

1 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
2 Case No. 96-CR-68-M

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4 DEPOSITION OF STEVEN G. BURMEISTER
5 June 26, 1996

6 -----
7 UNITED STATES OF AMERICA,
8 Plaintiff,

9 v.

10 TIMOTHY JAMES McVEIGH and TERRY LYNN NICHOLS,
11 Defendants.

12 -----

A P P E A R A N C E S

13 For the Plaintiff: BETH A. WILKINSON
Special Attorney to
14 the U.S. Attorney General
U.S. Department of Justice
15 1961 Stout Street
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17 For the Defendant MICHAEL E. TIGAR
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Adam Thurschwell

24

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A P P E A R A N C E S (Continued)

2

Also Present:

Danny A. Detenbaugh

Inspector in Charge

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Federal Bureau of Investigation

Ilene Alcorn

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U.S. Attorney's Office

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1 Deposition of STEVEN G. BURMEISTER, a
2 Witness herein, called by the Defendant Nichols in
3 the above-entitled matter on Wednesday, the 26th day
4 of 1996, commencing at the hour of 8:54 a.m., at the
5 U.S. Courthouse, 1959 Stout Street, 2nd Floor, Denver,
6 Colorado, before Lori K. Stenstrom, Certified
7 Shorthand Reporter and Notary Public within and for
8 the State of Colorado, said deposition being taken
9 pursuant to Notice and the Federal Rules of Criminal
10 Procedure.

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10 B-u-r-m-e-i-s-t-e-r.

11 Q You're a special agent of the FBI?

12 A Yes.

13 Q How long have you been a special agent?

14 A Since March of 1987.

15 Q What is your education?

16 A I hold a bachelor's degree in chemistry
17 from Susquehanna, and a master's degree in forensic
18 chemistry from the University of Pittsburgh.

19 Q Before becoming a special agent, what other
20 work did you do?

21 A Before becoming a special agent into the
22 FBI, I worked for a short period of time for the
23 Allegheny crime laboratory. This was after receiving
24 a master's degree. After this I went to a private
25 forensic and toxicology laboratory in Pittsburgh,

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1 Pennsylvania.

2 Q Directing your attention to April 22, 1995,
3 did you participate in a search of the premises at 109
4 South 2nd Street in Herington, Kansas?

5 A Yes.

6 Q What time did you start work that day, the
7 22nd?

8 A Start work that day? It was early in the
9 morning; that being actually departing my hotel and
10 going to the airport to catch a flight to this
11 location.

12 Q Where were you stationed on April 22? What
13 was your duty station?

14 A I was temporarily assigned to Oklahoma
15 City; and if I want to call it base, it would have
16 been a hotel in Oklahoma City.

17 Q Where had been your regular office that you
18 had worked out of before going to Oklahoma City?

19 A I am assigned to the FBI laboratory at FBI
20 headquarters in Washington, D.C.

21 Q What time did you arrive in Kansas that
22 day?

23 A It was sometime in the morning. The exact
24 time I'm not sure of, but it would have been -- I'm
25 guessing at this point -- between ten and twelve.

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1 Q Did you arrive at the Kansas City airport?

2 A No. It was a small airstrip in Junction
3 City.

4 Q Did you arrive in an FBI airplane?

5 A No.

6 Q It was a commercial flight?

7 A No.

8 Q What kind of airplane was it?

9 A It was a United States Customs aircraft.

10 Q What time did you start working on this
11 search warrant?

12 A It was in the latter part of the afternoon,
13 that I recall.

14 Q Before you started working on the search
15 warrant, did you read it?

16 A Yes.

17 Q Did you have a meeting with other agents to
18 go over what kinds of things you would be looking for
19 in the house?

20 A Yes.

21 Q Who was in charge of the search?

22 A The actual search was supervised by a
23 supervisory special agent, Mary Jasnowski, who was in
24 charge of the evidence response team.

25 Q How many agents were there in Herington,

1 Kansas, that afternoon that you observed?

2 A At -- could you specify the location that
3 you want?

4 Q Anywhere in Herington, Kansas, that you saw
5 that day. About how many agents were there?

6 A I can't give a number. More than the
7 number of people in this room.

8 Q More than 100?

9 A I can't give a number, honestly.

10 Q Was there a perimeter security established
11 on the Herington house?

12 A Yes, I recall that.

13 Q Was there police tape around the Herington
14 house?

15 A I don't recall if there was police tape
16 around the house. I do remember that the area was
17 well secured. Several homes up and several homes down
18 on the street area were cordoned off by police
19 activity.

20 Q What do you mean "police activity"?

21 A There were vehicles that I thought were law
22 enforcement vehicles keeping those ends of the road
23 secure.

24 Q Do you know what police tape is?

25 A Yes, I do.

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1 Q What is police tape?

2 A Well, my understanding of police tape is a
3 yellow tape that has, Do not cross, police line, if
4 that's what you're referring to.

