Yes.
- 16 Q. What is the date on that document?
- 17 A. April 24, '95.
- 18 Q. And does it also give a time?
- 19 A. 9:40 p.m.
- 20 Q. All right.
- 21 MR. WOODS: Your Honor, may it please the Court, we
- 22 would offer into evidence I-1, a second consent signed on April
- 23 the 24th.
- 24 MR. MACKEY: No objection.
- 25 THE COURT: All right. I-1 received.

- 1 BY MR. WOODS:
- 2 Q. If you would, look at I-2. Is that --
- 3 A. Okay.

4 Q. Does that refresh your memory as to what the consent was
5 signed for?

6 A. Yes.

7 MR. MACKEY: Your Honor, may I object?

8 THE COURT: Yes.

9 MR. MACKEY: We haven't established the witness has
10 exhausted her memory before --

11 THE COURT: That's right. You should find out if she
12 has any present recollection.

13 BY MR. WOODS:

14 Q. On this second consent that was signed on April the 24th,
15 do you recall what they were wanting to seize at that time?

16 A. Yes. They want to get the dishes in the house to see if
17 there's any fingerprints from Tim McVeigh.

18 Q. And was there anything else that they asked you to consent
19 to?

20 A. I don't remember.

21 Q. Who presented that form to you?

22 A. Mr. Thomeczek.

23 Q. And what did he say to you when he asked for your
24 signature?

25 A. He just said, Could you sign this so that we can get the

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1 dishes in your house and so we can see if there's a -- Tim
2 McVeigh's fingerprints in it.

3 Q. And what did you reply to that?

4 A. Well, I think everything is -- you know, everything is not
5 new to me anymore, so I just signed it right then.

6 Q. What did you feel your rights were as to whether or not to
7 sign it or not?

8 A. I told him that time I got used to it.

9 Q. And if you would go to J-1.

10 A. Okay.

11 Q. And have you reviewed that document?

12 A. Yes.

13 Q. Is that your signature at the bottom?

14 A. Yes.

15 Q. And what's the date?

16 A. April 25, '95.

17 Q. And a time?

18 A. 3:17 p.m.

19 MR. WOODS: Your Honor, may it please the Court, we

20 would offer into evidence J1, a consent to search the next day

21 on April 25.

22 MR. MACKEY: No objection.

23 THE COURT: Received.

24 BY MR. WOODS:

25 Q. Do you recall what the subject matter of that consent was,

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1 Ms. Nichols?

2 A. I think Sheila was talking about the TV set that Terry had

3 to pick in -- Terry had to pick it up. And they were talking

4 about it, if there's any -- anything in that TV that Tim

5 McVeigh might have put in there to -- one of the ingredients of

6 a bomb, I guess. I'm not quite sure.

7 Q. And what did you say to her about that television?

8 MR. JONES: Your Honor, please. I believe this answer

9 to this question could impact matters that we discussed on

10 Wednesday that are under seal. And if Mr. Wood could advise

11 us --

12 MR. WOODS: It does not impact Mr. Jones.

13 MR. JONES: Thank you, sir.

14 THE COURT: Thank you.

15 BY MR. WOODS:

16 Q. What did you tell Ms. Dobson about the TV set?

17 A. Well, I said I don't think it -- there's any of it, but --

18 anyhow, I just want to cooperate and go ahead. Do it.

19 Q. Did you tell her whether or not the TV set worked as a TV

20 set?

21 A. Yes. I told them that it doesn't work because it -- we

22 don't have a cable at that time when Terry arrived in

23 Herington. But since April 20, a guy come over and hook on the

24 cable, so I think it works. And we used the VCR for that, too.

25 Q. So is your testimony that the television set worked as a

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1 television set?

2 A. Yes.

3 Q. All right. And what did you tell Mrs. Dobson as to -- when

4 she wanted the signature on the form? What did you say to her?

5 A. I forgot what I said to her.

6 Q. Okay. Did you feel that you had a right to sign it or not

7 to sign it?

8 A. I feel that I have right not to sign everything, but I just

9 want to cooperate so that I can go home soon.

10 Q. Why were you signing so that you could go home? Where were

11 you trying to go?

12 A. Philippines.

13 Q. How did you feel was your best way or only way to go to the

14 Philippines?

15 A. I think it's my only way to go to Philippines since I

16 cannot stay in my house in Herington, Kansas.

17 Q. And the only way to go to the Philippines is how?
18 A. To get my money so I can pay the ticket that I have
19 reserved so I can go home.
20 Q. Concerning your money back on April 23, did you ask
21 Mr. Thomeczek to -- to give you that money?
22 A. Yes.
23 Q. And do you recall whether or not you were crying on that
24 day?
25 A. Yes, I did cry for that, hoping that he would feel like,

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1 you know, I'm his daughter and this is my money anyway, so
2 maybe he would give it to me, but no.
3 Q. Now, you mentioned feeling like a daughter. Had that
4 relationship developed with Mr. Thomeczek?
5 A. Yes.
6 Q. Was he an older individual?
7 A. Yes. I think he's older than my father.
8 Q. Do you know whether or not a TV set was taken from your
9 house?
10 A. I have no idea. I haven't seen the notes.
11 Q. You were not allowed to go back on that search with them?
12 A. That's correct. I'm not allowed.
13 Q. Now, I want you to go next to K1.
14 A. Okay.
15 Q. And if you would, look at the signature on the bottom.
16 A. Okay.
17 Q. Is that your signature?
18 A. Yes.
19 Q. And do you recall -- what date was this signed?
20 A. April 26, 1995.
21 Q. Do you recall the circumstances of this document being

22 presented to you?

23 A. Yes. They are recording my phone call from Terry Nichols.

24 Q. Had you had a chance to have a phone conversation with

25 Terry Nichols since you last saw him on April 21?

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1 A. No.

2 Q. Had you asked for the opportunity to talk to your husband?

3 A. Yes.

4 Q. How many times?

5 A. I forgot.

6 Q. Was it few or many?

7 A. I think many.

8 Q. What was your understanding on this form when you signed

9 it?

10 A. That they have to put a recorder on my telephone so that we

11 can -- they can record my conversation between me and Terry

12 Nichols.

13 Q. Did you have an option to have the phone conversation

14 without the recording?

15 A. I felt that I don't have any options.

16 Q. Did you discuss that with them, about having the phone

17 conversation without it being recorded?

18 A. I don't think so.

19 Q. Now, if you would, look at K2, which is the transcript --

20 MR. WOODS: Excuse me, your Honor. I'm not sure I

21 offered K1 into evidence, and I would do so at this time.

22 MR. MACKEY: No objection.

23 THE COURT: K1 is received.

24 MR. JONES: Your Honor, just a moment.

25 What is K1?

1 MR. WOODS: K1, it's got a Bate stamp of 562 on the
2 bottom. It's a consent report.

3 MR. JONES: No objection, your Honor.

4 THE COURT: All right.

5 BY MR. WOODS:

6 Q. Ms. Nichols, if you would look at K2, which is a transcript
7 of the conversation. Have you had an opportunity to examine
8 this in the past?

9 A. Yes.

10 Q. Okay. I want to call your attention just to two phrases on
11 page 4.

12 A. Okay.

13 Q. In the middle of the page. And if you would just read that
14 to yourself.

15 A. Yes. "I'm depending on these people here."

16 THE COURT: I think he meant just read it to yourself.

17 BY MR. WOODS:

18 Q. Just read to yourself, refresh your memory, both that
19 statement and the one above it, Mrs. Nichols.

20 A. Okay.

21 Q. Is that an accurate transcript of the recording of the
22 conversation as you recall it on that day?

23 A. Yes.

24 MR. WOODS: Your Honor, may it please the Court, I
25 only want to offer these two sentences from this conversation,

1 and they are both just her statements. They are not Terry
2 Nichols' statements.

3 MR. MACKEY: I have no objection to the admission of
4 the entire document, which I think is the way it should be
5 done.

6 MR. JONES: We object.

7 MR. WOODS: The two sentences I'm offering, your
8 Honor, on page 4, two statements by Ms. Nichols right in the
9 center of the page.

10 MR. JONES: Your Honor, the only basis to my objection
11 is that if the Court allows that, are we then opening the door
12 that another portion will be admitted?

13 THE COURT: Yes. I understand.

14 MR. JONES: Mr. Mackey was candid enough to say he'd
15 like the whole document in. I myself don't have an objection
16 to the two sentences but for that possibility.

17 THE COURT: Well, the way in which this should be
18 done, in my opinion, is if only those lines which are in the
19 transcript attributed to this witness are the portions to be
20 offered, they should be read into the record and not be subject
21 to an exhibit.

22 MR. WOODS: Thank you, your Honor.

23 THE COURT: Does the Government oppose that for being
24 out of context or something?

25 MR. MACKEY: I do not, your Honor.

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1 THE COURT: All right. So just read those -- or you
2 may read them into the record.

3 MR. WOODS: Thank you, your Honor. I would prefer
4 that the witness do it since it's her statement, if that's
5 acceptable with the Court.

6 THE COURT: All right.

7 BY MR. WOODS:

8 Q. Ms. Nichols, are you on page 4?

9 A. Yes.

10 Q. I'm speaking of the first sentence being the one, "I don't

11 really want." Do you see that?

12 A. Yes.

13 Q. If you would, just read that one statement in.

14 A. "I -- I don't really want to stay here because, you know, I

15 don't know -- I don't have vehicle. I can't -- I'm totally

16 helpless."

17 Q. All right. And if you would, then read your next

18 statement.

19 A. I'm depending on these people here and uh -- I don't

20 wanta give any hassle to anyone."

21 Q. All right. Thank you. Now, if you would, go to the next

22 consent, which is W8. That would be in the first book. W8.

23 A. Okay.

24 Q. There was no -- we were not provided with a form on this

25 one. I'll just ask you, do you recall whether or not you had a

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1 conversation with Terry's father?

2 A. Yes.

3 Q. Do you recall whether or not you signed a form for that?

4 A. I forgot. I think I signed one of the consent for that.

5 Q. Do you recall whether or not you had the phone conversation

6 with Terry's father?

7 A. Yes, we had a conversation.

8 Q. And did the FBI record that conversation?

9 A. Yes.

10 Q. Did you feel that you could have that conversation without

11 it being recorded?

12 A. Yes, since he's not -- he's not a witness to the case.

13 Q. Okay. If you would then go to W6.

14 A. Okay.

15 Q. And is that your signature on that document?

16 A. Yes.

17 Q. And is there a date on that document?

18 A. May 3, '95.

19 Q. Is there a time?

20 A. 9 -- I'm not sure if it is -- p.m. or a.m.

21 Q. Now, there are two documents in W6. One of them's for the

22 house and one of them's for the car. If you would look at both

23 of them. And is your signature on both of them?

24 A. Yes.

25 MR. WOODS: Your Honor, may it please the Court, we

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1 would designate W6A for the house and W6B for the car.

2 BY MR. WOODS:

3 Q. On May the 3rd, where are you staying?

4 A. I think in -- I'm not sure. Either Manhattan or Junction

5 City.

6 Q. Had you requested to be in Junction City or Manhattan,

7 either one?

8 A. No.

9 Q. Were you given a choice as to whether or not to go to

10 Junction City or Manhattan?

11 A. As far as I understood, no.

12 Q. Had you requested that you be allowed to return home?

13 A. Pardon?

14 Q. Had you requested that you be allowed to return home?

15 A. Yes.

16 Q. Had you received your money back from the Government by

17 this time, on May the 3rd?

18 A. No.

19 Q. Had you asked for your money back?

20 A. Yes.

21 Q. Do you recall who presented these two documents to you, W6A

22 and B, to sign?

23 A. I think Ms. Sheila Dobson.

24 Q. What did she say to you when she presented these two

25 documents?

765

1 A. They need another consent search for the house and the

2 pickup truck.

3 Q. Okay. And what did you say to her when she presented those

4 documents to you?

5 A. I forgot what I said, but -- what I said, I always

6 cooperated with them, so I just signed it right then.

7 Q. Did you feel that you had a choice on signing it or not

8 signing it?

9 A. No.

10 Q. What was your goal at that time on May the 3rd as to your

11 situation and your young daughter who was not two years old?

12 What were you trying to do at that time?

13 A. On that time, I was just hoping that they would give me my

14 money; and I probably did ask on that day, too, what happened

15 to the money, they did take it to the laboratory already or

16 not. I was totally depending on them for everything.

17 Q. What would happen if they gave you the money back and said

18 okay, you don't have to stay with us anymore?

19 A. I would be able to get the ticket and go back home to

20 Philippines.

21 Q. Was that your desire at that time on May the 3rd?

22 A. Yes.

23 Q. And what were you doing in attempting to obtain that

24 desire?

25 A. Just mainly cooperating with them. I don't want to give

766

1 them a hassle.

2 Q. Did you go to the house on May the 3rd, since you had

3 consented to the search of your house?

4 A. No.

5 Q. Now, if you would, go to --

6 MR. WOODS: Your Honor, may it please the Court, we

7 would offer into evidence W6A and B, the two consents signed on

8 May 3.

9 MR. MACKEY: No objection.

10 THE COURT: They are received. W -- is it W8A and B?

11 MR. WOODS: No, your Honor. It's W6.

12 THE COURT: W6.

13 MR. WOODS: A and B.

14 THE COURT: Thank you. W6A and B received.

15 BY MR. WOODS:

16 Q. And the next exhibit is L1. L1, which is -- do you have

17 L1, Ms. Nichols?

18 A. Yes.

19 Q. If you would just read that.

20 MR. MACKEY: Your Honor, just a moment. It's a 302,

21 and we have not established whether this witness knows from

22 independent recall --

23 THE COURT: Yes. I think you should ask first whether

24 she has a present recollection of the events of the day.

25 MR. WOODS: Yes.

767

1 BY MR. WOODS:

2 Q. Mrs. Nichols, calling your attention to May the 8th, do you

3 recall where you were that day and what happened that day?

4 A. May the 8th?

5 Q. Yes. Without reading that document in front of you, can

6 you recall?

7 A. I think I was in Manhattan, Kansas.

8 Q. All right. Did there come an occasion where the Government

9 agents asked for a consent to take something from you?

10 A. I don't remember.

11 Q. Okay. If you would, then, review L1 to see if that

12 refreshes your memory.

13 A. Yes. I think we were leaving from Kansas to Oklahoma City.

14 Q. By reading that document, does that refresh your memory as

15 to that day?

16 A. Yes.

17 Q. Would you tell us what you did on that day in relation to

18 your actions with the Government.

19 A. Well, I asked them if we can stop over one time in our

20 house so that I can pick up some stuff that I may have

21 forgotten or -- I don't know. But anyway, they did.

22 Q. Let me interrupt you just one minute. When you say if we

23 can stop over at my house, were they taking you somewhere?

24 A. Yes. They told me that we were going to Oklahoma City that

25 day.

768

1 Q. For what purpose?

2 A. To be in a grand jury hearing.

3 Q. All right. Had you received a subpoena of that date to
4 appear at a grand jury on May 8 or 9th?

5 A. No.

6 Q. All right. And again, you asked the agents what?

7 A. If we can stop over in our house and pick up some stuff
8 that I may have need -- that -- I don't know. I just want to
9 see the house for the last time, because they told me that we
10 are going to Oklahoma City. That maybe we can get a ticket
11 from there to go back home to the Philippines.

12 Q. Oh, so that was perhaps the last time you were going to see
13 that house?

14 A. Yes.

15 Q. Did they make you sign a consent form to get into your
16 house on that day?

17 A. I don't remember.

18 Q. Did you go into your house with the agents that day?

19 A. Yes.

20 Q. Did you pack up or -- excuse me. What did you do once you
21 got into the house?

22 A. I was just mainly looking around at -- I probably did move
23 the -- the dresser just to see if I -- I sometimes left some
24 stuff at the back of the dresser, like a comb or -- just not
25 important, really.

769

1 Q. Who was with you when you went into the house on May the
2 9th -- May 8, I'm sorry?

3 A. Mr. Thomeczek and Ms. Sheila Dobson, and there was another
4 agent from police station.

5 Q. What conversation did you have with the agents on that day

6 while you were in the house?

7 A. Well, Sheila reminded me about when she was questioning me.

8 She reminded me about the mixer that Terry used to grind

9 ammonium nitrate, the fertilizer. So I told her that it's

10 somewhere there in the drawer. I did try to find it and give

11 it to her. She asked if it's okay that we're going to take it.

12 Q. I'm sorry. Would you repeat that?

13 A. She asked if it was okay that we're going to take the

14 mixer.

15 Q. And what did you say?

16 A. I said it's okay.

17 Q. Did she say anything else concerning --

18 A. After that she said, Well, what else can we take? The

19 stove, the dryer, the washer, what else? I said, You can take

20 the whole house as long as you're going to, you know, give me

21 my money and send me to Philippines.

22 Q. Did you mean that, that they could take the whole house?

23 A. No.

24 Q. Were you giving consent for them to load up the house on a

25 trailer and take it away like they -- well, excuse me.

770

1 A. No. I was just mainly teasing to them. You know, I get --

2 I get close with these people. I been with them every day.

3 Q. Was that your choice, to be with them every day?

4 A. No.

5 Q. During that period of time, did you discover that you were

6 pregnant?

7 A. Yes.

8 Q. All right. And how did you discover that you were

9 pregnant?

10 A. I did ask Ms. Sheila Dobson if she can get a pregnancy test

11 somewhere at drugstore and she -- yeah. I give her my money to
12 buy that. And she did, you know, return and give me the
13 pregnancy test.

14 Q. All right. And at the same time, you always had Nicole
15 with you?

16 A. Yes. All the time.

17 Q. And do you recall how many cities they moved you to during
18 that 37-day period?

19 A. I think in Wichita. And after Wichita, Oklahoma City. And
20 after Oklahoma City, we -- we probably did stop at Wichita and
21 then go to Kansas, Missouri.

22 Q. Were any of those moves your choice?

23 A. No.

24 Q. All right. After picking up your items at your house on
25 May 8, did you then go to Oklahoma City?

771

1 A. Yes. I think we stopped at Wichita.

2 Q. What happened? This is May the 8th. Do you recall whether
3 or not you had a meeting on May the 9th in Oklahoma City?

4 A. I forgot.

5 Q. All right.

6 A. I'm not accurate with dates.

7 Q. Do you recall having a meeting in the U.S. Attorney's
8 office with a number --

9 A. When we reached Oklahoma?

10 Q. Yes.

11 A. Yes, we did have a meeting.

12 Q. Can you relate to the Court who was present in that
13 meeting?

14 A. Mr. Mickey Hawkins. He was an FBI agent. Arlene Joplins

15 (sic). There was one attorney from Janet Reno's office. I
16 forget her name.
17 Q. Does the name Donna Bucella --
18 A. Donna Bucella. And there's Jerome -- I don't know. He was
19 a black guy -- lawyer.
20 Q. Does Jerome Holmes --
21 A. Yes.
22 Q. -- refresh your memory?
23 A. Yes.
24 Q. And who else is there?
25 A. Mr. Thomeczek and Sheila Dobson.

