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14 Defendant Nichols.

15 * * * * *

16 PROCEEDINGS

17 (In open court at 9:00 a.m.)

We are 18 THE COURT: Be seated, please. Good morning.
19 convened in criminal case 96-CR-68, United States
against Terry 20 Lynn Nichols, which is called for trial.

21 And is the Government ready, Mr. Mackey?

22 MR. MACKEY: Yes, your Honor, ready for the
23 Government.

24 THE COURT: All right. And we'll have for
and 25 introductions for the Government, you and Ms. Wilkinson

3

1 Mr. Ryan and Mr. Orenstein.

2 MR. MACKEY: Yes, your Honor.

3 THE COURT: And, Mr. Tigar, ready for the
defense?

4 MR. TIGAR: Good morning, your Honor. Defense
is 5 ready.

6 THE COURT: And Mr. Nichols is present, I
know.

7 MR. TIGAR: Mr. Nichols is present in court.
8 Mr. Woods is with me.

9 THE COURT: All right.

10 MR. TIGAR: Mr. Neureiter, Mr. Thurschwell,
11 Mrs. Tigar.

12 THE COURT: I will -- when we introduce
counsel and
13 the accused to the jurors, I'll just introduce those
who are at
14 the tables here and simply say there are other persons
here who
15 are assisting.

16 MR. TIGAR: Yes, your Honor.

17 THE COURT: Thank you.

18 MR. TIGAR: Lest we be deemed to have waived
it, we
19 renew our objection with respect to the Western
District of
20 Oklahoma prosecutors.

21 THE COURT: Yes. That's noted of record; and
the
22 objection has been overruled and of course, you have a
23 continuing objection to it.

24 I have some preliminary observations,
principally, of
25 course, for those who are here in the public area of
the Court.

1 We are going to proceed here with what is called the
voir dire 2 questioning -- that is, of members of the jury panel --
in the 3 process of selecting a jury of twelve persons and six
alternate 4 jurors for the trial of this case. These persons have
been 5 summoned for jury service according to the jury plan
for this 6 District of Colorado. And that plan provides for a
database 7 computer-generated random selection process using as a
from 23 8 voter registrations and driver's license information
the 9 counties in Colorado, which consists -- or constitute
addresses 10 Denver jury pool. The persons whose names and
came 11 up through that process were then sent jury summonses,
along 12 with a questionnaire, which is the routine process
followed in 13 this district and elsewhere, for that matter. The
difference 14 was that the questionnaire which asked for information
dealing 15 with statutory qualifications of jurors did identify
this

16 particular trial as the one for which the summonses
were sent.

17 Those questionnaires came back to us by mail
and were

18 reviewed by me and by the attorneys on both sides for
statutory

19 qualify -- qualifications, and some excuses that were
requested

20 were granted by agreement. These were principally
medical

21 infirmities, making the persons incapable medically or

22 physically of rendering satisfactory jury service. A
few were

23 granted on the basis of undue hardship.

24 A second step then was taken in that the
people who

25 had been summoned for service were then notified to
gather at a

5

1 meeting at the Jefferson County Fairgrounds on
September the

2 17th, and that was a nonpublic meeting. There were two

3 sessions; a morning and an afternoon section. And at
that

4 time, the prospective jurors, members of the panel,
appeared

5 there. And I was there and introduced to the panel Mr.
Mackey

6 and Ms. Wilkinson as attorneys for the Government, Mr.

Tigar

7 and Mr. Woods as attorneys for Mr. Nichols, and Mr.
Nichols was

8 introduced to the members of the jury panel.

9 At that time, I explained to all of them
something

10 about the background of the case, the procedural
context in

11 which we were meeting. I explained by paraphrasing the
charges

12 in the indictment, and then questionnaires were
distributed to

13 these people and they were instructed to respond to
some 166

14 questions on this questionnaire. Those questions had
been

15 developed by the lawyers for both sides and by me,
working

16 together. And they asked for considerably detailed
information

17 about each of the persons in the jury pool.

18 Then the -- upon completion of the
questionnaires, the

19 persons were excused for the day with some
instructions, of

20 course, given to them that asked them to recognize the

21 possibility that each of them may be called upon to
have the

22 responsibility to serve on the jury and decide this
case.