5 Q And you don't remember whether you saw any
6 of that that day or not?

7 A I don't recall at this point.

8 Q Having read the warrant, you knew that you
9 were looking for the "evidence of the commission of a
10 criminal offense, contraband, the fruits of crime, or
11 things otherwise criminally possessed, or property
12 designed or intended for use or which is or has been
13 used as the means of committing a criminal offense"?

14 A As stated --

15 Q You can refer to the warrant, as I see it
16 in front of you, which is going to be Exhibit M in the

17 suppression hearing, looking just at the first page;
18 is that correct?

19 A That's correct, yes.

20 Q What part of the house were you assigned to
21 search?

22 A I was not assigned to any particular
23 location in the house. The entire complex, if you
24 will, was the search area.

25 Q Did you participate in searching the entire

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1 house?

2 A Yes.

3 Q You went through all the rooms?

4 A I did a sequential through each room, yes.

5 Q How did it come to be that you made out
6 part of the evidence log and other agents made out
7 part of the evidence log?

8 A Well, I didn't actually physically make the
9 evidence log myself. There was a person who was
10 responsible for compiling the evidence log. If I
11 retrieved something, it would then go to the evidence

12 custodian, who was actually preparing the log itself;
13 and it would be recorded on the log as to who actually
14 seized or physically picked up that item.

15 Q Looking at the evidence log, that is going
16 to be in evidence as Exhibit M-3, it appears there's
17 several different people's handwriting. Were there
18 several different people doing the log?

19 A I can't answer that. I don't know. My
20 understanding was that there would be one person, but
21 it may have been broken down into two different areas,
22 or three or four or whatever.

23 Q Were you specifically directed to look for
24 things within your area of expertise; that is,
25 forensic chemistry?

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1 A That, and those items that were listed on
2 the attachment page of the warrant.

3 Q All right. Let's take a look at that
4 attachment page.

5 My copy doesn't seem to have an attachment
6 page. Can we go off the record, and I'll look at your
7 page?

8 A Sure.

9 (A discussion was held off the record.)

10 Q (By Mr. Tigar) So you were looking for
11 things on the face of the warrant on that Attachment
12 A; is that correct?

13 A That's correct, yes.

14 Q And you were particularly focusing on
15 things within your area of expertise; is that correct?

16 A Yes.

17 Q Now, directing your attention to what's
18 going to be received in evidence as M-3, would you
19 look at the portion of the log that reflects what SGB
20 found.

21 A All right.

22 Q SGB, that's you, correct?

23 A That is me, yes.

24 Q And if I can come around the table, there's
25 just one item I wanted to ask you about.

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1 A Okay.

2 Q All right. Showing you this page that has

3 the letter J in parentheses at the top of it.

4 A Uh-huh, yes, I see it.

5 Q Do you see the reference to antigovernment
6 literature?

7 A Yes.

8 Q Did you seize antigovernment literature?

9 A As described here, yes.

10 Q What was it?

11 A I'd have to look at it right now to refresh
12 my memory, but at the time it appeared as though
13 something to seize.

14 Q Well, what is antigovernment literature,
15 according to your understanding?

16 A A material that is against the government.

17 Q Can you give me an example of material
18 that's against the government? I mean, a Republican
19 newspaper?

20 MS. WILKINSON: Mr. Tigar, I'm going to
21 object to that question.

22 Q (By Mr. Tigar) All right. You can
23 answer.

24 A Like I said, I'd have to see specifically
25 that particular document in order to refresh my memory

1 as to why it would have gone under that particular
2 title as an antigovernment document.

3 Q Well, I'm not -- we don't have the search
4 fruits right here in this room, Agent. I'm just
5 asking you to give me your definition that you would
6 have used on April 22nd, 1995; and if you can remember
7 any more than what you said, please tell me. If not,
8 I'll go on to something else.

9 MS. WILKINSON: I'm going to object as he
10 already answered your question.

11 MR. TIGAR: Adverse witness.

12 Q (By Mr. Tigar) You can answer.

13 A To me anything that is against the
14 philosophy of the government, the United States
15 doctrine.

16 Q And under what portion of the search
17 warrant or its attachments did you feel yourself
18 authorized to seize this literature that's against the
19 doctrines of our government?

20 A Well, anything that would be threats
21 against the United States, something like that, that
22 would show those kind of actions.

23 Q My question was, under what portion of the

24 warrant or its attachments did you believe yourself
25 authorized to seize things that match your definition?

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1 A It most likely would fall under the number
2 6 there, The documentation.

3 Q Would you read number 6, please, into the
4 record?

5 A "Documentation which would include but not
6 limited to schematics, blueprints, receipts for
7 purchase of items, `how to' magazines, books and
8 pamphlets which described construction, design and
9 assembly techniques, directions, maps and blueprints
10 of target sites and potential target sites,
11 communications; memos and photographs which would
12 include descriptive information such as telephone
13 numbers, addresses, affiliations and contact points of
14 individuals involved in a conspiracy to manufacture,
15 transport and/or detonate the explosive device used at
16 the Alfred P. Murrah building on April 19th, 1995."