772

1 Q. And did they question you at that time?
2 A. Yes.
3 Q. What was your understanding of the purpose of why you were
4 in Oklahoma City on that day?
5 A. That we were going to be in the grand jury.
6 Q. Did any of these lawyers inform you that you had the right
7 not to go into the grand jury to testify against your husband?
8 A. No.
9 Q. Did any of the lawyers inform you that you had a privilege
10 not to repeat the confidential communications between you and
11 your husband?
12 A. No.
13 Q. Approximately how long did the interview take place?
14 A. I don't know. I forget.
15 Q. Was it --
16 A. Probably half day.
17 Q. Okay. And did you go into the grand jury that day?
18 A. No. I did ask if -- that time, I don't want to go to grand
19 jury. I did ask am I still going to go to grand jury, and they

20 said yes. But they did not take me to a grand jury hearing.
21 Q. Did you tell them you weren't going, or what happened
22 there? Why did you not go to grand jury that day, or do you
23 know?
24 A. They said that they have to postpone it.
25 Q. And do you know when they postponed it to?

773

1 A. I think they put a date in May 16.
2 Q. Were you given a grand jury subpoena on that day?
3 A. Yes.
4 Q. And who gave that to you?
5 A. Mr. Thomeczek in the parking lot.
6 Q. If you would, look at Exhibit No. 74. That would be W74 in
7 the second book.
8 A. Yes.
9 Q. Do you recognize that document, Mrs. Nichols?
10 A. Yes. This is the documents that Mr. Thomeczek gave to me.
11 Q. And when did he give that to you?
12 A. I think May 9 or -- after we talked to the attorney, the
13 Government's attorney.
14 Q. It's the same day that you had the meeting with the
15 lawyers?
16 A. Yes.
17 Q. Okay. Did you have any discussion in that meeting with the
18 lawyers about an attorney for yourself?
19 A. I think I did ask one time, and they told me that you're
20 okay as long as you're -- you're telling the truth. You're not
21 a suspect, so you don't need a lawyer unless you're not telling
22 the truth. Then you need a lawyer.
23 Q. Who told you that?

24 A. Either Arlene or Donna Bucella. I forget.

25 Q. Who was sort of the leader of the meeting that was doing

774

1 the questioning?

2 A. I can't tell. They are all asking me questions.

3 MR. WOODS: Your Honor, may it please the Court, we

4 would offer into evidence W74, the grand jury subpoena.

5 THE COURT: We already have that in.

6 MR. WOODS: Thank you.

7 BY MR. WOODS:

8 Q. Ms. Nichols, if you look on that grand jury subpoena on the

9 right-hand side, about three-quarters of the way down, it gives

10 the name of a lawyer who typed it up or who issued it.

11 A. Yes. It's Jerome Holmes.

12 Q. Was he one of the lawyers in the meeting?

13 A. Yes.

14 Q. And again, the day that you're to come back is the 16th?

15 A. Yes.

16 Q. All right. After you left the meeting, where did you go

17 then on May the 9th?

18 A. I think we stopped over in Wichita to meet the people from

19 the Philippine embassy.

20 Q. Had you been in telephone contact with the Philippine

21 embassy?

22 A. Yes.

23 Q. And for what purpose?

24 A. They just want to keep in touch with me if I'm okay.

25 Q. Did you meet with them in Wichita?

775

1 A. Yes.

2 Q. And where were you then taken?

3 A. I think there was some FBI office there that I -- I forgot

4 his name.

5 Q. Was this in the city of Wichita?

6 A. Yes.

7 Q. Anybody ask you to sign any consent forms on that day?

8 A. No.

9 Q. Where were you next taken?

10 A. To Kansas City, Missouri.

11 Q. Was that your choice?

12 A. No.

13 Q. How long did you stay in Kansas City?

14 A. I think we wait -- we wait there until May 15 or 14 so that

15 we can come back to Oklahoma. I forgot how many days.

16 Q. During this period, which is almost a month a later, did

17 the Government tell you why you could or could not go back to

18 your house in Herington?

19 A. No, they did not tell me about that.

20 Q. Did you ask to go back to the house?

21 A. I wanted to go back to the house. I don't remember if I

22 did ask, but most of the time, I wanted to go back in the

23 house.

24 Q. Do you recall then going back to Oklahoma City for this

25 grand jury appearance?

776

1 A. Yes.

2 Q. Do you recall what day it was when you went there?

3 A. I think it's May 17.

4 Q. Even though the grand jury subpoena reflects a date of

5 May 16, you think it is the 17th?

6 A. I don't know. I forgot what was the reason why we -- we
7 didn't go on May 16.

8 Q. All right. What happened when you went to the grand
9 jury -- or the U.S. attorney's office, wherever you went in
10 Oklahoma City, on May 17?

11 A. On May 17, we went to the attorney's office. And they have
12 me wait in there for, like, half an hour. Arlene came out and
13 said to one of these girls that works with her that if she can
14 accompany me around the building just to entertain me. Go look
15 around. And that's what we did. By the time we come back, I
16 meet Lana Padilla.

17 Q. How long did you tour the building?

18 A. Say, half an hour or so.

19 Q. All right. What next conversation did you have with any
20 Government personnel?

21 A. On that day?

22 Q. Yes. Either the lawyers or the agents. Were there any
23 agents with you?

24 A. Yes. Mr. Thomeczek and Sheila Dobson.

25 Q. All right. And did you have a conversation with the

777

1 lawyers about going to the grand jury?

2 A. Yes.

3 Q. All right. What conversation did you have and with whom?

4 A. Well, they -- oh, I did say -- they said that I don't need
5 to go to the grand jury hearing because they feel that I -- I
6 have been telling them the truth.

7 Q. And was that it? Was that the end of --

8 A. Yes. And that --

9 Q. -- the grand jury appearance?

10 A. -- they are going to give me money for coming over.
11 Q. How much money did they give you for coming over?
12 A. About 120 or 25. I forgot.
13 Q. \$125?
14 A. Yes.
15 Q. They weren't giving you the money that was yours at that
16 time; is that correct?
17 A. No. They give me the money as -- I don't know. They make
18 me sign all those papers that I'm going to get the money.
19 Q. Do you know whether or not that was a witness fee?
20 A. I don't know.
21 Q. Did you also -- well, skip that question.
22 I'm going to go to the last consent that you signed,
23 W11.
24 A. Okay.
25 Q. Is that your signature at the bottom, Mrs. Nichols?

778

1 A. Yes.
2 Q. And again, you have the notation "without prejudice"?
3 A. Yes.
4 Q. What date was that signed?
5 A. May 19, 1995.
6 Q. All right. And where were you at that time?
7 A. Embassy Suites in Oklahoma City.
8 Q. Okay.
9 MR. WOODS: Your Honor, may it please the Court, we
10 would offer into evidence W11, a consent signed on May the
11 19th.
12 MR. MACKEY: No objection.
13 THE COURT: Receive W11.

14 BY MR. WOODS:
15 Q. Now, do you remember what this consent concerned?
16 A. Yes. They have to pick up the toys of Jason, which I
17 always asked them about it. I wanted to go back after that
18 May 17 meeting from the lawyers, and they would not allow me.
19 Q. You wanted to go back where?
20 A. Go back to Herington so that --
21 Q. What -- excuse me. I'm sorry. I interrupted.
22 A. So I can pick up the stuff that I want to take with me.
23 Q. What reason did they give you that 30 days or 28 days after
24 they had searched the house -- what reason did they give you
25 that you couldn't go back to your own house?

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1 A. Well, I'm not allowed to go back in my house.
2 Q. You just accepted that?
3 A. No. I did try to ask Sheila and Mr. Thomeczek about that,
4 if I can go back to the house, because in that time, too -- in
5 between that time, I receive a phone call or I did -- made a
6 phone call to Joyce Wilt, Terry's mother. She told me to clean
7 up the refrigerator because since the house has been left alone
8 and we need to clean up the refrigerator.
9 Q. Did you ask that you be allowed to go back to the house?
10 A. Yes. I asked them, and they won't allow me.
11 Q. Did there come a time when you started crying --
12 A. Yes.
13 Q. -- to the agents?
14 A. Yes.
15 Q. And was Mrs. Dobson crying?
16 A. At that time, I forget. She did cry that time.
17 Q. Do you recall whether or not there was an occasion where
18 Mrs. Dobson was crying, also?

19 A. Yeah. The last day that they stay in Embassy Suites.
20 Q. All right.
21 A. Finally, Sheila Dobson told me that I think they don't want
22 you to go home.
23 Q. Do you recall what day that was?
24 A. I forgot.
25 Q. Embassy Suites where?

780

1 A. In Oklahoma City.
2 Q. Okay. Do you recall the dates that you were at the Embassy
3 Suites in Oklahoma City?
4 A. I think -- I forgot. Must be the second week of May.
5 Q. Was Mrs. Dobson attempting to help you get your money so
6 you could go back?
7 A. That's what I feel.
8 Q. What caused her to cry with you?
9 MR. MACKKEY: Objection.
10 THE COURT: Sustained.
11 THE WITNESS: I think --
12 THE COURT: No. You shouldn't answer.
13 THE WITNESS: I'm sorry.
14 THE COURT: That's all right.
15 BY MR. WOODS:
16 Q. Did Mrs. Dobson ever explain to you why you could not get
17 your money back?
18 A. No.
19 Q. Did she ever explain to you why she was crying?
20 A. I forgot if I did ask her.
21 Q. All right. On W11, which is the consent of May 19, had you
22 requested that since you're not being allowed to go back into

23 the house that the agents obtain something from the house?

24 A. No. I feel that I'm not allowed to go back in the house.

25 It's because in that time, it's just too much work for

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1 Mr. Thomeczek and Mr. -- Ms. Dobson for me. You know, they
2 have to go back and take me back here in Oklahoma city, since
3 they did not give me my money back yet.

4 Q. Okay. What did this consent concern, this one that was
5 signed on May 19?

6 A. That they are allowed to pick up the toys of Jason's that's
7 in the basement and Nicole's, too.

8 Q. So you wanted the toys removed from the house?

9 A. Yes. I wanted to take it with me; but they said well, we
10 can send it to your parents' house, to your parents' address.

11 Q. And you had to sign a consent to get your own toys out of
12 your house?

13 A. Yes.

14 Q. Did you also ask them anything concerning the refrigerator?

15 A. Yes, I did ask them about that. And they said that we can
16 clean it.

17 Q. Okay. Do you recall when you received your money back that
18 they had picked up on April 23?

19 A. The night after we -- the night after you visited me. I
20 forget what was the date of it.

21 Q. That was on May the 24th.

22 A. Yes.

23 Q. Was there an occasion earlier when you learned that Terry
24 Nichols had lawyers appointed for him?

25 A. Yes. I think Mr. Mickey Hawkins or maybe Donna -- I forgot

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1 which one -- who give me the telephone number of yours and Mr.

2 Mike Tiger.

3 Q. And did you make a phone call?

4 A. Yes.

5 Q. Were you allowed to leave the phone number where you were?

6 A. No.

7 Q. Why were you not allowed to leave the phone number?

8 A. Because the media might find it and it's easy for them to

9 track me down.

10 Q. Who told you that?

11 A. Mr. Thomeczek.

12 Q. So in all the phone calls that you made during those days

13 you were with the FBI, were you allowed to leave a return

14 number where people could call you?

15 A. No, but I did somehow leave some to my parents.

16 Q. On May the 24th, when I met you, do you recall where you

17 were?

18 A. In Embassy Suites at Oklahoma City.

19 Q. And which agent was with you on that day?

20 A. Nancy Houston.

21 Q. After I talked with you, did you have an occasion to be in

22 the presence of agents taking notes?

23 A. Pardon?

24 Q. After I talked with you on the 24th, did you start taking

25 notes of your meetings with the agents?

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1 A. Yes.

2 Q. And what did the agents say to that?

3 MR. MACKEY: Objection without further foundation.

4 When? Where?

5 THE COURT: All right. Let's establish a time, place
6 and presence.

7 MR. WOODS: Yes.

8 BY MR. WOODS:

9 Q. I met with you on May the 24th, Ms. Nichols?

10 MR. MACKEY: Judge, we'll so stipulate. It's
11 testimony, apparently.

12 BY MR. WOODS:

13 Q. After May 24, did you start taking notes with your
14 conversations with agents?

15 A. Yes.

16 Q. What day after May 24 did you start taking notes with your
17 conversations with agents?

18 A. I think after we talked, I start taking notes of all the
19 questions that they ask me.

20 Q. All right. You said that they gave your money back to you
21 that evening on May 24th; is that correct?

22 A. Yes.

23 Q. And who did that?

24 A. Donna Sampson and one of the BATF. I forgot his name.

25 Q. The ATF was also talking to you and interviewing you?

784

1 A. No.

2 Q. What were they doing? They just had your money?

3 A. Yeah.

4 Q. Okay. So do you recall that name?

5 A. Yes.

6 Q. Who?

7 A. Pardon?

8 Q. Do you recall the name of the ATF agent?

9 A. I forgot.

10 Q. Okay.

11 A. I can't remember him. But --

12 Q. How much money did they give back to you, Mrs. Nichols?

13 A. About \$48,000.

14 Q. 48,000 or 4800?

15 A. 48 -- I'm sorry. 4800.

16 Q. Okay. And did they tell you they were keeping some of the

17 money?

18 A. No. I didn't bother to ask. I was just too happy to, you

19 know, receive my money; that I can afford my own plane ticket.

20 Q. Okay. How much money did you have on April the 23rd in

21 this hidden spot in your bed?

22 A. 5,000.

23 Q. Anything else?

24 A. Nine gold coins and three silver coins that Terry had given

25 me.

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1 Q. Did they give those back to you?

2 A. No.

3 Q. Have you received those to this day?

4 A. No.

5 Q. The next day, on April (sic) the 25th, did you have a

6 meeting with the FBI agents?

7 A. Yes.

8 Q. And did you take notes when you were meeting with those

9 agents?

10 A. Yes.

11 Q. Do you recall who the agents were?

12 A. Nancy Houston.

13 Q. Was she the only one?
14 A. I forgot if Donna Sampson was -- I forget the date; but
15 there was -- on that time, too, Donna Sampson made a question
16 for me. She showed me some pictures.
17 Q. Okay. She showed you pictures? And then what happened?
18 A. After that, I just made -- I just write the questions that
19 she had.
20 Q. All right. What did she say to that when she saw you were
21 making notes?
22 A. She didn't see it. Nancy Houston saw that I was making
23 notes.
24 Q. Okay. So Donna Sampson did not see it, but Nancy Houston
25 did. What was said to you after it was observed that you were

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1 taking notes with the agents?
2 A. Well, they did not say anything until Donna Sampson dropped
3 me off in some hotel that I preferred to stay because it's
4 cheaper. She said that she doesn't want to ask me any question
5 or she just don't want to be with me anymore, but she can help
6 me in any way that she can.
7 Q. Ma'am, when you say a cheaper hotel, do you recall that
8 after they gave you your money back, your \$4800, you still
9 haven't gotten the other \$200, have you?
10 A. That's correct.
11 Q. After they gave you the money back, did they tell you that
12 they were going to continue to pay for your hotel, or not?
13 A. They told me that they are not going to pay my bills
14 anymore since I have my money back.
15 Q. All right. At that time, did you have a plane reservation
16 to return to the Philippines?
17 A. Yes. But it's from San Francisco to Cebu -- I mean to

18 Philippines, Manila.
19 Q. On what day? Do you recall?
20 A. June 1.
21 Q. All right.
22 A. Or it might be May 29.
23 Q. Do you recall what day the Government told you they are not
24 going to pay for your bills anymore?
25 A. I forgot. The night -- I think after they drop the money

787

1 in the morning, Donna Sampson told me that they are not paying
2 the bills anymore.
3 Q. So this would be May the 25th?
4 A. I guess.
5 Q. Did you then attempt to -- to find another hotel?
6 A. Yes. I have to. I don't want to spend all my money on
7 hotel.
8 Q. All right. Did you at that time talk to the FBI about
9 going to the Philippines?
10 A. I forgot if we did talk about it, because I already have
11 plane ticket reservation.
12 Q. When was it that you understood you could then leave the
13 FBI?
14 A. When they gave me my money. After we talked in the
15 morning -- me and Donna Sampson -- that I have to pay my own
16 bills now.
17 I said well, I think I'm free to go.
18 Q. What did she say to that?
19 A. I don't think I told her that. I was just thinking myself
20 I think I'm free to go.
21 Q. Did you feel that you were free to go any of the

22 30-some-odd days prior to that of May the 25th?
23 A. No.
24 Q. Did you choose to be moved to each of those eight different
25 cities during that 37-day period?

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1 A. No.
2 Q. All right. What day did you actually leave Oklahoma City,
3 Mrs. Nichols?
4 A. That would be May 25 or 26. I took the bus to Fremont,
5 California.
6 Q. Okay. And at Fremont, California, did you meet a friend of
7 yours?
8 A. Yes.
9 Q. And who was that?
10 A. Raymond Boyd.
11 Q. All right. Did he take you to the San Francisco airport
12 for your June 1 flight?
13 A. Yes.
14 Q. Now, during the period of time that you were with the FBI,
15 did they take your fingerprints?
16 A. Yes. And Nicole's fingerprints, too.
17 Q. Took Nicole's fingerprints?
18 A. Yes.
19 Q. Did they take hairs from your head?
20 A. Yes. Sheila said that I need to take hair from your --
21 from you; and I said okay, I'll take it for you.
22 Q. Okay. Did they give you a grand jury subpoena for that?
23 A. No.
24 Q. Did they give you a search warrant for the hairs from your
25 head?

1 A. I don't remember. I don't think so.

2 Q. Do you recall receiving a card from the agents while you
3 were in their custody, a Mother's Day card?

4 A. Yes.

5 Q. If you would look at W9.

6 A. Okay.

7 Q. Is that a copy of the Mother's Day card?

8 A. Yes.

9 MR. WOODS: Your Honor, may it please the Court, we'd
10 offer into evidence W9, the Mother's Day card sent to
11 Mrs. Nichols.

12 MR. MACKEY: No objection.

13 THE COURT: W9 received.

14 BY MR. WOODS:

15 Q. Ms. Nichols, if you would, read that short card into the
16 record.

17 A. "We all hope the best for you. Please don't believe that
18 the government workers are the bad guys, no matter what anyone
19 tells you. We are here to help you. We have all fallen in
20 love with Nicole. We all wish the best for you and your new
21 baby. Don't let all this latest news affect you. We are all
22 here for you. If you ever are lonely, if you ever want to
23 talk, if you ever want to cry, just call us at (816)691-8200.
24 We'll be here for you. If you want to call collect, we
25 definitely want to hear from you when the new baby is born.

1 You are very special to us. You are a young girl caught up in
2 something you don't deserve to be in. We're on your side."

3 Don't think -- "Think only about yourself and your kids.
4 Becky."
5 Q. Who else signed the card?
6 A. Amy, Joan, Sheila, Lori.
7 Q. Do you know those names?
8 A. Yeah. I met them all.
9 Q. Were these all female FBI agents?
10 A. Yes. In Kansas City, Missouri.
11 Q. What did you take the meaning to be the first sentence of
12 "don't believe everything you're -- "you're hearing"; that
13 we're the good guys and we're here to help you?
14 A. Well, I think that -- I believe what they said, mainly.
15 Q. That we're from the Government and we're here to help you?
16 A. Uh-huh.
17 Q. Did you likewise send cards to them after you left?
18 A. Yes.
19 Q. Did you also send cards to the Filipino officials in San
20 Francisco that helped you catch a flight?
21 A. Yes. Except to Mr. Jose Calimlin, because I couldn't find
22 a card that fits to him.
23 Q. Why do you send cards to people like that, Marife --
24 Mrs. Nichols?
25 A. I'm the kind of person, if you do something for me or you

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1 buy something for me, I always want to say thanks and couldn't
2 get enough by saying mainly thanks to you, I want to send a
3 card.
4 Q. All right. Did you call Gene Thomeczek just as you were
5 leaving, the day or so that you were leaving Oklahoma City?
6 A. Yes.
7 Q. Were you -- what was the purpose of that call?