23 Copies of the completed questionnaires were
then made

order 24 and distributed to counsel and to me under a protective
and that 25 that the questions and the answers not be made public

6

be used 1 the information that had been provided by these people
necessary, of 2 solely for the jury selection process. That was
the 3 course, because these questions were rather invasive of
4 privacy of the people summoned to serve.

using a 5 Then there was another randomization process
amounted to 6 computer shuffling and what I'm told are loops that
we have 7 mixing up the names, and through that chance process,
for their 8 developed an order in which people will be called in
9 individual questioning here.

information in 10 Now, because, again, the nature of the
will 11 the questionnaires and, indeed, some of the things that
matters that 12 necessarily be asked here by me and by counsel are
summoned for 13 many people consider private -- and these people

14 service as citizens, of course, are still entitled to
some
15 measure of protection of their privacy in performing
their
16 duty. Accordingly, their names will not be made public
and
17 their names will not be used in the court proceedings.
We will
18 be referring to them by numbers that have been assigned
to them
19 as members of the jury pool. And of course, since we
have used
20 a chance selection system for the order in which they
will be
21 called into court, these numbers will not be
sequential.

22 I will ask questions of each person and then
counsel
23 for the Government and counsel for the defendant will
have the
24 opportunity to ask additional and follow-up questions.
Each
25 person will then be excused subject to being called to
return.

7

1 As we go through the questioning of the jurors,
decisions with
2 regard to whether they will serve or not will not be
made as we
3 go.

excusing 4 As you may be aware, there are two types of
particular 5 motions by counsel. One is a motion to excuse a
criteria 6 person for cause, and that's based on some statutory
7 which, of course, are subject to interpretation and
those. 8 disagreement, and it'll be my function to rule on

9 Then we also have what are called peremptory
persons 10 challenges where each side has an opportunity to excuse
required. 11 with no explanation given and no statements of reason

12 And that will consist -- because this is a case in
which there 13 are capital crimes charged where there is therefore the
has 20 14 possibility of a death sentence as a penalty, each side
15 peremptory challenges for the twelve jurors and three
challenges 16 additional for the six alternates, so 23 peremptory
will be 17 in all. And the manner in which we will exercise those
18 determined later.

19 Now, for this trial, we are providing closed-
circuit 20 television transmission to the auditorium at the Mike
Maroney 21 Aeronautical Center in Oklahoma City, Oklahoma, to be
viewed by

viewing 22 those persons who have shown a compelling interest in
in the 23 these trial proceedings and who are unable to be here
City to 24 courtroom because of the change in venue from Oklahoma
with a 25 Denver. This procedure will be followed in compliance

8

1 federal statute by which Congress amended Rule 53 of
the

2 Federal Rules of Criminal Procedure, a rule
longstanding which

3 prohibits photographing and broadcasting of federal
trials.

4 The amendment or the exception, as it were, to
the

5 prohibition in Rule 53 is a limited one. We have
mounted a

6 camera at the back of this courtroom. It is in a fixed

7 position. It has a fixed focus. The camera and its --
well,

8 the operators of the camera will not be adjusting the
focus,

9 zooming in for closeups or anything of that type and
will not

10 be making any changes in the camera angles. What I've
ordered

11 done here is that insofar as the technology permits,
people in

12 Oklahoma City will see what the people here in the
courtroom in
13 the public area of this courtroom see of this trial.
14 If I may address directly those of you who are
at the
15 auditorium in Oklahoma City, I ask that you follow the
16 directions given to you with respect to entry to the
auditorium
17 there, the room where you are viewing these
proceedings. There
18 are limitations, of course, as I've already directed
with
19 respect to who can be admitted to the viewing room.
And of
20 course, it is expected of all of those who are admitted
there
21 that they restrain themselves, that they follow the
proper
22 decorum that is required of people who are in this room
at the
23 trial. Judge Gaspar Perricone is present there,
presiding, and
24 I simply remind you that although you're in more of a
25 theater-type setting than is true here, this is not
theater.

9

1 This is a trial. And Judge Perricone will be enforcing
this

2 Court's orders and take whatever action may be
necessary there

3 to ensure an appropriate decorum also with respect to
the

4 conditions governing the closed-circuit television
transmission

5 to Oklahoma City.