17 MR. TIGAR: Go off the record for a minute.

18 MS. WILKINSON: Sure.

19 (A discussion was held off the record.)

20 MR. TIGAR: Nothing further. Your

21 witness.

22 EXAMINATION

23 BY MS. WILKINSON:

24 Q Agent Burmeister, you stated that you did

25 not maintain this log; is that correct?

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1 A Yes.

2 Q Would it be accurate to say that you did

3 not write this description of J6, which says --

4 MR. TIGAR: Object to leading as your

5 witness.

6 MS. WILKINSON: He's my witness? I thought

7 he was your witness. You called him.

8 MR. TIGAR: My objection is noted. Do what

9 you wish.

10 Q (By Ms. Wilkinson) On J6, the description

11 that is noted there, did you give that description to

12 the logging -- agent that was maintaining the log?

13 A No.

14 Q Okay. During your participation in the

15 search on April 22nd and the morning of the 23rd, did
16 you see men's clothing in the residence?

17 A Yes.

18 Q Where did you see clothing?

19 A I saw clothing in the closet areas and also
20 bureau drawers.

21 Q Did you see or do you recall whether you
22 saw a fuel meter --

23 A Yes.

24 Q -- somewhere in the residence? Where did
25 you see the fuel meter?

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1 A It was in the garage.

2 MS. WILKINSON: No further questions.

3 EXAMINATION

4 BY MR. TIGAR:

5 Q Who was the person that wrote the log, item
6 J?

7 A According to this paper, I would say that
8 the preparer was SA Scott.

9 Q You said on cross-examination that you saw

10 a fuel meter, correct?

11 A Yes.

12 Q Did you believe at the time you started
13 this search that the device in Oklahoma City had been
14 an ammonium nitrate fuel bomb?

15 A The possibilities were so wide at that
16 point there was no point as to saying it was
17 specifically one particular device. It was one of
18 many possibilities at that point.

19 Q Was the -- the possibility that it was an
20 ammonium nitrate fuel bomb was one thing that was in
21 your mind. Is that fair to say?

22 A It's a possibility, yes.

23 Q When you saw the fuel meter, did it seem to
24 you relevant to your investigation? I'm asking you to
25 look back at what you thought when you saw it. Did it

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1 seem, to you, relevant?

2 A I'm not sure if I can give an opinion as to
3 how I thought at that particular time.

4 Q Had you heard about the fuel meter possibly
5 being in the house before you started work?

6 A That particular day?

7 Q Yes.

8 A I don't recall knowing about the fuel meter
9 prior to going into that house, no.

10 Q Did any of the agents participating in the
11 search tell you to be on the lookout for a fuel meter,
12 or otherwise mention a fuel meter?

13 A No, I don't recall specifically someone
14 saying, There is a fuel meter, make sure you look and
15 find a fuel meter.

16 Q I don't remember -- I'm not speaking
17 specifically. Did anyone, at any time before you saw
18 the fuel meter in the house, mention a fuel meter to
19 you in connection with this case?

20 A I don't recall that, no.

21 Q Did you observe the condition of the fuel
22 meter?

23 A I vaguely have a recollection of what the
24 fuel meter looked like.

25 Q It was in pieces, wasn't it?

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1 A My recollection of that fuel meter, it was
2 one intact piece; that's my recollection today.

3 Q Did you report to your superiors that fact,
4 that you had seen a fuel meter?

5 A No, I did not.

6 Q Did you see some gears lying next to the
7 fuel meter?

8 A No, I don't recall seeing gears.

9 Q Do you recall seeing any metal parts next
10 to the fuel meter?

11 A There were numerous items on that shelf
12 area -- I do recall that -- and I recall seeing a fuel
13 meter on the shelf area; specifically what those other
14 parts are, I don't have a recollection at this time.

15 MR. TIGAR: Nothing further.

16 MS. WILKINSON: That's it.

17 (The deposition concluded at 9:11 a.m., on
18 June 26, 1996.)

19 (It was agreed by counsel, with the consent
20 of the Witness, that the reading and signing of the
21 within deposition be waived.)

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1 DEPOSITION OF
2 STEVEN G. BURMEISTER

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4 REPORTER'S CERTIFICATE

5 I, Lori K. Stenstrom, Certified Shorthand Reporter
6 and Notary Public in and for the State of Colorado, do
7 hereby certify that prior to the commencement of the
8 examination the witness was by me first duly sworn to
9 testify the truth; that said deposition was taken in
10 shorthand by me at the time and place hereinabove set
11 forth and was thereafter reduced to typewritten form
12 under my supervision, as per the foregoing transcript;
13 that the same is a full, true, and correct
14 transcription of my shorthand notes then and there
15 taken.

16 I further certify that I am not related to,
17 employed by, nor of counsel for any of the parties or
18 attorneys herein, nor otherwise interested in the
19 event of the within action.

20 My commission expires November 28, 1997, and I have
21 hereunto set my hand this June 27, 1996.

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Certified Shorthand Reporter
and
Notary Public

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