8 A. I was mainly upset.

9 MR. WOODS: Your Honor, may it please the Court, W41
10 is a transcript of this 20-second call that we would offer into
11 evidence; and we also have the tape present that we would play.
12 It takes about 20 seconds to play. We feel it goes to her
13 state of mind as to her captivity -- not captivity but being in
14 custody and her consents and the way she was treated by the
15 Government.

16 THE COURT: This is called to a telephone recorder?
17 Is that --

18 THE WITNESS: Voice mail.

19 MR. WOODS: It's to the voice mail of Agent Thomeczek,
20 who was her father figure with the FBI. It only takes about 20
21 seconds, your Honor.

22 MR. MACKEY: It's less the time than it is the lack of
23 relevance. Judge, it's now May 26. We're talking about
24 events -- the last search warrant, again, was early in the
25 month.

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1 THE COURT: That objection is overruled.

2 MR. WOODS: There were no search warrants. They were
3 all consents.

4 THE COURT: So you're offering W41 as the transcript,
5 and you wish to play the actual tape?

6 MR. WOODS: Yes, your Honor. Yes, your Honor.

7 THE COURT: All right. W41 is received, and you can
8 play the tape.

9 (The following is the reporter's transcription of the
10 playing of Exhibit W41:)

11 "End of mailbox. Start of mailbox. Message 1. From

12 an external number. Received May 26 at 8:14 p.m. Yes, Gene.
13 This is Marife Nichols. I'm still in Oklahoma City and
14 everything is going bad. Thanks a lot for putting me --
15 leaving me here. I just feel like, you know, this is a great
16 time, really. And you really are a nice guy, but I can't
17 believe these people are doing this to me. Thanks anyway."

18 MR. WOODS: May I have one moment, your Honor?

19 THE COURT: Yes.

20 MR. WOODS: Thank you, your Honor. That's all we
21 have. We pass the witness.

22 THE COURT: Mr. Mackey.

23 CROSS-EXAMINATION

24 BY MR. MACKEY:

25 Q. Good afternoon, Mrs. Nichols.

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1 A. Goof afternoon.

2 Q. I'm Larry Mackey, one of the Government lawyers.

3 A. Okay.

4 Q. Since it's fresh in mind, Mrs. Nichols, let me ask you
5 about the telephone call that you -- all of us just heard.

6 A. Okay.

7 Q. That was a phone call that you made to Gene Thomeczek on
8 May 26 of last year; is that correct?

9 A. That's correct.

10 Q. That would have been about two days -- one or two days
11 after the time you got your money back; correct?

12 A. Yes.

13 Q. And after the time that the FBI notified you that because
14 of that, you would be responsible for your own bills; correct?

15 A. That's correct.

16 Q. Mrs. Nichols, you were born in the Philippines. That's

17 what you told us?
18 A. Yes.
19 Q. Date of birth again?
20 A. June 11, 1971.
21 Q. Ms. Nichols --
22 A. '73. Excuse me.
23 Q. Well, that's a mistake you've made on more than one
24 occasion, hasn't it been?
25 A. I might. I don't know.

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1 Q. Have you on more than one occasion given a date of birth of
2 1971?
3 A. Yes.
4 Q. You've not always been truthful when asked about your date
5 of birth, have you?
6 A. Well, the -- my date of birth of -- on my alien card or --
7 yeah. Alien card is 1971.
8 Q. That's not true?
9 A. I was actually born in 1973. We have to change my date of
10 birth because I'm only 17 when I get married with Terry.
11 Q. On more than one occasion, the Government officials and
12 Government forms, both to this country and other countries,
13 your own, you have lied about your date of birth, have you not?
14 A. I don't understand.
15 Q. You're 23 years old now?
16 A. Yes.
17 Q. Been married since 1990?
18 A. Yes.
19 Q. Have given birth to three children?
20 A. Yes.

- 21 Q. You were educated in the Philippines at least in your early
22 youth; correct?
23 A. Yes.
24 Q. Graduated from high school?
25 A. Yes.

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- 1 Q. High school where junior and senior, the third and fourth
2 year, is taught in English; correct?
3 A. Yes.
4 Q. All the course work is taught in English, the textbooks are
5 in English, the exams are in English; correct?
6 A. Correct.
7 Q. After you graduated from high school, did you get some
8 college?
9 A. No. I get married with Terry.
10 Q. At any point in time since your marriage to Mr. Nichols,
11 have you sought or obtained college courses?
12 A. Yes. In 1994. I have one semester.
13 Q. Was that at Southwestern University?
14 A. Yes.
15 Q. Take a look, please, Mrs. Nichols, in the white binder to
16 your left, at Government Exhibit 70.
17 A. Yes.
18 Q. Take a moment and review the multi-pages that make up that
19 Exhibit Number 70.
20 A. Yes.
21 Q. And you see that in the semester of 1994, '95, with regard
22 to Southwestern University, a record of your attendance there?
23 A. Yes.
24 Q. Is that an accurate record?
25 A. I have to read it first. Excuse me.

1 Q. Take your time. Thank you.

2 A. Okay.

3 Q. Have you had an adequate opportunity to review it? Did you
4 get a chance to read it thoroughly?

5 A. Yes.

6 Q. Is it an accurate record of the college courses you took in
7 the semester of '94, '94?

8 A. Yes.

9 MR. MACKEY: Your Honor, we would move to admit
10 Government Exhibit 70.

11 MR. WOODS: May it please the Court, we have no
12 objection to the school records. We certainly object to this
13 National Bureau of Investigation alleged summary to the FBI of
14 what they know. It covers --

15 THE COURT: There's a letter attached to a transcript
16 or something.

17 MR. WOODS: It's full of unverifiable information. We
18 would object to the cover sheet.

19 MR. MACKEY: Your Honor, we would withdraw the cover
20 sheet on Exhibit 70.

21 THE COURT: And then re-mark the next page?

22 MR. MACKEY: Yes, your Honor.

23 THE COURT: All right. With that understanding, 70 is
24 received.

25 MR. MACKEY: Thank you, your Honor.

1 BY MR. MACKEY:

2 Q. That was college work you took, Mrs. Nichols, in the
3 Philippines; correct?

4 A. Yes.

5 Q. And it consisted at least in part of a class in English
6 called communication art and skills?

7 A. Yes.

8 Q. Anatomy and physiology?

9 A. Yes.

10 Q. College algebra?

11 A. Yes.

12 Q. General psychology?

13 A. Yes.

14 Q. Et cetera? Some additional courses; right?

15 In 1994, you were married, were you not, to Terry
16 Nichols?

17 A. Pardon?

18 Q. In 1994, at the time you went to this particular college,
19 you were married, were you not?

20 A. I'm still married.

21 Q. All right. And you were then?

22 A. Yes.

23 Q. Did you not leave Mr. Nichols in Marion, Kansas, in the
24 fall of 1994 in order to go to school?

25 A. Yes.

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1 Q. Was there a reason you did not attend college in the United
2 States?

3 A. I feel that I would lost my way around here.

4 Q. Did Mr. Nichols in the course of your marriage discourage
5 you from attending college?

6 A. Yes.

7 Q. Did he --

8 A. No. Excuse me. Not discourage. He encouraged me to go to
9 college. I'm sorry.

10 Q. Did he ever tell you that it was too expensive for you to
11 attend school?

12 MR. WOODS: Your Honor, may it please the Court, we're
13 starting to get --

14 THE COURT: We're getting into an area of privilege.

15 MR. WOODS: Yes, and I object to that. Certainly not
16 relevant, also.

17 THE COURT: Well, I'll sustain the privilege
18 objection.

19 BY MR. MACKEY:

20 Q. Do you feel like, Mrs. Nichols, that over the years that
21 you've been married to your husband, that you have come to know
22 a little bit about the United States and the American culture?

23 A. A little bit, yeah.

24 Q. You had known him only a few weeks before you were married;
25 correct?

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1 A. That's correct.

2 Q. And in the fall of 1990 -- excuse me -- I guess you were
3 married in the fall of 1990?

4 A. Yes.

5 Q. And the next summer, you then came to the United States?

6 A. I think the next year. 1991.

7 Q. All right. And you moved to Nevada?

8 A. Yes.

9 Q. Lived for a period of time in Las Vegas?

10 A. Henderson.

- 11 Q. Is that near Las Vegas?
- 12 A. Yes.
- 13 Q. Did you live thereafter also in the state of Michigan?
- 14 A. Yes.
- 15 Q. With your husband?
- 16 A. Yes.
- 17 Q. And with and among other Nichols family members?
- 18 A. Terry's brother, James Nichols.
- 19 Q. How many years did you live in Michigan, Mrs. Nichols?
- 20 A. I was on and off. Mainly about more than two years.
- 21 Q. And during that time, did you get to know the Nichols
- 22 family well?
- 23 A. Yes.
- 24 Q. Did you become close to any of the Nichols family members,
- 25 his mother, his father?

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- 1 A. His mother.
- 2 Q. How about his sister?
- 3 A. Not much. She's busy. She was working.
- 4 Q. You have travelled extensively, have you not, Mrs. Nichols?
- 5 A. Excuse me?
- 6 Q. You have traveled extensively?
- 7 A. I don't understand the word "extensively."
- 8 Q. All right. You have on several occasions, have you not,
- 9 since 1990 made several trips back and forth to the
- 10 Philippines?
- 11 A. To the Philippines. Yes.
- 12 Q. You spent some time in California?
- 13 A. I visited my aunt in California.
- 14 Q. Is that Mrs. Lattimore? Is that how you pronounce it?
- 15 What's your aunt name?

- 16 A. Lorie.
- 17 Q. Lorie. What's her last name?
- 18 A. Lastema.
- 19 Q. Lastema. Thank you. And she lives in the Los Angeles
- 20 area?
- 21 A. No. In -- nearby, Palm Springs.
- 22 Q. And is a housekeeper?
- 23 A. Yes.
- 24 Q. You have other family members in the United States?
- 25 A. My uncle in Los Angeles and my aunt in -- somewhere nearby

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- 1 Fremont, still California.
- 2 Q. Is your uncle Mr. Torres?
- 3 A. Danilo Torres.
- 4 Q. And your second aunt, what is her name?
- 5 A. Remy Haley.
- 6 Q. And were each of those three family members on your side of
- 7 the family --
- 8 A. Yes.
- 9 Q. -- living in California last year?
- 10 A. Yes.
- 11 Q. Mrs. Nichols, let's start on April 21, the day you and your
- 12 husband went to the Herington Police Department.
- 13 A. Okay.
- 14 Q. And without repeating any conversation you had with your
- 15 husband, can you tell us what you did? Describe your activity.
- 16 A. On April 21?
- 17 Q. Yes.
- 18 A. We went to Herington police station, just to see what's
- 19 going on.

20 Q. And did you go immediately from your home to the police
21 station?

22 A. Yes.

23 Q. Do you remember making a stop in doing so?

24 A. We stopped -- we stopped at somebody's driveway because
25 Terry assumed that there was two black cars behind us and

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1 following us.

2 Q. Do you remember leaving your residence with your husband
3 and child and driving south on Highway 56, pulling over in the
4 Surplus City parking lot?

5 A. I have no idea where we were at in that time.

6 Q. Do you remember turning around and going back to the police
7 station?

8 A. Yeah. We might have turned around, yes.

9 Q. At any point in that drive after leaving your home before
10 arriving at the police station, did you see anyone that you
11 suspected might be a police officer?

12 A. After we drove, we stop at that park -- driveway -- excuse
13 me -- I seen two black vehicles. I don't know if it is a
14 police station -- I mean. Gosh, I don't even know if it is a
15 police officer.

16 Q. Ms. Nichols, at any point before you and your husband
17 arrived at the police station, did he give you anything?

18 A. No.

19 Q. Do you recall Mr. Nichols handing you any money at any
20 point in time during that drive?

21 A. He hand me the money in the house, as far as I can
22 remember.

23 Q. Was that \$200?

24 A. Yes.

25 Q. Was that immediately before the two of you left your

803

1 residence?

2 A. Yes.

3 Q. And would you tell the judge the last time that Terry

4 Nichols had handed you \$200 on one occasion?

5 A. It might be in the truck. I forget.

6 Q. But it certainly occurred either in the house or on the

7 drive right before the two of you went to the police station?

8 A. Yes.

9 Q. Did he give you anything else other than money at that

10 time?

11 A. No.

12 Q. Mrs. Nichols, did you understand why you were going where

13 you went that afternoon?

14 A. That we were going to see what's going on because Terry

15 heard in the news that he's --

16 THE COURT: Be careful in your answer that you do not

17 include anything that your husband said to you.

18 THE WITNESS: Okay, your Honor.

19 BY MR. MACKEY:

20 Q. Let me ask it this way, Mrs. Nichols: Before the two of

21 you left, did you have the TV set on?

22 A. Yes.

23 Q. And were you watching broadcasts about the news of the

24 bombing in Oklahoma City?

25 A. Yes.

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1 Q. And from that source, had you learned that Tim McVeigh was
2 a suspect in that case?

3 A. I learned that he was -- he has been into prison for
4 traffic, something like that.

5 Q. Before you got to the police station, Mrs. Nichols, had you
6 heard your husband's name on the radio or TV?

7 A. No.

8 Q. The only name you had heard that you recognized was Tim
9 McVeigh?

10 A. Tim McVeigh. That's correct.

11 Q. Mr. McVeigh being someone you knew and had known for
12 several years?

13 A. Yes.

14 Q. Totally via your association -- rather your husband's
15 association with him?

16 A. Excuse me?

17 Q. It was your husband's friend?

18 A. Yes.

19 Q. When you and Mr. Nichols walked into the police station,
20 did you meet some local officers?

21 A. Yes. Inside the police station.

22 Q. And were you in very long before FBI agents came in and
23 introduced themselves?

24 A. Not very long. I feel it was like 10, 20 minutes.

25 Q. Before they arrived, Mrs. Nichols, do you recall the local

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1 police chief asking for Mr. Nichols to show that he had no
2 weapon on him?

3 A. Excuse me? The policeman asked Terry?

4 Q. Yes.

5 A. No. Terry is the one who asked them.

6 Q. Do you remember your husband taking his jacket off?

7 A. I think he just put it like that.

8 Q. Do you remember whether the jacket was taken off and left
9 in that room?

10 A. Yes.

11 Q. And what is its color?

12 A. Green.

13 Q. Was it a jacket your husband had worn on many days prior to
14 April 21?

15 A. Yes.

16 Q. To your knowledge, were the keys to your pickup truck in
17 that jacket?

18 MS. CAIN: Your Honor, I don't know if I have standing
19 to object. I'd object to asking questions that are not
20 relevant to her consents and the issue of her consents but are
21 really geared towards testimony against her husband, which is
22 still a subject matter of her privilege in this case.

23 THE COURT: Well, it is; but this, I don't see, as
24 coming within that privilege.

25 MS. CAIN: Okay. Well, when questions about his

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1 behavior prior to --

2 THE COURT: Well, we're not asking about his behavior
3 now. This is in the police station.

4 MS. CAIN: Okay. But I believe, your Honor, the
5 question was about the --

6 THE COURT: Had he worn this jacket before. I don't
7 see that's a communications privilege question.

8 Did you answer the question?

9 THE WITNESS: I forgot the question.

10 THE COURT: Whether the same jacket or coat that he
11 took off in the police station, he'd worn often before.

12 THE WITNESS: Yes. He wore that.

13 THE COURT: Thank you.

14 BY MR. MACKEY:

15 Q. Mrs. Nichols, at some point in time, you began to have a
16 conversation with the man first introduced to you by the name
17 of Gene Thomeczek; correct?

18 A. Yes.

19 Q. And he's the same individual you have made reference to in
20 your testimony this morning, and this afternoon?

21 A. Yes.

22 Q. In fact, over the time from April 21 until the end of May,
23 he and Sheila Dobson were the two representatives of the FBI
24 with whom you spent the most time?

25 A. That's correct.

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1 Q. And was it Mr. Thomeczek who explained to you a consent to
2 search form on that afternoon in the jail?

3 A. I told -- they just let me read it and see if I understand
4 everything out of it.

5 Q. Did you read it?

6 A. Yes.

7 Q. And did you understand it?

8 A. I asked questions of Ms. Sheila Dobson about the phrase
9 that I can refuse to consent. And she said that yes, you can
10 refuse to consent. And I ask what about if I don't sign. And
11 Mr. Thomeczek told me that we're just going to get the paper in
12 the court so that we can come in your house and search.

13 Q. Mrs. Nichols, look in the black binder now, Defendant's
14 Exhibit W14A.

15 A. 8?

16 Q. A, as in Adam.

17 MR. NIGH: Your Honor, our first volume of

18 Mr. Nichols' exhibits do not have exhibit numbers on it. If

19 the Bates number could be given, it would help us locate it

20 quickly.

21 MR. MACKEY: Mr. Nigh, it's also Government Exhibit

22 49, if that's easier for you to find.

23 MR. NIGH: That is easier.

24 Thank you, your Honor.

25 THE WITNESS: W8?

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1 BY MR. MACKEY:

2 Q. W14. 14A.

3 A. Okay.

4 Q. Did you read that document before you signed it?

5 A. Yes.

6 Q. And did you read the language that says, "I," with your

7 name filled in, "having been informed of my constitutional

8 right not to have a search made of the premises herein

9 mentioned without a search warrant and of my right to refuse to

10 consent to such a search hereby authorize, "and the names

11 appear, the agents, "to conduct a complete search of my

12 premises"? Did you read that on April 21, 1995?

13 A. Yes.

14 Q. Did you have any misunderstanding about that language?

15 A. Actually, I don't understand all this stuff, why they can

16 search the house.

17 Q. Did Mr. Thomeczek explain to you that they were gathering

18 information about the Oklahoma City bombing case?

19 A. Yes. They were gathering information, but I don't
20 understand why they have to search my house.
21 Q. Did you tell Mr. Thomeczek?
22 A. No.
23 Q. Did Mr. Thomeczek explain to you at the time that a
24 decision as to whether a search warrant would be issued was not
25 his but belonged to a federal judge?

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1 A. To my understanding, yeah.
2 Q. He explained that to you at that time?
3 A. He said that we're just going to get a search warrant in
4 the court.
5 Q. Did he tell you that a judge would have to approve that
6 search warrant?
7 A. No.
8 Q. Mrs. --
9 A. I don't understand.
10 Q. All right. Okay. Mrs. Nichols, did you ask Ms. Dobson any
11 questions about this same form?
12 A. Yes. I -- I asked her what about if I refuse to sign these
13 papers, and she did not answer. Mr. Thomeczek answered me.
14 Q. Did you feel like you had understood the full content of
15 the form at the time you put your signature on it?
16 A. No.
17 Q. Why did you sign it?
18 A. I just want to cooperate with them.
19 Q. Why did you want to cooperate?
20 A. So that everything will be over soon.
21 Q. Mrs. Nichols, at any point in the afternoon on that same
22 afternoon, did you see your husband?
23 A. Yes.