6 No taping of this transmission will be made.
It will

7 not be available for retransmission or rebroadcast, and
we have

8 adopted some procedures to prevent that from happening;
that is

9 to say, any unauthorized copying. There are
technological

10 methods employed to prevent that, but, of course, no
system is

11 foolproof, and accordingly, we are also testing to be
sure that

12 there is no invasion or interception of the signal. If
that

13 should occur, the system will be shut down. There are
several

14 different organizations involved in this whole process
-- that

15 is, of the closed-circuit television transmission --
and we

16 appreciate their work and their efforts.

17 Also, this is technology and it is, of course,
always

18 subject to problems that may arise. If anything goes
wrong

19 with the transmission, we won't stop. We won't

interrupt the

20 trial to do anything about it. But we will inform you
there in

21 Oklahoma City of what we know of the problem and when
it is

22 expected to be fixed and maybe who has the
responsibility to do

23 that. But of course, we don't expect that to happen.
We do

24 have, I think, the state-of-the-art, as it were,
technologies

25 applied in this process.

10

1 So let me then simply say to the public here
that

2 there will be some similarities -- you've already
noted, I'm

3 sure, some similarities -- to the procedures being
followed

4 here to those that were followed in the trial of United
States

5 against Timothy McVeigh.

6 There are, however, important differences.
While both

7 these men were charged in the same indictment and,
therefore,

8 we have the same allegations, generally speaking, by
the

9 Government, there are significant differences; and I'm

sure

10 there will be some significant differences in the
evidence and
11 in what the Government will seek to prove in the course
of the
12 trial.

13 That is one of the fundamental reasons behind
the
14 order that required separate trials. And therefore, I
15 emphasize it in the beginning that because this or that
16 happened procedurally and substantively in the trial of
Timothy

17 McVeigh, it should not be expected that exactly the
same things
18 or even near the same things may happen in this case.

And it
19 is important, I think, that perhaps people avoid the
temptation
20 to make comparisons. This is a different case. We do
have a
21 different defendant. We do have different counsel in
the case.

22 And I simply would emphasize that the trial of United
States
23 versus Terry Lynn Nichols, which we are now beginning,
begins
24 with a clean page.

25 Now, I'm prepared to call in the first juror.

Rule 53
renew all
with
record

1 MR. TIGAR: Your Honor, with respect to the
2 matter of the cameras, may I take it that we need not
3 of the objections and motions and so on that we made
4 respect to that and the other procedural matters? Our
5 is protected?

matter how
today,
know,

6 THE COURT: Yes. Certainly, it is. And no
7 eloquent you might be in your advocacy to the contrary
8 it won't persuade me to change my mind. We have -- you
9 we have discussed that at length.

10 MR. TIGAR: Yes, your Honor.

of

11 THE COURT: You filed your papers and they are
12 record.

simply

13 MR. TIGAR: That is a hope I did not have. I
14 wanted to protect the record. Thank you, your Honor.

15 THE COURT: Thank you.

before we

16 So is there any other preliminary matter
17 call in our first juror, No. 215?

18 MR. MACKEY: No.

19 THE COURT: Ready to proceed?

20 All right. Then we'll ask Juror 215 be
brought in.

21 Good morning. If you will please, raise your
right

22 hand and take the oath from the clerk.

23 (Juror No. 215 affirmed.)

24 THE COURTROOM DEPUTY: Thank you.

25 THE COURT: Please be seated.

12

Juror No. 215 – Voir Dire

1 VOIR DIRE EXAMINATION

2 BY THE COURT:

3 Q. We're going to be referring to you here by a number
instead

4 of name for reasons that I think are known to you. And
we are

5 here, of course, to select jurors for the trial of the
case of

6 the United States against Terry Lynn Nichols, as I'm
sure you

7 are aware. And you'll recall that back on September
the 17th,

8 you were among those who attended a session at the
Jefferson

9 County Fairgrounds.

10 You have to answer out loud so that your
answer can be

11 recorded.

12 A. Yes, I do.

13 Q. And you'll recall that at that time, I was present
and
14 introduced lawyers for the Government and also for the
15 defendant and Mr. Nichols.