24 Q. Prior to the time that you went downstairs to see him, had
25 you been refused permission to see him?

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1 A. Excuse me?

2 Q. Had you been refused permission to see him?

3 A. No.

4 Q. When you asked to do so --

5 A. When I asked --

6 Q. -- you were afforded that opportunity; correct?

7 A. Yes. That was prior to our leaving the police station.

8 Q. Mrs. Nichols, do you remember approximately what time you
9 signed the two consent forms, W14A and 14B?

10 A. I have no idea what time was that, because I didn't have a
11 watch on. I haven't seen any time or -- there's no window in
12 that room, so I don't know what time.

13 Q. Do you not recall that you signed the forms before

14 Ms. Dobson left to obtain the diapers?

15 A. I don't know. I think I signed the form when Ms. Dobson
16 was still there.

17 Q. She was present. Her signature is here; correct? On the
18 form?

19 A. Yes.

20 Q. And after the forms were signed, she then left to go
21 retrieve diapers at the store?

22 A. I forgot.

23 Q. Correct?

24 A. She may have. Yes.

25 Q. Now, you were not being questioned the entire time that you

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1 were at the Herington Police Department that afternoon, were
2 you?

3 A. I think I have been questioned entire time. They stopped
4 so they have to get information from Terry.

5 Q. Were there not large blocks of time, Mrs. Nichols, where
6 there was no questioning going on; you simply sat there and
7 waited?

8 A. Yeah. And I was talking to Mr. Tom White.

9 Q. At some point in time, it was time to leave; correct?

10 A. Yes.

11 Q. And before you left, someone had to retrieve the baby seat
12 from the pickup truck; correct?

13 A. That's -- I don't remember that we have the baby seat.

14 Q. Do you not recall Nicole being harnessed in the baby seat
15 on the drive from Herington to Abilene that evening?

16 A. I don't remember.

17 Q. You went to a motel in Abilene that night, Friday night;
18 correct?

19 A. That's correct.

20 Q. And you understood that the reason you could not go back to
21 your home that evening was that there would be a search going
22 on at some point in time at that residence?

23 A. Yes. And they did ask me if I wanted to come in in there
24 because they need to have a bomb squad to come in in there.

25 Q. And they explained all that to you?

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1 A. Yes.

2 Q. So you understood why Friday night, it was simply
3 impossible for you to go back into your home?

4 A. Yes.

5 Q. Now, when you arrived at the motel in Abilene, did you have
6 the phone credit card that you had gotten from your husband
7 earlier?

8 A. Yes.

9 Q. And did you make any phone calls that night before you went
10 to bed?

11 A. Yes. I did try to make phone calls that night, but they
12 wouldn't give me my address book which is left in the pickup.
13 So it was just mainly talking to Information if they can get me
14 the telephone number.

15 Q. But you did begin to make phone calls to family members or
16 attempt to do so?

17 A. Yes.

18 Q. That same night?

19 A. Yes.

20 Q. Shortly thereafter, you were able to get a copy of your
21 phone book back -- did you not -- from Ms. Dobson?

22 A. I -- I don't understand.

23 Q. Your address book with telephone numbers, did you not get a
24 copy of that shortly thereafter from Ms. Dobson?

25 A. After I have to ask where is their boss, because

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1 Mr. Thomeczek would not give it to me because he said he's not
2 allowed to give it to me. And I even said, Well, you violate
3 my rights by not letting me have this address book. But they
4 said, Well, we have to do some investigation out of this. And
5 so I asked, Well, can I talk to your boss?

6 Q. And you did?

7 A. And he did, and he just want to give me the numbers that I
8 wanted.

9 Q. On more than one occasion in this 30-plus-day period,
10 Mrs. Nichols, you were not reluctant to insist on talking to
11 higher ranking officials -- were you not?

12 A. I -- reluctant means -- I don't know.

13 Q. Did you not insist on talking to James' boss and Sheila's
14 boss about the money, about the credit cards, about other
15 matters?

16 A. I did insist on that.

17 Q. Yes. On Saturday, the next day, Mrs. Nichols, you were
18 still at the hotel in Abilene?

19 A. Yes.

20 Q. And did you hear that the search was going to take most of
21 the day? Did you understand that it would occupy most of the
22 day?

23 A. Yes. That's what they explained to me.

24 Q. And that was the reason then why you had to stay a second
25 night then in Abilene; correct?

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1 A. Yes.

2 Q. Now, on the next day, on Sunday, April 23, you and
3 Mr. Thomeczek and Sheila Dobson then drove back down to
4 Herington; correct?

5 A. Yes.

6 Q. And you went first to the Herington Police Department, did
7 you not?

8 A. Yes.

9 Q. And there you met Agent Jablonski, who turned over some
10 personal items that your husband --

11 A. From Terry.

12 Q. Do you remember that?

13 A. Yes.

14 Q. And you remember signing a receipt showing your receipt of
15 those items?

16 A. Yes.

17 Q. That form is dated approximately 1:15 p.m.; does that
18 comport with your own memory?

19 A. I don't remember what time.

20 Q. Do you remember signing a consent with Agent Jablonski
21 present shortly after getting the materials back?

22 A. Right -- yes.

23 Q. There in the Herington Police Department?

24 A. Yes.

25 Q. Do you remember Agent Jablonski handing his ice cream cone

815

1 to Nicole --

2 A. Yes.

3 Q. -- while you studied the form? Do you remember on this
4 second occasion then on Sunday, Mr. Thomeczek going over in
5 detailed fashion the wording in the consent form that he was
6 showing you on that day?

7 A. I don't remember.

8 Q. Look at E1 in the black book, please. E1. Government
9 Exhibit 52.

10 A. Okay.

11 Q. And is that the form that Agent Jablonski and Agent
12 Thomeczek showed you in the Herington Police Department Sunday
13 afternoon?

14 A. Yes.

15 Q. And did you read that form either out loud or to yourself
16 before you signed it?

17 A. I read it -- yes.

18 Q. At that point in time, Mrs. Nichols, no one had taken your
19 money and kept it from you, had they?
20 A. Yes. They haven't seen my money yet that time.
21 Q. So before you signed that form, the FBI did not have
22 possession of the \$5,000 cash and nine coins secreted in your
23 boxsprings; correct?
24 A. On that time, I don't know because they didn't show me any
25 papers.

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1 Q. When you signed this receipt -- excuse me -- consent form,
2 Mrs. Nichols, you added the terminology "without prejudice."
3 A. Yes.
4 Q. Do you see that? You had not used that terminology, those
5 words, on the two consent forms signed on Friday, had you?
6 A. That's correct.
7 Q. What took place between Friday and Sunday that led you to
8 add these new words to this consent form?
9 A. That's the time I realized and I remembered maybe I can
10 sign this stuff with UCC 1-207.
11 Q. So this was your independent thought that came to you on
12 Sunday afternoon, April 23?
13 A. That's correct.
14 Q. And you understood its meaning after having researched it
15 in Black's Law Dictionary?
16 A. Yes. Back before in Michigan.
17 Q. Had you signed a number of documents prior to April of 1995
18 with that same notation, with those same words?
19 A. I don't understand. Have I signed --
20 Q. Excuse me. On any other document prior to this consent
21 form, had you ever used the words "without prejudice"?
22 A. Prior to this?

23 Q. Yes.

24 A. I don't think so.

25 Q. This is the first and only occasion beginning on April 23

817

1 that you --

2 A. As far as I can remember right now, yeah.

3 Q. You did not sign it on your driver's license because you
4 don't have one; is that right?

5 A. That's correct.

6 Q. Do you remember, Mrs. Nichols, when you added the words
7 "without prejudice" that Agent Thomeczek asked you about those?

8 A. Yes. And I have no idea what I answered to her.

9 Q. Did you give him the same explanation that you've given the
10 Court about --

11 A. No.

12 Q. -- your understanding of those terms?

13 A. I don't remember.

14 Q. Did you tell him that you'd looked them up in the Black's
15 Law Dictionary?

16 A. Yes.

17 Q. And that you discussed the matter with your husband?

18 A. I think Sheila Dobson asked me if Terry is the one who told
19 you this. I'm not sure.

20 Q. You remember Agent Thomeczek asking you, Well, does this
21 mean whether you consent or not?

22 A. I don't remember.

23 Q. Do you remember telling him I'm adding the words but I
24 still intend to consent?

25 A. I might have say that.

1 Q. Now, you and a number of agents then left the Herington
2 Police Department and drove the short distance over to your
3 residence on Sunday afternoon, did you not?

4 A. Yes.

5 Q. That was after the time you had gotten your property back
6 from Agent Jablonski, after the time you'd signed this consent
7 form; correct?

8 A. What property?

9 Q. The property of your husband.

10 A. Okay.

11 Q. How did you get into the house, Mrs. Nichols?

12 A. Somebody has a key. I forgot who did.

13 Q. Did you go in the front door?

14 A. Yes. In the front door.

15 Q. And describe to the Court what you did.

16 A. Well, we went -- mainly come in in there, I was looking
17 inside the house. I know -- I remember Mr. Thomeczek told me
18 that the house may be in bad shape because they have to take
19 fingerprints from the walls and any furniture, which I've seen
20 is always mess around in our house anyway so I think it was
21 okay. But the clothes are all off the -- the closet in the
22 second bedroom. But then I only have 30, 45 minutes to pack up
23 my things so I just hurry up and Mr. Thomeczek helped me, too.

24 Q. Did you feel like you had enough time to pick up the
25 belongings you wanted?

1 A. No.

2 Q. How large a bag did you give, Mrs. Nichols, to put your
3 belongings in?

- 4 A. Pardon.
- 5 Q. How large a bag did you get to put your belongings in?
- 6 A. I -- might be five feet -- no. Four feet tall.
- 7 Q. And did you fill it before you left?
- 8 A. Yes. But it's not real arranged because we're in a hurry.
- 9 Q. I understand. Did you go to each of the rooms in your
- 10 residence on Sunday afternoon?
- 11 A. Each room?
- 12 Q. Yes, ma'am. Each room.
- 13 A. Yes.
- 14 Q. It would be the living room and the --
- 15 A. Living room. The dining room -- the living room is the
- 16 same as dining room. The kitchen. Our bedroom, me and
- 17 Terry's, Josh's bedroom, the bathroom. I went downstairs in
- 18 the basement, the storage room, and I went to the other
- 19 basement, too, under the kitchen.
- 20 Q. And at some point while you were on the property, did you
- 21 and Sheila Dobson walk out to the garage?
- 22 A. I forgot.
- 23 Q. Do you remember you and Sheila Dobson walking to the garage
- 24 and standing there briefly at the doorway?
- 25 A. We might have. But I forgot.

820

- 1 Q. Do you remember as you stood there seeing other agents in
- 2 the garage?
- 3 A. I don't remember.
- 4 Q. During this brief period of time in your home, there were
- 5 at least a couple phone calls that you engaged in; correct?
- 6 A. Excuse me?
- 7 Q. Were you on the phone while you were in your house on

8 Sunday April 23?

9 A. Yes.

10 Q. On at least two occasions?

11 A. There was a phone call or I made a phone calls?

12 Q. Were you on the phone in two different conversations?

13 A. I forgot.

14 Q. Do you remember having one phone call where you spoke in a

15 Filipino dialect?

16 A. Yes. My sister or my mother.

17 Q. And do you remember speaking in English in a second phone

18 call?

19 A. Yes. With -- with Lori Lastema and Mr. Richard Gibson.

20 Q. So there were two phone calls that you took while you were

21 in your own home on Sunday afternoon?

22 A. That's correct.

23 Q. Tell us about the first phone call with your mother.

24 A. Well, my mother just wanted to know if I'm okay. And

25 what's going on.

821

1 Q. And what did you tell her?

2 A. That I have been -- Terry turned himself in in Herington,

3 Kansas, police station and that I had been separated by Terry.

4 And I forgot most of the conversation.

5 Q. Did you tell your mother that you were okay and that the

6 FBI was treating you well?

7 A. Yes.

8 Q. In the second phone call on that same day, Mrs. Nichols,

9 with whom did you speak?

10 A. The second phone calls? My aunt, Lori Lastema.

11 Q. Who called who?

12 A. I forgot if I called her or she contact me there.

13 Q. But you were able to speak to her?
14 A. Yes.
15 Q. And tell the Court what that conversation was.
16 A. Well, she asked me if I'm okay and I said no, I'm shaken.
17 I'm scared of this agent because I never been through this
18 situation before and that I wanted to be with her. But she had
19 to ask her boss about that because she doesn't live in her own
20 house. She's only a housekeeper. So I talked to Mr. Richard
21 Gibson and he was just mainly asking me if I know Terry's
22 innocent of this case and I said I think he's innocent.
23 Q. And this is all in the conversation on Sunday afternoon in
24 your home?
25 A. Yes.

822

1 Q. You spoke to your mother and to your aunt; is that right?
2 A. Yes.
3 Q. And did your aunt offer for you to come stay in California
4 with her?
5 A. I don't think so. She wanted to know what's the situation.
6 She have to ask her boss about it.
7 Q. Did you ask your aunt --
8 A. Yes.
9 Q. -- can I come stay with you?
10 A. Yes, I did.
11 Q. And she said?
12 A. She need to ask her boss about that.
13 Q. Had you talked to any other of your family members before
14 those phone calls?
15 A. I think I talked to my mother.
16 Q. On an occasion before Sunday afternoon?

17 A. Yes.
18 Q. So at least twice before Sunday, you had been in touch with
19 your parents?
20 A. Yes. Either my parents or my brother and sister. I did
21 call the Philippines.
22 Q. Incidentally, Mrs. Nichols, while you were in the phone
23 call with your mother speaking in the Filipino dialect, did any
24 agent object to that?
25 A. No.

823

1 Q. Did they say if you're going to speak in our presence, you
2 must speak in English?
3 A. No.
4 THE COURT: Is this an interrupting point?
5 MR. MACKEY: Yes, your Honor.
6 THE COURT: All right. We'll take the recess at this
7 time. 20 minutes.
8 (Recess at 3:24 p.m.)
9 (Reconvened at 3:44 p.m.)
10 THE COURT: Be seated, please.
11 Continue, Mr. Mackey.
12 MR. MACKEY: Thank you, your Honor.
13 BY MR. MACKEY:
14 Q. Ms. Nichols, let me go back to Saturday, the first full day
15 you stayed at the motel in Abilene.
16 A. Yes.
17 Q. That would be Saturday, April 22.
18 A. Yes.
19 Q. All right. And one of the things you did in the course of
20 that day was to go shopping for clothing; correct?
21 A. That's correct.

- 22 Q. With Ms. Dobson; correct?
- 23 A. Ms. Dobson and other girl used to work with Tom White.
- 24 Q. Who might be Dawn Grey; correct?
- 25 A. Might be.

824

- 1 Q. Okay.
- 2 A. I forget.
- 3 Q. All right. Isn't it true, Mrs. Nichols, that it was the
- 4 FBI that purchased the clothing and other items on Saturday,
- 5 April 22?
- 6 A. That purchase? I don't understand the word "purchase."
- 7 Q. Who paid for the clothes?
- 8 A. I did.
- 9 Q. And how much did you spend?
- 10 A. I forget how much I spent.
- 11 Q. And how much money of the original 200 did you have then at
- 12 the end of Saturday, April 22?
- 13 A. I don't remember.
- 14 Q. Let me return your testimony, Mrs. Nichols, to Sunday, the
- 15 next day. You've driven down to Herington, signed the forms,
- 16 and then gone into your home. Do you recall those events?
- 17 A. Yes.
- 18 Q. Now, in addition to Gene and Sheila -- Dobson and Gene
- 19 Thomeczek, do you not also recall Chief Kuhn from the Herington
- 20 Police Department being inside your residence?
- 21 A. Yeah. He was there.
- 22 Q. And you remember, do you not, why he was there?
- 23 A. No.
- 24 Q. Do you recall that there was concern on your part and
- 25 others that the media would show up at your house and try to

1 get pictures of you?

2 A. Yes.

3 Q. And that in fact happened, did it not, on that day?

4 A. Yes.

5 Q. And the time that it took for you to drive to the police
6 station, go to your home, gather up your belongings, a large
7 crowd of media had gathered outside your home; correct?

8 A. That's correct.

9 Q. You were concerned, were you not, Mrs. Nichols, about
10 having your picture public?

11 A. Yes.

12 Q. You had a young daughter you had to think about, you had
13 your own safety to think about --

14 A. Yes.

15 Q. -- correct? And in fact, when you left your residence on
16 that afternoon, you covered your face in some manner to avoid
17 being depicted or caught on the cameras?

18 A. Mr. Thomeczek and the policeman suggested that I should
19 cover my face and Nicole's.

20 Q. Ms. Nichols, did you not have a great amount of fear that
21 someone, someone you didn't even know, might attempt to
22 retaliate against you or your family because of your husband's
23 connection to that case?

24 A. That's correct.

25 Q. You had that fear on the same day that you walked into the

1 police station on April 21; correct?

2 A. No, I didn't have that fear. The first day? Not until the

3 FBI explain it to me.

4 Q. What they told you was true, was it not?

5 A. That I'm -- I might be in danger for the victims?

6 Q. That was your concern as well; correct?

7 A. Yes, it was my concern after they explain it to me.

8 Q. And Chief Kuhn had told you, I have a little police

9 department in a little town and I can't promise I can protect

10 you. Did he not tell you that?

11 A. He can't promise?

12 Q. Right.

13 A. I don't remember, but he may have say that.

14 Q. Do you remember the police chief telling you, Mrs. Nichols,

15 I wouldn't come back to this house for a while? Do you

16 remember him telling you that that Sunday afternoon?

17 A. For at least two weeks, until things will settle down.

18 Q. As you think about especially what happened to you when you

19 walked out the door, that was pretty good advice, wasn't it?

20 A. Yes.

21 Q. And you thought so at the time; correct?

22 A. That's correct.

23 Q. So as a practical matter, going home to Herington was

24 simply out of the question, was it not?

25 A. I don't understand. What's a practical matter?

827

1 Q. Well, you followed Chief Kuhn's advice and never came back

2 to live in Herington, Kansas; correct?

3 A. Never? I don't understand. Excuse me.

4 Q. Did you ever move back in to live at 109 South 2nd Street

5 in Herington?

6 A. No, because they don't allow me. The FBI don't.

7 Q. They didn't put you on the street, did they, Mrs. Nichols?
8 They provided you a motel room on each and every night between
9 April 21 and the end of May; correct?
10 A. Yes, they have to because they took my money.
11 Q. Would you agree it was not in your best interests at least
12 in the first several days for you not (sic) to be in Herington?
13 A. Excuse me?
14 Q. Would you agree that it was not -- excuse me. Wouldn't you
15 agree that it was in your best interests --
16 A. Not to be in Herington the first day?
17 Q. Right.
18 A. Yes, that's correct.
19 Q. And the people who came to your aid, Mrs. Nichols, was the
20 FBI?
21 A. That's correct.
22 Q. It was not your family members; correct?
23 A. That's correct. My family members are too far from me.
24 Q. Well, how about the family members of Terry Nichols?
25 A. They're in Michigan.

828

1 Q. Mrs. Nichols, about 14 days before the bombing, you had
2 driven, had you not, with your husband from Kansas to Michigan?
3 A. Yes.
4 Q. It's not an impossible drive, is it?
5 A. No, it is not.
6 Q. And did any Nichols family member get in their car and
7 drive to Herington and pick you up and bring you into the
8 sanctuary of their home in Michigan?
9 A. I understand in that time because James was held, also; and
10 they were busy with James.
11 Q. There was a crisis in the Nichols family; correct?