16 A. Yes.

17 Q. So we have a little -- not everybody who's here now
was
18 there then. Let me again introduce to you the people
who will
19 be participant -- participating in this process. And
here at
20 this first table, we have lawyers for the Government
beginning

21 with Mr. Lawrence Mackey, first one, and Ms. Beth
Wilkinson and
22 Mr. Patrick Ryan and Mr. Jules Orenstein.

23 At the other table, we have Mr. -- first
Michael
24 Tigar. And Mr. Ron -- Ronald Woods. They were there
at
25 Jefferson County. And Mr. Terry Nichols is also here
and he

13

Juror No. 215 - Voir Dire

1 was there. There are other people here within your
line of
2 vision and they will be participating in various ways,
but if

wouldn't 3 we introduce everybody who will be participating, we
to 4 have much time to ask you any questions, so we're going
5 proceed.

were 6 You'll recall that when you were there and you
gave 7 given a questionnaire to complete, before doing that, I
8 you some explanations, including an explanation of the
9 indictment, the processes that are involved there, and
what the 10 charges in the indictment were about. And you'll
recall that I

that 11 then told you and the others that the charge here is
named in 12 Mr. Nichols and a Timothy James McVeigh and others not
conspiracy 13 the indictment are alleged to have participated in a
building in 14 to use a truck bomb to destroy a federal office
people in 15 Oklahoma City, Oklahoma and to kill and injure the
April 19, 16 it; that an explosion did occur in Oklahoma City on
which 17 1995, and that the indictment includes other charges
agents at 18 include charges of the murder of some law enforcement
19 that time. You'll recall that?

20 A. I recall that.

Nichols 21 Q. You also recall that I advised that Terry Lynn
22 entered pleas of not guilty to all of the charges
contained in 23 the indictment and thereby put into issue -- that is to
say, to 24 dispute -- all of the factual allegations made there
and now, 25 the case is to be decided by a jury based on evidence
to -- to

14

Juror No. 215 - Voir Dire

1 be produced in the course of the trial.
2 Your name came up in a chance selection
process. So 3 that is why you were summoned and appeared and answered
this 4 long questionnaire. And you have a copy -- or you have
the 5 original, I guess, of that right in front of you now.
6 A. I do.
7 Q. We're not going to ask you to go through it all
again and 8 check all of your answers, and we're not going to
repeat all of 9 the questions over again. I want to assure you now as
I did 10 then that this is not a test; that there are no right
or wrong 11 answers; that what we want are your honest answers to

these

12 questions. And there has been some time passed between
the
13 time that you completed the questionnaires and today.
I gave
14 you and the others some instructions and directions to
be
15 careful to avoid publicity or discussion of the case
or,
16 indeed, of the questionnaire. Have you been able to do
that?

17 A. For the most part.

18 Q. And what does that mean? What have you seen or
read since

19 September the 17th?

20 A. I haven't necessarily seen or read anything since
the 17th.

21 There's been little blurbs on the news that said the
trial was
22 coming, but I knew that.

23 Q. All right.

24 A. And so I haven't seen or read things about it. I
25 probably --

15

Juror No. 215 - Voir Dire

1 Q. I suppose -- excuse me. I didn't mean to cut you
off.

2 A. I probably mentioned a little bit about the
questionnaire

3 to my husband.

4 Q. Now, tell us about that.

5 A. Just the general categories of some of the things
that you

6 wanted to know. He guessed anyway. He said he was
sure that

7 they would want to know several things, and I told him
that

8 they probably wanted to know those things.

9 Q. Now, of course, the fact that you have been
summoned here

10 and the possibility of your service on this jury and
the time

11 that may involve -- be involved in the trial is a
matter of

12 interest to your husband and others. And have you
discussed

13 that part with him? First, your husband?

14 A. The trial?

15 Q. I mean, what it would mean to him and to your
normal life's

16 routine?

17 A. Well, he groaned considerably this morning when he
knew he

18 had to take my daughter to school and pick her up when
the day

19 was over. So things like that, certainly, we've talked
about.

20 We can work that out.

21 Q. All right. You say you can work that out?

22 A. Oh, yes.

23 Q. He's a physician, your husband, and has been in
family

24 practice. You have to answer.