12 A. Yes.

13 Q. And in that crisis, they left you in the hands of the FBI?

14 A. That's correct; but they tried to call me most of the time.

15 Q. One of those phone calls was with Terry's father,

16 Mr. Nichols, Robert Nichols?

17 A. Yes, and they have to record it.

18 Q. Pardon me?

19 A. Yes, one of the phone calls is Robert Nichols, and the FBI

20 had to record it.

21 Q. And the recording tells us exactly what you said and what

22 he said; correct?

23 A. Yes.

24 Q. And he wanted to know whether you were okay?

25 A. Yes.

829

1 Q. And you told him the FBI is treating me fine?

2 A. Yes.

3 Q. And that was good enough for him; correct?

4 A. I guess so.

5 Q. Mrs. Nichols, when you walked into your home on Sunday

6 afternoon, April 23, you had in your mind, did you not, the

7 money that was stashed in your bed?

8 A. When we walk out the first day?

9 Q. When you walked into the house with Gene Thomeczek and

10 Sheila Dobson on Sunday afternoon --

11 A. Yes.

12 Q. -- you were already thinking about the cash in the bed,

13 were you not?

14 A. I was thinking about it.

15 Q. It occurred to you, did it not, Mrs. Nichols, that at some

16 point perhaps you could sneak the cash out without the agents

17 noticing?

18 A. I could, if Sheila is not with me all the time.

19 Q. You were afraid that if you tried to do that and got

20 caught, they wouldn't give the money back; correct?

21 A. That's correct.

22 Q. And so you didn't say anything to anybody while you were in

23 the house that Sunday afternoon about the cash you knew was in

24 your bed?

25 A. Well, excuse me. On that time, too, I have no idea that

830

1 the money was still in there. They didn't -- they did not give

2 me the inventory list yet.

3 Q. It would not have been impossible, Mrs. Nichols, would it,

4 for you to say, Mr. Thomeczek, come help me lift the mattress

5 on my bed?

6 A. It wouldn't be impossible if I know that the money was

7 still in there.

8 Q. So the first thing you did was not say anything; correct?

9 A. That's correct.

10 Q. And the next thing you did was to look at the inventory of

11 items seized by the FBI from that house; correct?

12 A. That's correct.

13 Q. And you had the cash and the coins in mind as you studied

14 that document, did you not?

15 A. In my mind? Yes.

16 Q. When you went through this document page by page, you were

17 looking to see if the FBI had found your money.

18 A. Yes.

19 Q. That's what was on your mind.

20 A. Yes.

21 Q. You could have cared less about anything else listed on
22 this inventory; correct?
23 A. Excuse me?
24 Q. Did you care about anything else that had been taken from
25 your home by the FBI?

831

1 A. Yes, I care about it; but most of the time priority in my
2 mind was my money. That's the only thing that could help me
3 getting out in this country and go home to Philippines.
4 Q. Mrs. Nichols, how many jobs have you had since 1990?
5 A. Two.
6 Q. One of those was in Las Vegas?
7 A. And one in Michigan. I was babysitting.
8 Q. Neither job lasted very long; correct?
9 A. That's correct.
10 Q. Neither job generated very much money; correct?
11 A. That's correct.
12 Q. That cash came from Terry Nichols, did it not?
13 A. Yes. He gave it to me.
14 Q. When did he give it to you?
15 A. When I was in Philippines going to college, some of it; and
16 some of it is my money that I saved from my work, from my job.
17 Q. All right. What portion, Mrs. Nichols, was your portion
18 that you had earned as a result of your work?
19 A. I forgot.
20 Q. Can you express any range, how much of \$5,000 in cash came
21 as a result of your labor?
22 A. I have forgotten how much. It started ever since I was
23 babysitting, and most of the time I would ask Terry some money
24 for groceries or stuff like that; and Mrs. Joyce Wilt would

25 give me some money, too, every time she came over in the

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1 house -- not every time but sometimes.

2 Q. Well, speaking of money from the Nichols, how much did they

3 give you after April 21, 1995?

4 A. After -- I have forgotten. I never make a list of all the

5 money that I receive -- received. I'm sorry.

6 Q. Well, did you ever tell Terry Nichols' mother, I need

7 money?

8 A. No.

9 Q. To get home to the Philippines?

10 A. No.

11 Q. Why wouldn't you ask your husband's mother, your daughter's

12 grandmother, for some financial aid when you were in need?

13 A. Excuse me? I don't understand.

14 Q. Let me return, Mrs. Nichols, to the house again on Sunday,

15 April 23. While you were there getting your belongings,

16 thinking about the money, you were also helping them search

17 your house, were you not?

18 A. Well, while I was in Herington?

19 Q. Yes, on Sunday, April 23.

20 A. I'm helping the FBI to search my house?

21 Q. Yes.

22 A. I don't understand it that way.

23 Q. Let me ask you this: Do you remember the day before

24 talking to the agents, cooperating as best you could and

25 describing what you and your husband had been doing in the

833

1 several days before the bombing?

2 A. Yes, that's what Tom White told me.

3 Q. And they asked you what did you do, where did you go;

4 correct?

5 A. Yes.

6 Q. And at that time, you were as truthful as you possibly

7 could be, were you not?

8 A. Yes.

9 Q. Everything you told the agents that first interview was the

10 truth as far as you knew it.

11 A. Yes.

12 Q. So you were telling the truth on that day when you said, I

13 know on Monday, the 17th, we rented videos.

14 A. I'm not sure. I said I'm not sure if we rented on that

15 date. I'm not accurate on dates that I have.

16 Q. You're right and I'm mistaken, because what you said was,

17 Let's get the receipt and that will tell us exactly what day it

18 was that we rented those movies and watched in our residence;

19 correct?

20 A. I didn't say let's get. If I can get that receipt.

21 Q. And that's what you were looking for on Sunday, April 23;

22 correct?

23 A. That's correct.

24 Q. You were trying to help the agents find information;

25 correct?

834

1 A. Yes. I want to cooperate with them because they are the

2 authority.

3 Q. And it was just like you said; right? There was the video

4 receipt and it showed what you had told them; correct?

5 A. That's correct.

6 Q. All right. You willingly, voluntarily turned over that
7 receipt to the police standing in your house on Sunday
8 afternoon?

9 A. I didn't find it. They did.

10 Q. Before they took it, did you know they found it?

11 A. Yes.

12 Q. And you said good?

13 A. Yes.

14 Q. When you were describing your activities to the police, you
15 had talked about the activities the previous weekend on
16 Saturday, had you not?

17 A. Yes. We talk a lot of things.

18 Q. And you told the police that you and your husband had gone
19 to a Wal-Mart in Manhattan, Kansas, to return an oil filter,
20 had you not?

21 A. Well, aren't we supposed to talk about that?

22 Q. You were trying to be truthful and cooperative, were you
23 not --

24 A. Yes, I am trying to be truthful with everyone. I want to
25 please with everyone.

835

1 Q. And that was true, Mrs. Nichols, was it not?

2 A. Yes.

3 Q. That on Saturday, April 15, you and your husband and others
4 went to the Wal-Mart in Manhattan, Kansas?

5 A. Yes.

6 Q. Those are two examples, are they not, Mrs. Nichols, of all
7 the detail you gave the police early on in this investigation;
8 correct?

9 A. Yes.

10 Q. Back to the money, Mrs. Nichols.

11 A. Okay.

12 Q. You're in Gene Thomeczek's car, you're reading that
13 inventory and you're finding for the first time that the FBI
14 missed it; right?

15 A. That's correct.

16 Q. You find an entry for money; correct?

17 A. Excuse me?

18 Q. There is an entry on the log that says we took cash from
19 that house; correct?

20 A. There is an entry on that log?

21 Q. Did you see some writing on that log? Do you remember it
22 said we seized some currency from another part of the house?

23 A. Yes.

24 Q. And you brought that to Agent Thomeczek's attention, did
25 you not?

836

1 A. Yes.

2 Q. And you said that was Terry's money?

3 A. Yes.

4 Q. But you missed my money in the bed; correct?

5 A. That's correct.

6 Q. And you and Mr. Thomeczek, in the privacy of his car
7 without Sheila Dobson -- correct -- drove on to the motel where
8 you were staying?

9 A. That's correct.

10 Q. And you said, Agent Thomeczek, I want my money; correct?

11 A. Yes, and I -- I even have to cry for that; but he would not
12 give me my money because they have to get the test if there is
13 any fingerprints from Tim McVeigh.

14 Q. Mrs. Nichols, it was important to you to get the money

15 back; right?
16 A. Of course.
17 Q. It was so important to you that you were prepared to cry?
18 A. That's correct.
19 Q. In hope that Agent Thomeczek would respond to that emotion
20 and give you your money; correct?
21 A. That's correct. That's the only thing they can help me get
22 out in the country as far as I understood.
23 Q. You even suggested to Agent Thomeczek, did you not,
24 Mrs. Nichols, go back, get the money, don't tell anybody, and I
25 won't, either.

837

1 A. That's correct.
2 Q. And he explained to you, Mrs. Nichols, as an FBI agent, he
3 simply couldn't do that.
4 A. Uh-huh.
5 Q. Mrs. Nichols, before you in the white binder should be
6 Government's Exhibit 65, the white binder to your left, ma'am.
7 To your left.
8 A. 65?
9 Q. Yes, ma'am. 65, 66, 67. Take a moment to look at them.
10 A. Okay.
11 Q. Do you recognize those, Mrs. Nichols, as greeting cards
12 that you sent to your friends at the FBI?
13 A. That's correct. Yes. This is my card that I sent to the
14 FBI.
15 Q. And Government's Exhibit 65 is the card that you sent to
16 Agent Thomeczek, is it not?
17 A. Yes. 65? Yes.
18 MR. MACKEY: Your Honor, I believe the defendant's
19 versions of these same exhibits are in evidence.

20 MR. WOODS: I overlooked offering them, but I
21 certainly will agree to his offering them, your Honor.

22 MR. MACKEY: I would do so at this time.

23 THE COURT: 65, 66, 67 received.

24 BY MR. MACKEY:

25 Q. Mrs. Nichols, did you write the words that appear on

838

1 Exhibit 65 that say, Me and Nicole will always have a special
2 thought every day about you?

3 A. Yes.

4 Q. We do love you as a parent.

5 A. Yes.

6 Q. And then you go on, do you not?

7 A. Yes.

8 Q. Did you mean those words, Mrs. Nichols?

9 A. On that time, yes.

10 Q. Because by June of 1995, the truth be known, you and Agent
11 Thomeczek and Sheila Dobson truly did have a very trusting
12 relationship?

13 A. That's correct.

14 Q. And those are the same individuals, Mrs. Nichols, who
15 witnessed your signature on virtually every one of the consent
16 to search forms that you've identified today; is that not true?

17 A. That's true.

18 Q. And as you sit there now, Mrs. Nichols, you think a parent
19 would mislead you into signing something you did not want to
20 sign?

21 A. On that time when I made this card, I thought that he is
22 still my parent. He treat me as a parent. Some part of my
23 mind was thinking that way.

24 Q. And that remains true today?

25 A. Not any more until I understand all this stuff. And I even

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1 remember that I asked Mr. Thomeczek, If I am your daughter,

2 what would you do? And he said, You just need to cry.

3 Q. Good advice sometimes; right, Mrs. Nichols?

4 A. Pardon?

5 Q. Good advice sometimes; right?

6 A. Yes.

7 Q. Did you shed a tear, Mrs. Nichols, when you saw the footage

8 of the disaster in Oklahoma City?

9 MR. WOODS: Your Honor, I object to that.

10 THE COURT: Sustained.

11 MR. WOODS: Totally out of line.

12 MR. MACKEY: Your Honor, they've drawn into question

13 about why she would have cooperated, why she would have made

14 the statements.

15 THE COURT: I sustained the objection.

16 MR. MACKEY: All right. Thank you, your Honor.

17 BY MR. MACKEY:

18 Q. Mrs. Nichols, in addition to making your plea to the FBI,

19 Get my money back, you went to representatives from your own

20 country, did you not?

21 A. Pardon?

22 Q. Did you not on repeated occasions call the Philippine

23 embassy?

24 A. Yes.

25 Q. In the United States?

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1 A. Philippine -- yes.

2 Q. In Washington, D.C., oftentimes on phone bills being paid
3 by the FBI; correct?

4 A. Some. I don't know. I don't remember most of the
5 telephone calls I made.

6 Q. No one from the FBI said don't contact the Filipino
7 embassy, did they?

8 A. Nobody. Nobody told me about that.

9 Q. To the contrary, they helped set up a meeting between you
10 and representatives from your native country, did they not?

11 A. Yes.

12 Q. That took place in Wichita, Kansas; correct?

13 A. That's correct.

14 Q. And you went there and met privately, did you not, with two
15 representatives from that embassy?

16 A. That's correct.

17 Q. And that was your opportunity, was it not, to share with
18 people from your own country what was going on; correct?

19 A. That's correct.

20 Q. And what you told them, Mrs. Nichols, was I'm being treated
21 fine by the FBI, did you not?

22 A. That's true; but I still have to think that as far as I
23 understood, the one who pays the ticket and the meals for these
24 people is the Government, the FBI.

25 Q. The problem for you at that point, though, was the FBI

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1 couldn't let go of your money; right?

2 A. Yes.

3 Q. So what you did was you went to your embassy and said give
4 me a ticket?

5 A. Uh-huh; but they have to raise a fund for that.
6 Philippines doesn't have that much money.
7 Q. They never gave you a ticket, did they?
8 A. They gave me a good rate of ticket. They gave me like --
9 Q. Did they help you get a reduced fair?
10 A. Yeah, reduced fair. That's correct.
11 Q. Mrs. Nichols, talking about flying to Philippines, can you
12 tell me whether you had plans to go home to Manila on April 21,
13 the day you went to the police station?
14 A. Why I planned to go home?
15 Q. Did you have plans to go back home on that day?
16 A. I was upset on that time. That's why I reserve the ticket
17 on May 10.
18 Q. You called a travel agency that same day to make plans to
19 go home?
20 A. That's correct, early in the morning -- not early.
21 Mid-morning.
22 Q. None of us want to hear about conversations with
23 Mr. Nichols; but tell the Court why you wanted to go home on
24 April 21, 1995, before you ever went to the police station and
25 met your first FBI agent.

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1 MR. WOODS: Well, your Honor, Counsel knows that
2 that's getting into the facts of the case and it's totally
3 improper. I object.

4 THE COURT: I don't know how she can separate that
5 out, but I don't know what the answer is. But I think it would
6 be very difficult to separate out, as you've suggested, so I'll
7 sustain the objection.

8 MR. MACKEY: Thank you, your Honor.

9 BY MR. MACKEY:

10 Q. Suffice it to say, Mrs. Nichols, that after the meeting
11 with the Philippine embassy representatives, they turned you
12 back over to the care and the custody of the FBI; correct?

13 A. That's correct. And they leave me, promising me that
14 they're going to help me to get the ticket; but I have to pay
15 it back when FBI returns my money.

16 Q. Mrs. Nichols, you talked about two trips that you took to
17 Oklahoma City?

18 A. Yes.

19 Q. Each of those occasions you met lawyers for the Government;
20 correct?

21 A. That's correct.

22 Q. The first trip you remember there was a long interview
23 session?

24 A. That is correct.

25 Q. And they reviewed much of what you had already told the

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1 FBI; correct?

2 A. Uh-huh.

3 Q. You had never had a chance before to give the detail to
4 Government lawyers that you had to the FBI; correct?

5 A. Oh, actually, as I understood, they tried to ask question
6 that the FBI did not ask me.

7 Q. They may have come up with even new questions; correct?

8 A. That's correct.

9 Q. Mrs. Nichols, were those Government lawyers polite to you?

10 A. Pardon?

11 Q. Were they polite to you?

12 A. The Government's lawyers are, but Mickey Hawkins kind of
13 like a little bit hard on me. He won't let me read the letters

14 that Terry sent to Tim or Lana, which is -- they are
15 questioning me about that letters and I cannot read it.

16 Q. That upset you, did it not, Mrs. Nichols?

17 A. Yes.

18 Q. It was the idea that your husband had entrusted --

19 MR. WOODS: I object to this, your Honor. We're
20 getting into the facts of the case.

21 THE COURT: Yes.

22 MR. WOODS: That's not the purpose of this hearing.

23 MR. MACKEY: Your Honor, I think Counsel has left a
24 suggestion that there was some professional mistreatment on
25 May 9 by Government counsel, and I think the witness can

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1 explain what upset her.

2 MR. WOODS: Not mistreatment, just failure to give her
3 her rights.

4 THE COURT: We're not going to get into this exchange,
5 Counsel.

6 MR. WOODS: Yes, your Honor.

7 THE COURT: But the question does seem to request a
8 broader answer than what happened on that occasion.

9 MR. MACKEY: All right. I'll withdraw it. Thank you,
10 your Honor.

11 THE COURT: All right.

12 BY MR. MACKEY:

13 Q. Mrs. Nichols, do you remember last summer coming back to
14 the United States? That would be August of 1995.

15 A. Yes -- 1995?

16 Q. Yes. Just last summer.

17 A. Yes.

18 Q. And while you were here, did you meet with representatives

19 from your husband's defense team, investigators for
20 Mr. Nichols?
21 A. Yes.
22 Q. And did they, in their sessions with you, ask you many of
23 the questions that had been first asked by the FBI and later by
24 Government lawyers?
25 A. Yes.

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1 Q. And wanted to know what you remembered seeing and doing;
2 correct?
3 A. That's correct.
4 Q. And they wanted to know what sort of treatment you had
5 received from Government representatives before you left back
6 home; correct?
7 A. That's correct.
8 Q. And you told them outside the presence of the FBI or anyone
9 from the Government that at no time were you ever threatened
10 during any interview.
11 A. That's correct.
12 Q. Because that never happened; right?
13 A. It never happened, but just mainly being in FBI scares me
14 because they're the authority and I have no idea what kind of
15 trouble I'm in.
16 Q. You told them, Mrs. Nichols, that there was never any
17 direct or indirect threats that the agents would take your
18 daughter from you if you didn't cooperate. That never
19 happened; correct?
20 A. Yeah, but it's always been a fear in my mind.
21 Q. You told them there was never any threat that any harm
22 would come to your family in the Philippines, did you not?

23 A. That's correct, but I did talk to my mother about that and
24 I'm scared about that.
25 Q. And you told your defense investigators that you never

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1 worried that you would be abandoned by the FBI if somehow you
2 quit cooperating. Never crossed your mind; correct?
3 A. He never asked me like that.
4 Q. Mrs. Nichols, while you resided in the residence for a
5 brief period of time from, what, March 17 until the end of
6 April --
7 A. Yes.
8 Q. -- did you have occasion to be in all the rooms in the
9 house?
10 A. Pardon?
11 Q. Were you always -- excuse me. Did you have occasion to go
12 to each one of the rooms at some point in the house?
13 A. Yes.
14 Q. Were you down in the basement?
15 A. Yes.
16 Q. Did you see tools?
17 A. What kind of tools?
18 Q. Any kind.
19 A. I have no idea of tools.
20 Q. If there were tools in the house, they were your husband's
21 possessions, not yours; correct?
22 A. That's correct.
23 Q. So at no point in the investigation did you alert the FBI
24 about tools that may be in your residence; correct?
25 A. That's correct.