25 A. Yes.

16

Juror No. 215 - Voir Dire

1 Q. You have to answer out loud again.

2 A. Yes.

3 Q. And as I understand it, now is on the faculty of
the

4 University of Colorado School of Medicine?

5 A. That's right.

6 Q. Does he have a private practice in addition to
that?

7 A. No, he doesn't.

8 Q. So his hours are more regular than doctors usually
have?

9 A. No.

10 Q. No?

11 A. They are not.

12 Q. Because he has clinic and has to go --

13 A. He has clinic and he's on call and one of his
primary

14 responsibilities is obstetrics, and obstetrics happens
all

15 hours of the day and night.

work,
16 Q. I've been told that. Well, have you, in your own
17 too -- are you still at Columbia Rose Medical Center?
18 A. Yes, I am.
and
19 Q. And you work in that same area; that is, with labor
20 delivery?
21 A. That's right.
--
22 Q. And are you -- you normally work regular shifts or
23 A. I work two 12-hour shifts a week.
jury
24 Q. Now, of course, that would be interrupted by the
25 service here.

17

Juror No. 215 - Voir Dire

1 A. Indeed, it would.
that you
2 Q. And you discussed that with whoever it might be
3 would discuss it with at Rose?
for
4 A. Yes. My supervisor knows that I have been called
5 jury -- at least a jury summons.
6 Q. All right.
7 A. And that it's a possibility that I might be
serving.
8 Q. In this case?

9 A. In this case.

10 Q. And was there any discussion in that conversation
about

11 things like, well, you don't want to do that and --

12 A. I left a message.

13 Q. -- you ought to get out of it or you do want to do
that and

14 here's what you want to do? Anything like that?

15 A. I left a message on her answering machine, so we
didn't

16 actually have a conversation about it. But it's in --
it's not

17 a problem for someone for jury service.

18 Q. They can schedule other people around it?

19 A. Yes, they can.

20 Q. All right. Now, I noted that when you came in this
oath

21 morning, you had a bit of a smile and when you took the

22 here --

23 A. Uh-huh.

24 Q. -- you reacted in a way that suggests maybe you're
nervous

25 or maybe you don't take it seriously. Which is it?

18

Juror No. 215 - Voir Dire

1 A. The wording of the oath was very -- like legal
terms and

2 you have to really kind of sort through it to figure
out what
3 they were saying.
4 Q. All right.
5 A. And that's what the smile was about. Instead of
plain
6 English, it was a little turned around here and there
so --
7 Q. One of the -- of course, you understand what the
oath says
8 is tell the truth when you answer the questions.
9 A. That's right, I do understand that.
10 Q. Okay. And perhaps, you know, the language, sort of
like
11 the profession in which you are, there are certain
phrases and
12 terms that are used whereas common English could be
used. But
13 it isn't and -- in part, it sort of elevates what we're
doing
14 to a higher level. Do you recognize that's what is
involved
15 here?
16 A. Yes, I do.
17 Q. So this isn't like ordinary conversation among two
people.
18 This is special in the sense that we're looking here to
19 determine who's going to sit in judgment on this case.
You
20 understand that?

21 A. Yes.
22 Q. Now, we have -- I'm going to invite your attention
to the
23 questionnaire again, and please understand that if you
want to
24 change any of these answers, you're free to do so. I
mean, if
25 there's something that has come to mind since you had
all of

19

Juror No. 215 - Voir Dire

1 these questions put in front of you, that, well, you
know, if I
2 thought about it a little more, I would have changed
something
3 like that, feel free to do it. And also, if there's
something
4 that's happened between September 17 when you did this
writing
5 and now, tell us about that. So I don't want you to
think that
6 this is locked in, because it isn't a question of, you
know,
7 how you completed the questionnaire. What we want to
know are
8 some things about you that may relate to your ability
to deal
9 fairly and impartially with the issues in this case and
reach a
10 fair decision. Understand?

11 A. I understand.
12 Q. Now, I said I wasn't going to go through everything
in the
13 questionnaire, but there are a few things that I would
like a
14 little expansion on.