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1 Q. And the truth is you wouldn't know one tool from another;

2 correct?

3 A. Yes.

4 Q. Mrs. Nichols -- excuse me. Go ahead.

5 A. That's okay.

6 Q. Want a drink?

7 A. Thank you.

8 Q. All right. I'm almost done. Thank you.

9 Mrs. Nichols, after meeting with Mr. Woods on May 24

10 or 25, 1995, you started doing something you had not done

11 before; correct?

12 A. That's correct. That's taking notes of all the questions

13 that the FBI asked me and the lawyers.

14 Q. Was that your idea?

15 A. It's my -- Ron's idea -- Mr. Ron Woods' idea.

16 Q. And what did you do with those notes, Mrs. Nichols?

17 A. I give it to Ron.

18 Q. Mrs. Nichols, you've seen, have you not, published reports

19 of your statements made about what happened to you in April,

20 May of 1995?

21 A. Published report?

22 Q. You made the newspapers?

23 A. That's not accurate. I read it.

24 Q. Was the portion in these newspaper reports where you say

25 that the FBI treated me well -- that was accurate, was it not?

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1 A. That's accurate. Easy for me to say.

2 MR. MACKEY: One moment, your Honor.

3 I have no other questions.

4 THE COURT: Mr. Woods, do you have any follow-up
5 questions?

6 MR. WOODS: No, your Honor, I don't. We would ask
7 that she be excused unless this team needs to question her.

8 MR. NIGH: No, your Honor.

9 THE COURT: You may step down. You're now excused.

10 THE WITNESS: Thank you, your Honor.

11 THE COURT: Next witness?

12 MR. WOODS: Yes, your Honor. We would call Donna
13 Bucella.

14 THE COURT: Okay. Please come forward and be sworn.

15 THE COURTROOM DEPUTY: Please raise your right hand.

16 (Donna Bucella was sworn.)

17 THE COURTROOM DEPUTY: Please state your name and
18 spell your last name for the record.

19 THE WITNESS: My name is Donna Bucella, B-U-C-E-L-L-A.

20 DIRECT EXAMINATION

21 BY MR. WOODS:

22 Q. Ms. Bucella, my name is Ron Woods. I represent Terry
23 Nichols. You and I met for the first time on May 24 last year;
24 is that correct?

25 A. I believe so.

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1 Q. And you were in the U.S. attorney's office at that time
2 when we met there to discuss the case that Mr. Tigar and I had
3 just been appointed on.

4 A. Yes, sir.

5 Q. What is your position with the Department of Justice?

6 A. I'm an Assistant United States Attorney from the Southern
7 District of Florida on loan to the Department of Justice, and
8 currently I am the principal deputy director of the Executive

9 Office for United States Attorneys. In short, basically, I'm
10 the No. 2 person in charge of overseeing the operations of all
11 the U.S. Attorneys' offices around the country.

12 Q. How long have you been employed at the Department of
13 Justice, counting Florida and everywhere?

14 A. Since 1987.

15 Q. Have you ever served as an acting U.S. Attorney?

16 A. Of course I did. I did in 19 -- 1995 from May through
17 October in the Middle District of Florida, which is the Tampa,
18 Orlando, Ft. Myers, Jacksonville area.

19 Q. So you were the U.S. Attorney for that period of time?

20 A. I was interim. I was filling in while they were on search
21 for a presidential appointee.

22 Q. Have you served in that role in any other offices?

23 A. No, sir.

24 Q. When were you dispatched by the Department of Justice to
25 come to Oklahoma City to take part in the investigation of the

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1 bombing?

2 A. I came to Oklahoma on the 20th of April, but I was not --
3 when I first came, the reason why I was coming to Oklahoma was
4 to find out if our U.S. Attorney's office was intact, if any of
5 our assistant United States attorneys and/or support staff --
6 if everyone was okay; if the building structure was fine. And
7 I was asked by the interim U.S. Attorney at that time to please
8 come and help. And so that's when I first went to Oklahoma
9 City.

10 Q. During that period from, say, April 20, for the next weeks,
11 did you ever have contact with the Deputy Attorney General,
12 Jamie Gorelick?

13 A. I'm not sure if I had specific contact with the Deputy
14 Attorney General, but I certainly will tell you I was in
15 contact with her principal associate, Merrick Garland --
16 Merrick had also come to Oklahoma City within a couple of days,
17 if not two days after I was in Oklahoma City.
18 Q. On April 21, Friday, were you in the command post that the
19 FBI had set up?
20 A. Yes.
21 Q. Were you the senior Department of Justice lawyer in the
22 room at that time?
23 A. There were a number of Department of Justice lawyers, so
24 I -- I was the -- I'm stuck on the word "senior."
25 Q. Let me clarify: The others were just line assistants,

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1 weren't they? You had a couple of people there, John Lancaster
2 from Terrorists, the Antiterrorism Division, and someone else
3 from Antiterrorism Division?
4 A. Well, Jim Reynolds who runs it.
5 Q. So vis-a-vis and Reynolds, who was the senior Department of
6 Justice lawyer calling the shots?
7 A. We were not calling the shots. The shots were being called
8 by Washington.
9 Q. Okay.
10 A. I mean we were talking, in constant contact with SIOC out
11 of FBI; and sitting in SIOC at FBI was Howard Shapiro, who is
12 the deputy -- excuse me -- the general counsel of the FBI. And
13 at times, I believe that the Merrick Garland was over there;
14 and basically Washington was making all final decisions.
15 Q. When word would come down from Washington through the
16 Oklahoma City command post, who was the senior person there
17 that the word was being relayed to? Somebody was in charge, I

18 hope, of the Oklahoma City command post?
19 A. The FBI is in charge of the Oklahoma command post. The
20 messages would come down to both Jim Reynolds and I. Jim
21 Reynolds would get on the telephone and call at that time the
22 AAG of Criminal, which is the Assistant Attorney General of
23 Criminal, Jo Ann Harris, and report to her because her next
24 chain of command is the Deputy Attorney General; and I would
25 call basically the SIOC.

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1 Q. What point in time on the 21st did you first hear the name
2 Terry Nichols --
3 A. At some point during the day --
4 Q. Let me back up one second. You mentioned that there was an
5 acting U.S. Attorney in Oklahoma City. The prior U.S. Attorney
6 had been appointed to the district bench; is that correct?
7 A. Yes, sir.
8 Q. And Mr. Ryan here had not taken office as of that day on
9 April 21; is that correct?
10 A. Correct, sir.
11 Q. So there is no U.S. Attorney there that's the senior law
12 enforcement officer of that district at the time?
13 A. That's incorrect. The interim U.S. Attorney --
14 Q. The interim U.S. Attorney was who?
15 A. Was Rozia McKinney-Foster.
16 Q. Was she there in the command post?
17 A. She was when I had first gotten there. I believe that
18 Rozia McKinney-Foster had gone to the command post on the 19th,
19 probably later in the afternoon, and made an appearance and
20 introduced herself to the FBI and I believe -- and again, this
21 is from my conversation with her -- when I arrived in Oklahoma

22 on the 20th and I first arrived at the office, she mentioned
23 that she had stayed pretty much at the command post all night
24 long.
25 Q. On April 21, was she in the command post and was she then

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1 the senior federal law enforcement officer?
2 A. She would come back and forth to the command post, but she
3 had gone back to her office. She would come, I believe, in the
4 morning for the briefings and perhaps later on in the afternoon
5 for the briefings and then go back to the U.S. Attorney's
6 office.

7 Q. Okay. So the minute-to-minute running of the command post,
8 if there is a Department of Justice lawyer, it's you and Jim
9 Reynolds?

10 A. Command posts are run by the FBI because it's an
11 operational activity, but I was in the command post; but I
12 cannot tell you I was in the command post 24 hours a day on the
13 20th or the 21st because I had gone back to the U.S. Attorney's
14 office with Mr. Woods, because we had had a couple of people in
15 the office who had lost family members and we were trying to
16 assist the operation of the U.S. Attorney's office. So I was
17 trying to arrange for support staff to come from other parts of
18 the country to help out the Western District of Oklahoma.

19 Q. I appreciate that. I'm just trying to get to the period of
20 time when the warrants were being drafted up and the FBI was
21 getting the clearance of the lawyers asking whether or not the
22 warrants were proper. Were you there in the afternoon when the
23 warrants were being drawn up?

24 A. There were a number of warrants. Are you talking about the
25 search warrants?

1 Q. Well, there were six warrants issued that day, as I
2 understand; so in a short period of time, from about 3:00 to
3 about 4:00 or 5:00?

4 A. I was in the command post that day. I'm not sure if I
5 was -- I was probably there because I remember the magistrate
6 being in the back part of the command post signing. I'm not
7 sure, you know, which warrants, but -- if there were six
8 warrants that were signed. I was not, by the way, the final
9 authority on those warrants.

10 Q. All right. When did you first hear that a material witness
11 warrant would be sought for Terry Nichols?

12 A. I can't give you a specific time since when I was at the
13 command post, the first few days were kind of -- sort of mesh
14 into one another, since I was there from early in the morning
15 till after -- after 12:00. It would probably -- I don't know.
16 I can't say with certainty. I'd be guessing.

17 Q. All right. Was it prior to 3:00 that afternoon?

18 A. I can't describe or differentiate between the time I heard
19 the name "Terry Nichols" and the time that I heard material
20 witness complaint and "McVeigh." I remember being in the
21 command post for the material witness complaint on McVeigh, but
22 I don't remember and perhaps I didn't -- perhaps I didn't do
23 the final look-see over the Terry Nichols'.

24 Q. I think that the Government just jumped over material
25 witness and went to defendant for Tim McVeigh.

1 MR. HARTZLER: Judge, could we have testimony from the
2 witness here?

3 MR. WOODS: I'll rephrase that question, your Honor.

4 BY MR. WOODS:

5 Q. Do you recall specifically that there was a material

6 witness warrant for Tim McVeigh?

7 A. Yes, I do.

8 Q. And when was that issued?

9 A. Sometime during the day.

10 Q. Can you give me an approximation of what time that was

11 issued?

12 A. Mr. McVeigh on the 21st was -- we -- I found out that he

13 had been arrested on a driving charge and was in a state or

14 local facility. And it would have to be sometime during the

15 day. It would have to be before, like, 5:00 because at 5:00 I

16 left the command center, or around -- later on that afternoon.

17 Q. Okay. Well, we'll leave that where it is, the material

18 witness warrant for McVeigh.

19 I want to concentrate on the material witness warrant

20 for Terry Nichols. The Government has represented to us and we

21 agree that it was signed sometime near 4:45.

22 MR. WOODS: Is that -- I lose time here. Is that

23 agreed by the Government?

24 MR. MACKEY: 4:25.

25 BY MR. WOODS:

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1 Q. 4:25 in the afternoon, a material witness warrant was

2 signed for Terry Nichols. Did you happen to look at that one?

3 A. I don't have an independent recollection of looking

4 specifically at that, at that material witness complaint. I

5 may have seen a draft of an affidavit, but I can't delineate

6 between an affidavit for a search warrant or a material witness

7 complaint.

8 Q. All right. You're in the command post where constant
9 communications are ongoing between Oklahoma City, Washington,
10 Kansas City, Junction City command post, and Herington.

11 A. There was -- the room that I was in, there were a bank of
12 telephones; and, you know, to pick up the telephone and call
13 Washington or while you're holding on with Washington, you pick
14 up another phone and dial. So there was constant communication
15 all around the country.

16 Q. All right. Through this communication, did you become
17 aware that Terry Nichols voluntarily appeared at the Herington
18 police station about 3 p.m. the afternoon of Friday, April 21?

19 A. I am -- I am aware that Terry Nichols was in a police
20 station, but I'm not aware -- at that time, I was not aware of
21 any of the circumstances around it, because I was focusing on
22 Mr. McVeigh.

23 Q. And you were focusing on Mr. McVeigh to get the material
24 witness warrant for him?

25 A. We were going to go to -- yes. Yes.

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1 Q. All right. Did you see the final warrant that was issued
2 for Terry Nichols that afternoon at 4:25 for him to be arrested
3 as a material witness?

4 A. I don't have any independent recollection of reading the
5 material witness warrant on Nichols or the final on Nichols.

6 Q. When you read Tim McVeigh's material witness warrant, did
7 it state that he was attempting to flee the jurisdiction of the
8 United States and needed to be arrested because a subpoena
9 would not suffice?

10 A. On Mr. McVeigh?

11 Q. Yes.

12 A. No. I don't believe he was fleeing the country.

13 Q. Exactly. On Mr. Nichols, did you happen to read
14 Mr. Nichols' material witness warrant that day or subsequent
15 thereto where it said Mr. Nichols was attempting to flee the
16 jurisdiction of the United States and a subpoena would not
17 suffice?

18 MR. HARTZLER: I object, your Honor. She said she
19 didn't see it. She doesn't recall seeing it.

20 THE COURT: She's now being asked if she saw it at a
21 later time.

22 MR. HARTZLER: Very well.

23 THE WITNESS: I didn't see the Nichols final material
24 witness complaint. I may have -- I may have read all of it,
25 because as paper was coming in, but I can't say I read it

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1 beforehand. Whether or not I read it subsequent, I probably --
2 I don't know. Do you have a copy of it?

3 BY MR. WOODS:

4 Q. There is one here, I'm sure, somewhere.

5 MR. HARTZLER: Government 22, if I may, in the white
6 book.

7 THE COURT: Government 22?

8 BY MR. WOODS:

9 Q. It's the white book in front of you. It's --

10 THE COURT: 22 has been suggested by Mr. Hartzler.

11 THE WITNESS: Thank you.

12 THE COURT: But it may be 26.

13 MR. HARTZLER: 26 is the faxed warrant. 22 is the
14 warrant with the affidavit.

15 THE COURT: Thank you. 22, yes.

16 THE WITNESS: Thank you.

17 BY MR. WOODS:

18 Q. If you would go to 26, Ms. Bucella. 26, which has been
19 admitted into evidence, the cover sheet is a fax cover sheet to
20 Bill Chornyak. Do you recall talking to Chornyak in Kansas
21 City, who was the supervisor in charge of the Kansas City
22 command post?

23 A. As I said, that day I was really focusing on Mr. McVeigh;
24 and I will tell you, I spoke with hundreds of agents during my
25 time in Oklahoma, and I don't remember that specific agent.

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1 Q. Do you remember Rick Baker there in the command post in
2 Oklahoma City?

3 MR. HARTZLER: If I may, it's Rich Baker, if that
4 helps.

5 THE WITNESS: Baker. I think I remember an Agent
6 Baker.

7 BY MR. WOODS:

8 Q. It looks like "R-I-C-A-R-D," but Rich is fine.

9 A. I'm not sure, but this looks -- this material witness
10 warrant, if I saw it, would have been afterwards.

11 Q. All right. You notice that in the front of it -- well, the
12 title of it is United States of America vs. Terry Lynn Nichols.

13 A. Yes.

14 Q. And it's a warrant for arrest, and there is handwritten in
15 something material witness?

16 A. Yes, I see that. Something.

17 Q. Do you have any recollection of being present when it was
18 presented to Judge Howland or Judge Russell, either one?

19 A. I can tell you I was in the command post and I remember the
20 magistrate and the district court judge being in the back part

21 of a room, and they were signing off on things. But I couldn't
22 tell you, you know, if it was a search warrant or material
23 witness.

24 Q. You notice that it says --

25 THE COURT: Well, if she had nothing to do with it,

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1 why are we doing this questioning? I thought she was going to
2 be called for a different reason.

3 MR. WOODS: She is, your Honor.

4 THE COURT: Well, let's get to it.

5 MR. WOODS: Yes, your Honor. May I make one further
6 question on that one area.

7 THE COURT: All right.

8 BY MR. WOODS:

9 Q. Did you play any role in deciding that the warrant needed
10 to be reissued for Terry Nichols on material witness; that the
11 first one was incorrect and the second one needed to be
12 reissued?

13 A. Well, now you're telling me it was incorrect, so I can say,
14 no, I didn't know it was reissued.

15 Q. Thank you. Now, Ms. Bucella, did you stay in Oklahoma City
16 and continue to work on the investigation?

17 A. Yes, I did. I -- go ahead. Ask the question. I'm sorry.

18 Q. Were you still in Oklahoma City on or about May 9?

19 A. Yes.

20 Q. Were you there when Ms. Marife Nichols was brought into a
21 meeting where you were present?

22 A. Yes.

23 Q. Do you recall which day that was?

24 A. If I had a calendar, she -- I believe she came in -- she
25 was supposed to come in the day before on the 8th and came --

1 and I don't know if she -- if she got off late; but when she
2 arrived, I did not see her until the morning of the 9th in the
3 U.S. Attorney's office, not at the command center, which was
4 several blocks away. And yes, I do remember because I was
5 expecting to see her.

6 Q. And did you take part in an interview with Mrs. Nichols?

7 A. Yes, I spoke with Mrs. Nichols.

8 Q. Approximately how long did that interview last?

9 A. I would say probably took a couple of hours, but it was not
10 a couple of hours where we just sat there. She had her little
11 daughter with her, who was almost two years old and was a
12 two-year-old child that just did not want to sit down; so we
13 took a lot of breaks and at times watched her child run around
14 the room.

15 Q. What was the purpose of her being there to be interviewed
16 by the lawyers?

17 A. There was a decision made to have her initially go before
18 the grand jury, and that was just sort of a meeting so that the
19 lawyers -- and I'll tell you it was Arlene Joplin, who was the
20 criminal chief from the Western District of Oklahoma; Jerome
21 Holmes, who was a fairly new lawyer in the Western District of
22 Oklahoma who had a couple of years of experience, I believe,
23 and myself. And then we had three agents present, two FBI
24 agents from -- not from Oklahoma. And I'm afraid to say if I
25 say that they're from Kansas and they're from some other place,

1 but I believe they were from Kansas.

2 Q. During the course of that meeting, did you advise
3 Ms. Nichols that she had a right to refuse to appear at grand
4 jury and testify against her husband?
5 A. What was the last part of your sentence?
6 Q. During that meeting, did you advise Mrs. Nichols that she
7 had a right to refuse to appear at grand jury and testify
8 against her husband?
9 A. Not -- perhaps if I can explain. No, I did not. The
10 answer to your question in short is no. But there was some
11 conversation with her.
12 Q. All right. Did you also -- do you recall advising her that
13 she had a marital privilege; that is, she could refuse to
14 discuss the confidential communications between her and her
15 husband?
16 A. No, I did not. But I did go through with her when she
17 first came in -- when she first came into the room, we
18 introduced ourselves to her. Arlene Joplin was the lead
19 attorney and --
20 Q. Well, you've answered my question. Perhaps they'll have
21 some questions for you when they get there.
22 MR. HARTZLER: Your Honor, I thought we were going
23 through this efficiently. Sure, we can ask the question; but
24 for efficiency purposes, why don't we let her complete the
25 answer.

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1 THE COURT: It's up to the questioning counsel.
2 BY MR. WOODS:
3 Q. During that meeting, did perhaps Ms. Nichols say she needed
4 a lawyer to make sure her rights were preserved?
5 A. Absolutely not. She never asked for a lawyer.
6 Q. When she left, she was given a subpoena to appear at the

7 grand jury on May 16. Did you have any role in seeing that
8 grand jury subpoena was issued for a subsequent appearance in
9 front of the grand jury?