15 I have it that from what you've said that you
were
16 born in Idaho?

17 A. That's right.

18 Q. And Kellogg, Idaho, as a matter of fact?

19 A. Yes.

20 Q. And you went to the University of Idaho?

21 A. Uh-huh. I did.

22 Q. And that you were also for a time in -- living in
23 Tennessee?

24 A. That's right.

25 Q. Memphis, and a time in an area of Washington that
is called

20

Juror No. 215 - Voir Dire

1 White Salmon?

2 A. That's right.

3 Q. You described that as a rural area with a number of
4 orchards and a number of the people there engaged in
logging?

5 A. Uh-huh.

6 Q. As I sit here now, I can't picture where White
Salmon is on

7 the map. Would you help me a little with that?

8 A. It's on the Columbia River across the river from
Hood

9 River, Oregon.

10 Q. Okay. And you were there until -- well, I guess
you were

11 there before you went to Tennessee.

12 A. Right.

13 Q. And you came here from Tennessee.

14 A. That's right.

15 Q. Okay. Now, was your husband then in family
practice there?

16 A. He had a private practice there, yes.

17 Q. Okay. And you lived on about ten acres?

18 A. Uh-huh.

19 Q. And did you have orchards or did you have some
animals?

20 A. No. No. We -- dogs and cats.

21 Q. All right.

22 A. And a big garden.

23 Q. And within the immediate area in which you lived,
were

24 there some operating farms?

25 A. Yeah. There were. A -- a large number.

Juror No. 215 - Voir Dire

1 Q. Fruit producers mostly?

-- it

2 A. Some of them were fruit producers and some of them

3 was basically kind of a family farm.

4 Q. You got to know some of your neighbors?

5 A. Uh-huh.

in your

6 Q. And of course, some of them probably were patients

7 husband's practice?

that is

8 A. I imagine that they were. The way I usually knew

9 if they told me.

work at

10 Q. Okay. Now, were you also active in your nursing

11 that time?

12 A. I was not a nurse at that time.

13 Q. That's what you went to Memphis for?

14 A. I did that training while we were in Memphis.

-- I

15 Q. Okay. I see. You and your husband went there on a

16 mean, he also practiced medicine in Memphis?

University of

17 A. He -- he took a position as faculty with the

18 Tennessee.

in

19 Q. I see. All right. You also have had an interest

20 developmental psychology?

21 A. Uh-huh.

22 Q. Tell us about that a little bit, if you will.

23 A. I got a master's degree in infant development. The
degree

24 was officially called developmental psychology, and
infants

25 were what I was interested in and what I geared the
program to.

22

Juror No. 215 - Voir Dire

1 Since the school that I went to didn't have a course
outline

2 already developed for infants, I did a lot of
independent study

3 and directed my own program for many of the courses I
took.

4 Q. Is that a matter of continuing interest with you?

5 A. Very much so.

6 Q. You read in the field now?

7 A. I read somewhat in the field now, and I taught
childbirth

8 class -- I started teaching childbirth classes during
that

9 time, took a break in between, but I still teach
childbirth

10 classes and it all fits in together with labor and
delivery.

11 Q. And are you also interested in the developmental

aspects of

12 the prenatal care time? I mean, you want to -- are you
one of

13 these who believe that before birth, there are things
that can

14 be done to enhance the development of the infant?

15 A. Uh-huh. Yes.

16 Q. And then your field of interest goes how far in the
age

17 progression, the chronological progression?

18 A. Well, I think I'm a student of life, but the -- the
actual

19 study that I do that has to do with development is
really --

20 even in my master's program, I limited it up through
about age

21 three, so it was from birth to age three.

22 Q. And is it your view or is it consistent with your
23 understanding that what we're going to be is pretty

much

24 developed by the time we're three years old?