10 A. I now -- I mean I knew afterwards that a subpoena was given
11 to her, but I don't remember giving her a subpoena. It was --
12 we had to have some discussion amongst the lawyers as to
13 whether or not we would want to talk to Mrs. Nichols again.

14 Q. All right. She returned, did she not, on May 17, pursuant
15 to that grand jury subpoena, to go to the grand jury?

16 A. She returned to Oklahoma, and we talked to her. I
17 subsequently found that we had given her a grand jury subpoena;
18 but the purpose for her at that point was to talk about her --
19 where she was going to go, how she was going to get to the
20 Philippines. We had to have some discussion with her since she
21 had requested to go back to the Philippines. She was never
22 called before the grand jury after that.

23 Q. I'm not sure I'm following you. The purpose of the grand
24 jury subpoena to appear on the 16th was to get her back to
25 discuss her going to the Philippines?

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1 A. No. Purpose for the grand jury subpoena was to have her go
2 before a grand jury. What we were doing at the time is since
3 Oklahoma only had two sitting grand juries, one of the grand
4 juries could not be seated on this case because they were in
5 the courthouse when the bomb went off, so we had to have the
6 other one.

7 What we were trying to do was to maximum our time with
8 the grand jury, so we set up a number of witnesses to go before
9 the grand jury. If we had given Mrs. Nichols a grand jury
10 subpoena, it was with the intent that she would go before the

11 grand jury on the day that the subpoena date requested that she
12 be there.

13 Q. Who made the decision not to put her in front of the grand
14 jury?

15 A. It was a decision that was ultimately made by Washington.

16 Q. Who in Washington?

17 A. Merrick Garland.

18 Q. Did Merrick Garland state -- what did he state as the
19 reason why she shouldn't go to grand jury?

20 MR. HARTZLER: I object, your Honor. They're asking
21 now about attorney-to-attorney conversation within the
22 Government.

23 THE COURT: Yes. I think that's within an executive
24 privilege.

25 MR. WOODS: Thank you, your Honor.

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1 I pass the witness, your Honor.

2 MR. NIGH: Your Honor, if I may, I have a few
3 questions that are, I believe, relevant to our motion to
4 suppress.

5 THE COURT: All right.

6 CROSS-EXAMINATION

7 BY MR. NIGH:

8 Q. Ms. Bucella, I'm Rob Nigh, one of the lawyers for Tim
9 McVeigh. You mentioned during Mr. Woods' questioning that a
10 material witness warrant was issued for Tim McVeigh?

11 A. I believe, or perhaps I misspoke. It might have been a
12 complaint. But it was a document filed for Mr. --
13 Mr. McVeigh's presence. It may have been a material -- I'm
14 getting confused.

15 Q. Do you remember more than one document for Mr. McVeigh?

16 A. There were search warrants, there were warrants for, I
17 guess, samples of his hair, his clothing.
18 Q. Did you see the warrants for Mr. McVeigh?
19 A. Some of them I saw. I certainly saw all of them at some
20 point during the time I was in Oklahoma City.
21 Q. Referring specifically to the 21st, do you recall seeing a
22 material witness warrant for Mr. McVeigh?
23 A. I believe I did.
24 Q. What time of day would that have been?
25 A. I have no idea. I'd be guessing.

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1 Q. Would that be the first warrant that you saw in reference
2 to Mr. McVeigh?
3 A. I believe so.
4 Q. And did it request his appearance before the grand jury,
5 or --
6 A. Most material witness complaints do say that they want
7 their appearance before the grand jury.
8 Q. Was Mr. McVeigh not a target at that point in time?
9 A. I'm having a difficulty in trying to nail down with
10 certainty the timing. Mr. McVeigh was already in custody of
11 the local law enforcement. I'm not sure as the evidence came
12 in, as it was coming in quite quickly, what specific evidence
13 at that moment we had on Mr. McVeigh. I know that the FBI was
14 gathering a lot of evidence, but I'm not quite sure if --
15 specifically at that time when it was being specifically
16 drafted, if he was a target. He certainly, I believe, was a
17 subject. We had some information.
18 Q. Were you able to see the magistrate that was signing the
19 warrants?

20 A. I physically saw the magistrate in the command post. I did
21 not and cannot recall if I specifically saw him sign this
22 specific material witness --
23 Q. Do you know that the affidavit in support of the material
24 witness warrant was presented to the magistrate?
25 A. I don't see how the judge would sign a material witness

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1 without an affidavit; but like I said, I did not sit there with
2 the judges and watch specifically what they were doing.
3 There were a number of assistant United States
4 attorneys as well as John Lancaster and Mr. Reynolds that were
5 also there presenting this, so I'm not quite sure. Henry, Hank
6 Gibbons, was the FBI agent who drafted the affidavit, so I'm
7 sure he was standing in the back swearing the affidavit.
8 Q. And Mr. Gibbons was present at the same time you were
9 there?
10 A. Yes.
11 Q. And you believe he was the affiant on a material witness
12 warrant for Mr. McVeigh?
13 A. Mr. Gibbons was the affiant on a lot of the warrants that
14 were filed. I'm not sure. If you can show me, then I can tell
15 you if he was.
16 Q. Well, I'd show you a material witness warrant for
17 Mr. McVeigh, if I had one. But you might look at the first tab
18 in the white book in front of you. Actually --
19 A. This says Terry Nichols' residence.
20 Q. Try the third black tab.
21 THE COURT: What are you asking?
22 MR. NIGH: I'm asking her to look at Government's
23 Exhibit McVeigh 3. I can find one, your Honor, that's already
24 in evidence, which would be the better way to go.

25 MR. HARTZLER: Government's Exhibit 23, your Honor.

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1 THE COURT: All right. 23, yes.

2 THE WITNESS: Thank you.

3 Okay. It was a criminal complaint, then, if that was
4 the first document that was filed. There were a number of
5 material witness complaints filed on this case.

6 BY MR. NIGH:

7 Q. Is it now your recollection that there was not a material
8 witness warrant for Mr. McVeigh?

9 A. It must have been the criminal complaint.

10 MR. NIGH: That's all I have, your Honor.

11 THE COURT: All right.

12 MR. NIGH: Could I have a moment?

13 THE COURT: Yes.

14 MR. NIGH: That's all I have, your Honor.

15 THE COURT: Mr. Hartzler.

16 CROSS-EXAMINATION

17 BY MR. HARTZLER:

18 Q. Ms. Bucella, you testified that all the important decisions
19 on April 21 at least were reviewed at high levels of the FBI
20 and the Department of Justice. Is that right?

21 A. Absolutely, yes.

22 Q. Can you explain to his Honor why that was?

23 A. First of all, this was obviously a very important case and
24 there were people that were -- there were a lot of lives that
25 were at stake, and this was not your run-of-the-mill case. It

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1 was probably one of the biggest cases that the United States
2 had had, and the Department of Justice wanted to make sure that
3 this case was -- was done correctly. And so there were many
4 levels of review every step of the way.

5 Q. And what would you say the standard of review by those
6 Government officials was?

7 A. Very high.

8 Q. You were asked a question about the advice that you gave to
9 Mrs. Nichols prior to her -- or I shouldn't say prior to her
10 appearance in the grand jury because I believe you said she
11 never did appear before the grand jury.

12 A. Never appeared before the grand jury.

13 Q. You were asked if you advised her about a privilege she had
14 not to testify against her husband before the grand jury. You
15 said you did not. Correct?

16 A. Correct.

17 Q. Do you believe you were required by any law, policy, or,
18 regulation of the Department of Justice to so require that?

19 A. Absolutely -- absolutely not. However, before talking to
20 Mrs. Nichols, Ms. Joplin and myself -- Ms. Joplin leading --
21 had sort of set the stage to Mrs. Nichols, describing who we
22 were, what we were going to be asking her, and if she had any
23 questions whatsoever or didn't want to answer anything, she
24 didn't have to, asked her -- I specifically remember asking her
25 whether she -- anybody threatened her or she was there

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1 involuntarily and said if she needed to stop or ask any
2 questions or take a break that she could do so.

3 Q. Prior to her appearance in Oklahoma City and her meeting
4 with you, did you actually research the question of marital
5 privilege?

6 A. Yes, I did.

7 Q. And did you come across the case of Trammell vs. United
8 States?

9 A. Yes, I did.

10 Q. And as a result of your research, what conclusion did you
11 reach?

12 A. My conclusion was since she was there voluntarily and she
13 was -- we were in a conversation mode, she was not testifying,
14 that I could ask her or any of us could ask her any questions.

15 If she chose to answer us, she could. If she refused, then we
16 probably would have stopped there. But it was no privilege.

17 Q. Ms. Bucella, during your meeting with Mrs. Nichols, did
18 anyone say to her words to the effect, as long as you're
19 telling the truth, you don't need an attorney?

20 A. Absolutely not.

21 Q. Incidentally, did you believe that she was telling the
22 complete truth?

23 A. I didn't think she was being quite forthright, but I needed
24 to find out a little bit more. She was very, very articulate
25 and knew dates, times of where she was and who was with them,

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1 but then every now and then, her answers just didn't -- either
2 didn't make sense because maybe that's really what happened or
3 I just -- I didn't think she was telling us everything. And so
4 it was -- I wanted to take a look at and I spoke with
5 Mr. Garland about her testimony.

6 Q. Did you assist her in getting in touch with her husband's
7 attorneys?

8 A. Oh, absolutely -- I will tell you what happened. There
9 were two times I spoke with Mrs. Nichols. The first time we

10 spoke with her after that meeting, I had called the SAC in
11 Kansas City and asked if they could just take her home to her
12 house; and he told me that no, they couldn't because they were
13 concerned about threats and concerned about safety.

14 The second time that we met her, before she was -- she
15 wanted to go back to the Philippines but before she was going
16 to go anywhere made sure -- and I believe I spoke with Pat Ryan
17 at the time because by that point, he was the U.S. Attorney and
18 spoke with Mr. Garland and I believe Mr. Garland and I talked
19 to Pat and Mr. Garland had me direct Pat to make sure that he
20 contacted Mr. Nichols' lawyers about -- about Mrs. Nichols'
21 presence and the fact that she may go back to the Philippines,
22 to give them an opportunity or Mr. Tigar an opportunity to
23 speak with her.

24 Q. Did they have that opportunity?

25 A. I believe they did.

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1 Q. Was there anything about anything that Mrs. Nichols said or
2 did that conveyed to you that she was in custody?

3 A. Absolutely not. Both times that I spoke with her, she
4 seemed -- it was an awkward situation. I'm not going to say
5 that -- that she was -- it took hello to break the ice, but she
6 seemed pretty much free to go in and out of the room and talk
7 to the agents and never once said, you know, that she was in
8 any kind of custody. The only time she mentioned help to go
9 anywhere was to go to the Philippines, and there were some
10 questions about her getting to the Philippines and authority to
11 allow her to go to the Philippines.

12 MR. HARTZLER: One moment?

13 THE COURT: Yes.

14 MR. HARTZLER: Nothing further.

15 MR. WOODS: Just a few follow up, your Honor.

16 THE COURT: Yes.

17 REDIRECT EXAMINATION

18 BY MR. WOODS:

19 Q. Ms. Bucella, who brought her to that meeting?

20 A. The FBI.

21 Q. How long had she been in custody of the FBI?

22 A. I was not aware. I knew she was at least with the FBI and

23 I won't use the word "custody," because they were transporting

24 her. She was at least with them from the time, day before I

25 first met her until -- well, I'm not sure until how long

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1 because I had left Oklahoma City and so I'm not sure. Part of

2 the problem was that Mrs. Nichols did not have any

3 transportation by herself. She had no money to get to the

4 Philippines and we wanted to make sure that Mr. Tigar and

5 yourself got to talk to her, so that it would not give any kind

6 of appearance or argument that we were trying to make her

7 unavailable. And also, the question as to whether or not --

8 who would pay for her to go back to the Philippine government.

9 Q. On April 21, she was placed in, quote, protective custody,

10 the way the Government refers to it in the briefs by the FBI,

11 was she not?

12 A. I don't have --

13 MR. HARTZLER: Object, your Honor.

14 THE COURT: Just a moment before you respond.

15 I don't recall what's in the brief, but she didn't

16 write the brief.

17 MR. WOODS: I understand, but she states that she does

18 not want to use the term "custody."

19 THE COURT: Yes.
20 MR. WOODS: And I would represent to the witness that
21 the Government uses the term "protective custody."
22 MR. HARTZLER: Could we have a cite for that?
23 THE COURT: Do you have that?
24 MR. WOODS: I'll find it over the break, your Honor.
25 THE COURT: Well, we're not taking a break.

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1 MR. WOODS: I withdraw -- I withdraw the statement,
2 then, your Honor.
3 THE COURT: All right.
4 BY MR. WOODS:
5 Q. Ms. Bucella, in an investigation like this, how quick are
6 the leads run?
7 MR. HARTZLER: I object, your Honor. That's beyond
8 the scope of cross-examination.
9 MR. WOODS: No, your Honor, it's not --
10 THE COURT: The objection is overruled.
11 THE WITNESS: In this investigation, I have never seen
12 so many leads.
13 BY MR. WOODS:
14 Q. Were the tests on material items, the chemical tests, the
15 lab tests run immediately?
16 A. I can't even -- I can't even speak to that. I wasn't --
17 that wasn't an area that I was focusing on or responsible for.
18 Q. How long does it take to do a fingerprint test of money?
19 MR. HARTZLER: Your Honor, I --
20 THE COURT: I'll sustain the objection now.
21 BY MR. WOODS:
22 Q. Did you have any role in maintaining Ms. Nichols' presence
23 here from April 21 up until May 24, when we met with her?

24 A. I don't understand -- I don't understand the question.

25 Q. Did you have any role in the Department of Justice decision

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1 to keep Ms. Nichols in custody, protective custody -- whatever
2 term one wants to use -- from April 21, when she was not
3 allowed to return to her home, not given her money, until
4 May 24, when we were first able to meet with her?

5 MR. HARTZLER: I object, your Honor. It assumes facts
6 that have not been proven.

7 THE COURT: Well, I think properly phrased, the
8 question might be whether this witness had any official role in
9 whatever arrangements of made for housing and support of
10 Ms. Nichols during that time.

11 THE WITNESS: No, I didn't. That was the FBI.

12 MR. HARTZLER: Thank you.

13 BY MR. WOODS:

14 Q. And Ms. Bucella, you stated under Mr. Hartzler's questions
15 that you and Merrick Garland and others discussed the fact that
16 you wanted to make sure that she was made available to
17 Mr. Nichols' new lawyers before she left the country. Is that
18 correct?

19 A. Yes, because there was some discussion at that point, since
20 she couldn't go back to Herington and she had asked to go to
21 the Philippines -- and I believe the Filipino government was in
22 touch with her, and I had spoken to our international people in
23 Washington about how does one make those kind of arrangements;
24 but before she left, because she was going to the Philippines,
25 it would be a better idea to have her attorneys -- have

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1 Mr. Nichols' attorneys talk to her.

2 Q. Did you have any role in making a decision to return her
3 money to her on the 24th after we had a chance to meet with
4 her?

5 A. I had a role and that was first -- I didn't have the
6 deciding role. I was repeating some areas of questioning that
7 concerned me. One was how she was going to get back to the
8 Philippines; (2) was there was money seized from the house and
9 whether or not that money had any evidentiary value and who had
10 that money. Those were the only questions I had asked the FBI
11 to find out.

12 As to what ultimately happened, to this day, I don't
13 know.

14 Q. Do you know that it was returned on her on May 24, after we
15 were able to contact her?

16 A. (Shakes head.)

17 MR. WOODS: Thank you.

18 No further questions, Ms. Bucella. Thank you for
19 coming in.

20 MR. HARTZLER: Nothing further.

21 THE WITNESS: Thank you.

22 THE COURT: You're excusing this witness?

23 MR. WOODS: Yes, your Honor.

24 THE COURT: You may step down. You're excused.

25 MR. WOODS: Your Honor, she has clarified the

1 questions I had for Mr. Holmes, and so Mr. Holmes is excused,
2 too.

3 THE COURT: All right.

4 MR. WOODS: Thank you.

5 THE COURT: If you can give that information to him.

6 Where are we on your --

7 MR. WOODS: We have other witnesses. The next witness

8 would probably -- well, I can take care of Mr. White, your

9 Honor. He's from out of town. I'd like to go ahead and put

10 him on. The United States Army agent. It's all at the

11 pleasure of the court. It's going to be relatively short --

12 THE COURT: All right. Let's take him.

13 MR. WOODS: Tom White.

14 THE COURT: Mr. Kelley?

15 MR. KELLEY: Your Honor, on behalf of the media

16 representatives, I request about one minute to be heard on

17 something before we adjourn today.

18 THE COURT: All right.

19 MR. KELLEY: Thank you.

20 THE COURT: We'll take the witness first.

21 MR. KELLEY: I understand.

22 THE COURT: Mr. White, if you'll come forward to be

23 sworn.

24 THE COURTROOM DEPUTY: Please raise your right hand.

25 (William T. White was sworn.)

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1 THE COURTROOM DEPUTY: Please have a seat.

2 Please state your full name and spell your last name

3 for the record.

4 THE WITNESS: William Thomas White, W-H-I-T-E.

5 DIRECT EXAMINATION

6 BY MR. WOODS:

7 Q. Mr. White, my name is Ron Woods. I'm an attorney

8 representing Terry Nichols. What is your occupation, sir?

9 A. I'm a United States Army CID agent.

10 Q. What does CID stand for?

11 A. Criminal Investigation Command.

12 Q. How long have you been employed in that capacity?

13 A. About ten and a half years.

14 Q. How were you employed prior to that?

15 A. I've been in the Army since 1978.

16 Q. What qualifications do you have that qualifies you to be a

17 CID agent? Let's start with education, first.

18 A. I have a bachelor's degree from the University of Maryland,

19 an associate's degree from the University of Maryland. I have

20 attended the Department of Defense Polygraph Institute.

21 Q. I'm sorry. I can't hear you.

22 A. I've attended -- I've attended the DODPI at Fort McClellan,

23 Alabama, various military schools.

24 Q. What is the duties and functions of a CID agent?

25 A. We investigate matters in which the Army may have an

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1 interest. Criminal matters.

2 Q. It's that broad and wide open?

3 A. Yes, sir, it is.

4 Q. Isn't there some limit on what you can investigate other

5 than what you may have an interest in? Are there statutes that

6 you investigate, violations of any particular statutes?

7 A. Sir, AR 195 -- 195-2 says that we are authorized to

8 investigate matters in which the Army has an interest. There

9 are specific crimes which we do investigate and then there are

10 other ones which we may investigate if we choose to.

11 Q. So it's just the agent's choice?

12 A. No, sir. It's made by management.

13 Q. And management chose to investigate the Oklahoma City

14 bombing case?

15 A. No, sir. The regulation specifically says that we will
16 investigate acts in which there are military noncombat deaths,
17 Army personnel and loss of Army equipment, property.

18 Q. So your justification is that because there was an office
19 in that building where the Department of Army had an office,
20 that you had the ability to conduct the investigation of this
21 Oklahoma City bombing case?

22 A. We had the authority to conduct that investigation.

23 Q. As described by who?

24 A. Described by Army Regulation 195-2.

25 Q. And who in management told you to go to Herington, Kansas,

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1 and take part in interviews of non-Army personnel but citizens
2 involved in this investigation?