25 A. Probably by the time we're five, yes, I do.

23

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1 Q. And does that include what is expected behavior of
us; that

2 is, to whether we're going to be law-abiding or not
law-abiding

3 people?
4 A. I think there are probably a lot of roles that we
see
5 modeled that we internalize that are part of the basic
pattern
6 by that time.
7 Q. Uh-huh.
8 A. But I think there's probably a lot of life
experience that
9 directs it further one way or another.
10 Q. Influences --
11 A. I don't know --
12 Q. Influences of role models, parents, that sort of
thing?
13 A. Uh-huh. And of peers.
14 Q. And of course, the old debate of nurture and nature
has
15 been going on for a long time.
16 A. Uh-huh.
17 Q. Perhaps more so now with genetic research and the
like.
18 Can you tell us a little about your view of that. I
mean,
19 that's a wide-open area.
20 A. Yeah.
21 Q. I don't mean for you to lecture us this morning.
22 A. It's a big one.
23 Q. You know what I'm asking about. Are we predisposed
24 genetically to certain behavioral patterns, do you

think?

25 A. I think that probably -- I know that there are

24

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1 developmental tests that can be done from birth that
give a
2 good suggestion of some personality style. Personality
style
3 is not necessarily who we're going to become, but it
says
4 something about how we might deal with some life
situations,
5 whether we get excited real easily or kind of more
mellow about
6 things, etc. And it's been shown with several of those
that
7 some of those characteristics do hold true throughout
life. We
8 still are people that have, hopefully, some ability to
sort
9 things through and make decisions on our own and -- and
alter
10 things throughout our life about what our priorities
are and
11 what our causes might be and what's important to us.
And so
12 those are influenced by who we are as people and by
what our
13 behavior -- our basic personality things are, but we
still --

-- the
given
but it

14 our personality doesn't necessarily determine what our
15 outcome -- what our decision is going to be about any
16 something. It might help in a direction or another,
17 doesn't make a final determination by any sense.

--
18 Q. Okay. Well, I realize it's very hard to summarize

19 A. Yeah.

20 Q. -- such a vast subject in 25 words or less, but we
21 appreciate your efforts to do so.

22 You also indicated here -- page 10, I'm
looking to of

23 your questionnaire -- you have done some day-care work.

24 A. Uh-huh.

25 Q. While you were in school, apparently.

25

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1 A. That's right.

2 Q. And --

3 A. First year.

then? Was
4 Q. Yeah. And was that -- where were you in school

5 that in Tennessee?

University
6 A. No. That was -- I was at Eastern Washington

Spokane, 7 outside of Spokane, and the day-care center was in
8 Washington.

9 Q. And the day-care center, was it in connection with
a
10 particular business or, you know, where were the
parents
11 working? Or was it general?

12 A. It was general. It was general.

13 Q. And this was just -- or at least you worked with
children
14 up to -- infants to age two?

15 A. To age two or three, I think. Primarily, it was up
to age
16 two. Yes.

17 Q. Okay. Was the whole day-care center arranged that
way or
18 did it go on up to the preschool years?

19 A. Oh, it went on up. This was while I was working on
my
20 master's degree in infant development and I was able to
limit
21 the age groups that I worked with to those that I was
22 interested in -- in doing my studies with.

23 Q. You did a little studying of their behavior while
you took
24 care of them then?

25 A. Uh-huh.

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1 Q. Okay. Now, I want to ask you then over on page 11
where
2 we've asked employment in a number of areas and you've
got
3 agents -- any agency using social workers marked yes.
Tell us
4 what you're referring to there.
5 A. I worked for about eight months with the Department
of
6 Social and Health Services in Washington state in Child
7 Protective Services. And I was not -- I had a degree,
a
8 bachelor's -- well, I had my master's degree in infant
9 development. I was not a social worker, but there were
social
10 workers there.
11 Q. All right. Now, did this include situations in
which
12 someone thought a child was neglected and removed them
from the
13 parents? That kind of thing?
14 A. That was a potential. I was one of those who would
15 investigate when a complaint came in. When someone
called
16 and -- and reported that there was something.
17 Q. Did you go out to the home?
18 A. I did.
19 Q. Do sort of an inventory of the child and the

surroundings

20 and talk to the parents?

21 A. That's right.

for

22 Q. Were you then involved in evaluation of the need

23 intervention?

24 A. That was part of my role.

disputes.

25 Q. And some of those things become very disagreeable

27

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it for

1 A. They could easily be. I worked part-time and I did

than a

2 six or eight months, eight or ten months. It was less

worked

3 year. And I don't think there were any cases that I

4 with where the children were taken away from the home.

where

5 Q. Okay. I would like to move for a moment to page 16

is

6 we asked some of your leisure time activities. And one

Question 73

7 about television programs, and you showed us on

8 ones that you follow. Are -- regularly, is this?