3 A. I don't really know exactly. I mean, I was not actually
4 told, sir.

5 Q. How did you end up in Herington, Kansas, conducting an
6 interview of Marife Nichols?

7 A. Okay, sir. On the 20th of April, we were doing
8 canvasses --

9 Q. I'm sorry?

10 A. We were doing canvasses, assisting the FBI doing canvasses,
11 in Junction City, Kansas. Okay. We were teamed up with FBI
12 personnel because the Army did have an interest because we had
13 a loss of life and because we had a loss of property; and at
14 the request of the FBI. And AR195-2 allows us to do that
15 because --

16 THE COURT: I think the question is simply who sent
17 you to Herington.

18 MR. WOODS: Right. Thank you, your Honor.

19 BY MR. WOODS:

20 Q. Who sent you to Herington, sir?

21 A. We were sent as parts of a team.

22 Q. What Army personnel sent you? What area officer or someone

23 in the United States Army sent you to Herington, Kansas, to

24 take part in interview?

25 A. I was assigned -- okay -- to work with Special Agent

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1 Thomeczek from the FBI. Okay. So I went basically where he

2 went.

3 Q. So you were just present because he was conducting the

4 interview?

5 A. I was representing the Army's interests during that

6 interview.

7 Q. And you took part in conducting the interview, did you not?

8 A. Yes, sir.

9 Q. Did you write a report of that?

10 A. No, sir.

11 Q. You're just conducting investigations and don't write

12 reports?

13 MR. MENDELOFF: Objection, your Honor. Argumentative.

14 THE COURT: Sustained.

15 BY MR. WOODS:

16 Q. Did you write any memorandum up of that interview of six

17 hours with Marife Nichols?

18 MR. MENDELOFF: Objection. Asked and answered.

19 THE COURT: Well, overruled. The word was "report"

20 before. This is "memorandum."

21 BY MR. WOODS:

22 Q. Shall I repeat the question?

23 A. Yes, if you could.

24 Q. Did you make any memorandum of your interview of Marife

25 Nichols during that six-hour period on April 21, 1995?

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1 A. No.

2 Q. Did you ever advise her that she had the right, a marital
3 privilege, not to repeat the confidential communications that
4 transpired between her and her husband?

5 A. No.

6 Q. Did she ever ask for an attorney while she was talking with
7 you?

8 A. No, sir.

9 Q. Did you discuss with her the fact that you were familiar
10 with the Asian culture?

11 A. Yes, sir.

12 MR. MENDELOFF: Excuse me, Mr. Woods. Pardon me.

13 Your Honor, I'm having trouble hearing the witness.

14 THE COURT: Please speak up and into the microphone.

15 BY MR. WOODS:

16 Q. What did you discuss with her about the Asian culture?

17 A. I don't really recall, sir.

18 Q. Was that done in an attempt to get her to talk more
19 completely?

20 A. No.

21 Q. Were you selected to take part in that interview because
22 your wife is from Korea?

23 A. No. I don't believe that any of the agents knew that my
24 wife was Korean.

25 Q. It's just happenstance that you were following along with

1 Mr. Thomeczek?

2 A. No, sir.

3 Q. You have no report of it?

4 THE WITNESS: No.

5 MR. MENDELOFF: Objection. Asked and answered.

6 THE COURT: Let's just get on with whatever he knows

7 so we can get out of here.

8 MR. WOODS: Yes, your Honor.

9 BY MR. WOODS:

10 Q. What time did the interview end and Ms. Nichols leave?

11 MR. MENDELOFF: Objection.

12 THE WITNESS: There are two different times.

13 MR. MENDELOFF: Objection. Compound question, your

14 Honor.

15 THE COURT: Sustained.

16 BY MR. WOODS:

17 Q. What time did Ms. Nichols leave the Herington Department of

18 Public Safety?

19 A. About 9:00.

20 Q. And where did she go?

21 A. She went to Junction City, Kansas.

22 Q. Did you go with her?

23 A. I was in another car that was with her, yes.

24 Q. And you went -- were you part of the team or the agents

25 that took her out of Herington, Kansas?

1 A. Yes, sir.

2 Q. And again, where did you go?

3 A. To Junction City.

4 Q. And where was she placed in Junction City, if she was?

5 A. She only stayed in junction City for a short while and then
6 she went to Abilene.

7 Q. Did you go to Abilene with her?

8 A. Yes, sir.

9 Q. How many days did you spend with Mrs. Nichols?

10 A. Just that one day.

11 MR. WOODS: All Right.

12 Thank you, your Honor. Pass the witness.

13 MR. MENDELOFF: Thank you, your Honor.

14 THE COURT: Do you have any questions, Mr. Mendeloff?

15 MR. MENDELOFF: Yes, I do, your Honor. Thank you.

16 CROSS-EXAMINATION

17 BY MR. MENDELOFF:

18 Q. Mr. White, you -- Mr. White, you indicated that there was a
19 regulation that you cited that was one of the bases for your
20 participation in connection with this case; is that correct?

21 A. Yes.

22 Q. Is there another regulation, as well?

23 A. Yes. CID regulation 195-1.

24 Q. Mr. White, please lean toward --

25 A. CID regulation 195-1.

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1 Q. Is there another regulation, as well? CID. I'm sorry.

2 A. Right.

3 Q. What does that regulation state?

4 A. It basically reiterates the same thing that's in Army
5 regulation 195-2.

6 Q. And your participation in the interview of Marife Nichols
7 arose out of your assistance to Special Agent Thomeczek as a

8 completely separate matter earlier in the day; right?

9 A. Correct.

10 Q. When you arrived in the interview room, how did the

11 interview begin with Mrs. Nichols?

12 A. Special Agent Thomeczek identified both of us and we both

13 showed our credentials.

14 Q. Then what happened? What did he tell her?

15 A. Special Agent Thomeczek told her that we wanted to talk to

16 her about her husband's possible involvement in the Oklahoma

17 City bombing; that she didn't have to answer our questions;

18 that she had a right to have an attorney present if she wanted

19 to; that she was free to go at any time.

20 Q. Did you and Agent Thomeczek take any steps to insure that

21 Mrs. Nichols understood your conversation?

22 A. Yes. We also asked her some questions, biographical and

23 background, where she was from. She told us that she was from

24 the Philippines, told us about her daughter's name, how old she

25 was. At one point, she told us that her brother or other

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1 family member had been a police officer in the Philippines.

2 Q. Now, during the course of the interview, did Mrs. Nichols

3 make any remarks concerning things that Mr. Nichols had told

4 her, without getting into what they were -- things that

5 Mr. Nichols had told her on the way to the police station?

6 A. Yes, sir.

7 Q. And with respect to that, did she relate anything having to

8 do with a drive to Oklahoma City, without getting into what it

9 was?

10 A. Yes.

11 Q. During what portion of the interview did this take place?

12 A. During the first hour.

13 Q. And throughout the interview, did Agent Thomeczek leave the
14 room on occasion?
15 A. Yes.
16 Q. Now, by the way, during the course of the interview, were
17 you wearing a weapon?
18 A. Yes, I was.
19 Q. Was it visible?
20 A. No.
21 Q. Was Agent Thomeczek wearing a weapon, if you know?
22 A. I believe he was.
23 Q. Was that -- was it visible?
24 A. No.
25 Q. Was the interview conducted in conversational tones?

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1 A. Yes, sir, it was.
2 Q. Did there come a time when you and Agent Thomeczek -- or
3 excuse me. Did there come a time when you and Agent Thomeczek
4 were joined by another agent in the interview?
5 A. Yes. Special Agent --
6 Q. Please lean forward.
7 A. Special Agent Sheila Dobson.
8 Q. Approximately what time did that occur?
9 A. That happened about 5:45.
10 Q. And after Agent Dobson joined the interview, did you have
11 occasion to have a discussion with Ms. Nichols regarding
12 consent to search forms?
13 A. Yes.
14 Q. And when did that occur, roughly?
15 A. About 6:00.
16 Q. All right. And can you tell the court exactly how this

17 occurred?

18 A. Special Agent Thomeczek informed her that they wanted to
19 search her house and her truck. He told her that under the
20 Fourth Amendment to the United States Constitution, her rights
21 against unlawful seizures were protected and that because of
22 this, there was only two ways that they could conduct a search
23 of the house and the truck. One would be through her consent
24 and the other would be through a search warrant. He told her
25 that we were asking for her consent.

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1 Q. All right. Did Ms. Nichols ask anything?

2 A. Yes. She asked several things.

3 Q. What did she ask?

4 A. One of the things she asked was what would happen if she
5 did not consent.

6 Q. And what did Agent Thomeczek respond?

7 A. Agent Thomeczek told her that if she did not consent that
8 they would have to try to get a search warrant. In order to do
9 that, they would have to appear before a judge, explain why
10 they wanted to get a search warrant and that they may not get
11 the search warrant.

12 Q. All right. And did she voice any other questions or
13 concerns?

14 A. Yes, she did.

15 Q. What was that?

16 A. She voiced a concern about the truck, because she said,
17 first of all, that she didn't have a driver's license; that she
18 didn't drive the truck and that she believed the truck belonged
19 to her husband, Terry Nichols, and she did not know if she had
20 the authority or the power to give consent to search that
21 truck.

22 Q. What did Agent Thomeczek say?

23 A. Agent Thomeczek asked her a couple more questions, one that
24 had to deal with did she have any property in the truck, did
25 she have access to the truck; and she said yes; in fact, there

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1 was a diaper bag that she used for Nicole that was in the truck
2 at the time.

3 Agent Thomeczek explained to her that since he was
4 Terry Nichols -- she was Terry Nichols' wife that she had
5 access to the truck that she maintained property in the truck
6 that she could give consent.

7 Q. What did she respond?

8 A. She asked about -- she asked if we were going to ask her
9 husband about consent.

10 Q. And what did Agent Thomeczek say in response to that?

11 A. Special Agent Thomeczek said that in all probability, the
12 agents that were with him would ask but that if she gave
13 consent they wouldn't require his, they would not need his to
14 do the search.

15 Q. And what did she say?

16 A. She said that she understood all that and they went through
17 the consent form.

18 Q. Did she agree to consent orally?

19 A. Yes.

20 Q. And how did Agent Thomeczek go through the consent forms
21 with her?

22 A. When he went through the concept form with her, he turned
23 the form so that she could see it, so that she could read it.

24 He went through the form with her pretty much line by line.

25 Q. All right. And when he was finished, did he ask her any

- 1 questions?
- 2 A. Yes. He asked her if she understood the consent form.
- 3 Q. All right.
- 4 A. She indicated that she did.
- 5 Q. And what happened?
- 6 A. Then he also asked her if she had any questions.
- 7 Q. Okay.
- 8 A. She told him that she did not. Then she asked him where
- 9 did he want her to sign.
- 10 Q. What did he tell her? I'm sorry.
- 11 A. He pointed on the form and she signed.
- 12 Q. And did the same thing occur with respect to the truck
- 13 consent form?
- 14 A. Yes.
- 15 Q. After this consent occurred, did anyone leave the room?
- 16 A. Yes. Sheila Dobson left the room.
- 17 Q. All right.
- 18 A. And so did Special Agent Thomeczek.
- 19 Q. Where did Sheila Dobson go?
- 20 A. Sheila Dobson went to go buy diapers for Nicole.
- 21 Q. Now, later in the evening, was there a conversation with
- 22 Ms. Nichols concerning her housing for that evening?
- 23 A. Yes.
- 24 Q. And when, roughly, did that occur?
- 25 A. About 7:15 or 7:30.

- 1 Q. Can you tell the Court who was present for this
- 2 conversation?

3 A. Myself, Special Agent Thomeczek, Mrs. Nichols.

4 Q. Nicole?

5 A. And Nicole.

6 Q. And where did this occur?

7 A. It occurred in the same room at ther -- that the interview

8 had occurred in -- the same room where the interview had

9 occurred in.

10 Q. And can you tell the Court what happened in this

11 conversation?

12 A. During that conversation, Special Agent Thomeczek informed

13 her that she would not be able to return to her home tonight

14 because they wanted to do the search. Not only that, but there

15 was a concern that there might be explosives or something like

16 that in the house. He asked her if she had anyplace that she

17 could stay, anybody that she knew that she could stay with; and

18 she told him that she didn't know anybody in the area and that

19 she didn't have anyplace to stay.

20 Special Agent Thomeczek then told her that they would

21 arrange accommodations for her and for Nicole for the night and

22 that they would pay for that and if there was any expense for

23 food, they would also take care of that.

24 Q. What did he say? What happened when the search was

25 completed?

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1 A. He said after the search was completed, she would be able

2 to return to her home.

3 Q. What did she say? Did she ask any other questions? Excuse

4 me?

5 A. She had concern about clothes for herself and Nicole

6 because she just had the clothes they were wearing. Special

7 Agent Thomeczek said they wouldn't be able to get into the
8 house to get clothes that night; that possibly the next day
9 when the search was completed, they would be able to get
10 clothes, and if there was anything they needed that night, they
11 would go ahead and buy that for them.

12 Q. Did Ms. Nichols voice any complaint or opposition to this
13 arrangements?

14 A. No. In fact, Special Agent Thomeczek asked her if there
15 was anything she needed that night, anything that they actually
16 had to have and she told him she needed the diaper bag.
17 Special Agent Thomeczek said that he would try to get that for
18 her.

19 Q. All right. Now, that evening, I believe you testified on
20 direct examination that you went with other agents and
21 Ms. Nichols to Junction City and then to Abilene.

22 A. Yes.

23 Q. And Ms. Nichols was put up in a hotel that evening?

24 A. Yes, sir.

25 Q. What agents, if any, stayed at the hotel?

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1 A. Special Agent Dobson, Special Agent Dawn Grey from CID, and
2 I believe that was it.

3 Q. All right. And were any agents in Ms. Nichols' room?

4 A. No.

5 Q. Were there any agents standing post outside Ms. Nichols'
6 door?

7 A. No.

8 Q. What was the purpose of the agents' presentation at the
9 motel?

10 A. The protection of Mrs. Nichols.

11 Q. Now, throughout your exposure to Mrs. Nichols, did you ever

12 observe any evidence that she had any difficulty understanding
13 what people were saying to her?

14 A. No.

15 Q. And specifically at the time Ms. Nichols discussed and
16 signed the consents to search for the home and pickup, did she
17 provide any indications that she did clearly understand the
18 consents?

19 A. Yes, she did. The questions that she asked during the time
20 period told me that she understood every word.

21 Q. All right.

22 MR. MENDELOFF: Thank you. Nothing further, your
23 Honor.

24 THE COURT: Any follow-up questions?

25 MR. WOODS: No, your Honor.

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1 THE COURT: You may --

2 MR. WOODS: Could we ask he be excused?

3 THE COURT: You may step down. You're excused.

4 Well, we're going to recess for the day.

5 Mr. Hartzler, can you advise us: Is there any
6 information that there was at any time a material witness
7 warrant issued for Timothy James McVeigh?

8 MR. HARTZLER: There is no information.

9 THE COURT: I think that was just a plain mistake.

10 Or that one was ever prepared?

11 MR. HARTZLER: Correct. No. I believe there is no
12 indication that that ever happened.

13 THE COURT: All right. I assumed that it was an error
14 and thank you for clearing it up.

15 Mr. Kelley?

16 MR. KELLEY: Your Honor, a request and briefly some
17 authority in support of it. On Monday, we filed ancillary
18 Civil Action 96-X-121 in which we brief our -- what we believe
19 is our right to copies of electronic media exhibits offered
20 into evidence. I missed the session early afternoon. I
21 understand a tape was played in open court. I also understand
22 it's not admitted into evidence.

23 THE COURT: That's right. It's not in evidence.

24 MR. KELLEY: I'd cite the Court two cases, one that's
25 in our --

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1 THE COURT: Well, are you making a request for the
2 tape?

3 MR. KELLEY: Yes, sir. We ask that a copy --

4 THE COURT: Is there a copy of it?

5 MR. KELLEY: We ask that a copy be made at our
6 expense --

7 MR. WOODS: Your Honor, we have an extra copy;
8 however, it would be somewhat inconsistent with our position
9 that we've taken earlier on audiotapes, but it's at the Court's
10 discretion, your Honor.

11 THE COURT: If it was played in open court, then just
12 like testimony in open court, they're entitled to it. Did you
13 play the tape in its entirety?

14 MR. WOODS: I did, your Honor.

15 THE COURT: Turn it over to him if this is a copy that
16 you can release.

17 MR. WOODS: It is. It's been provided to me by the
18 Government.

19 MR. KELLEY: Thank you, your Honor.

20 MR. MENDELOFF: Your Honor, one other matter,

21 housekeeping, I don't know if you want to handle this. We had
22 Exhibit 35, which is the transcript. We've now designated our
23 portions.

24 THE COURT: As Exhibit 72, I thought it was.

25 MR. MENDELOFF: No, that's a separate item, your

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1 Honor, and I also have that here. 72 was --

2 THE COURT: We'll deal with it tomorrow.

3 MR. MENDELOFF: Thank you.

4 THE COURT: Mr. Tigar?

5 MR. TIGAR: Your Honor, we have not been served with
6 any ancillary civil action; and this is the third action in a
7 row filed by Mr. Kelley with which we have not been favored.
8 If we're required to respond to it, I'd like to be served with
9 these things.

10 THE COURT: I haven't issued any order requiring
11 response, but I thought there was a certificate of service
12 attached to the filing.

13 MR. KELLEY: Your Honor, it was mailed; and my office
14 called Mr. Tigar's office to ask if they wanted it faxed.

15 THE COURT: Do you have his correct address?

16 MR. KELLEY: It's, I believe, 1120 Lincoln. That's
17 from memory.

18 THE COURT: All right.

19 MR. TIGAR: The Supreme Court has judicially noticed
20 the vagaries of the Postal Service, your Honor. We'll be
21 patient.

22 THE COURT: Where are we on the case, here -- on the
23 motion, rather?

24 MR. TIGAR: Your Honor, we have four witnesses whose

25 testimony will be very brief. It may be five witnesses. As

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1 your Honor can see, we cut more than a dozen last night in an
2 effort to shorten things; and thus, we almost made my assurance
3 of yesterday.

4 THE COURT: And the Government has several witnesses.

5 MR. HARTZLER: Two, I believe, your Honor.

6 THE COURT: All right. We'll -- we'll start up at 9
7 in the morning. I've been advised the courthouse will be open
8 at 8, so that you can enter at that time or any time before 9.

9 We'll be in recess. 9:00 tomorrow morning.

10 (Recess at 5:25 p.m.)

11 * * * * *

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1 PLAINTIFF'S EXHIBITS

2 Exhibit	Offered	Received	Refused	Reserved	Withdrawn
3 65	837	837			
4 66	837	837			
5 67	837	837			
6 70	796	796			

7 DEFENDANTS' EXHIBITS

8 Exhibit	Offered	Received	Refused	Reserved	Withdrawn
9 G1	743	743			
10 H1	750	750			
11 H2	751	751			
12 I-1	753	753			
13 J-1	755	755			
14 K1		760			
15 K1	759	759			
16 W11	778	778			
17 W5	747	748			
18 W6A	766	766			
19 W6B	766	766			
20 W9	789	789			

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1 REPORTERS' CERTIFICATE

2 We certify that the foregoing is a correct transcript
3 from the record of proceedings in the above-entitled matter.

4 Dated at Denver, Colorado, this 28th day of June,
5 1996.

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Paul Zuckerman

Bonnie Carpenter