9 A. Fairly regularly.

military

10 Q. One of those is JAG, it appears to be, about

11 lawyers. Is that --

12 A. Uh-huh.

13 Q. Do you watch that regularly?

14 A. I watch it when I can. It turns out that I see it
maybe
15 once a month.

16 Q. And then news, you watch television news?

17 A. I watch the news probably four or five out of seven
days.

18 Q. Any particular channel and time?

19 A. Channel 4 is on a lot of the time from anywhere
between 4

20 and 5:00 until the local news is over at -- whatever
time it

21 is. 7:00, I think. But I often switch to ABC just for
the

22 national news and then back to Channel 4 for the news.

23 Q. So the early evening news is -- late afternoon,
early

24 evening?

25 A. Uh-huh.

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We asked 1 Q. Also on page 18, if you'll turn to that, please.

2 you your awareness of certain organizations and
movements and

3 you've marked them, one of which is the ADL, Anti-

Defamation

4 League. Have you been active in that organization?

5 A. Not at all.

6 Q. Have you been active in any of these organizations
that

7 you've marked?

8 A. Well, Klan Watch is part of the Southern Poverty
Law

9 Center, and I have had a membership with that group.

10 Q. By which you pay dues?

11 A. Yes.

12 Q. Do you receive regular publications from the
Southern

13 Poverty Law Center?

14 A. I do.

15 Q. Have you received any that concern this case?

16 A. I don't know because I haven't read any for about a
year

17 and a half. So they come. And I don't think I'm a
current

18 member, although I still get the publications.

19 Q. How about your husband? Is he also a member?

20 A. Well, it's a family membership.

21 Q. I see.

22 A. I don't think he's ever looked at the publications
that

23 came.

24 Q. You sort of have them stacked up as things I may
get around

25 to?

29

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1 A. Yes.

2 Q. Okay. Then the last one on here, the Posse
Comitatus,

3 what's your awareness of that organization?

4 A. I'm from north Idaho, and the Posse Comitatus has
been

5 somewhat active in that area as well as a couple other
groups

6 that I think are related, probably.

7 Q. Were they active when you lived there?

8 A. I think the Posse Comitatus might have been.

9 Q. Were you aware of it at the time that you lived
there?

10 A. I don't remember when I first became aware of it.
Probably

11 not. I -- I was aware of some other groups that are
not

12 that -- that may have some similarities with some of
their

13 ideology.

14 Q. And what are they?

15 A. Many years ago, the John Birch Society was one, and
I was a

16 little bit familiar with that. Maybe just that group.
There

17 were billboards for a while that I think were put out
by that
18 group that talked about getting out of the United
Nations and
19 other things.
20 Q. Uh-huh. Do you have friends back there in Idaho
now?
21 A. And family, yes.
22 Q. And family?
23 A. Uh-huh.
24 Q. In Kellogg?
25 A. Uh-huh.

30

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1 Q. Excuse me. And do you -- obviously, you
communicate with
2 them --
3 A. Uh-huh.
4 Q. -- as family members?
5 And is the subject of the Posse Comitatus or
John
6 Birch Society or any of those groups included in your
family
7 communication?
8 A. Not often. Occasionally. A few years ago, there
were some
9 bombings in Coeur d'Alene, and I think that was related

-- I

10 think it -- in the news, at least, I think it was
related to

11 the Aryan Nations, which I think is probably somewhat
similar.

12 And they had a big compound just outside of Coeur
d'Alene.

13 Q. Have your folks or other family members expressed
alarm and

14 concern about these groups being in Idaho?

15 A. Yes, but not to the point of feeling like they
needed to do

16 something about it. I think north Idaho is a pretty

17 independent place and the feelings were that if -- as
long as

18 there are not bombs exploding and there are not
infringements

19 upon others, that it's a free country.

20 Q. So if you expressed views against the Government

21 establishment, so to speak, that's okay? Is that --
and that

22 seems to be your view, too, because you express in here
an

23 awareness and regard for the constitutional protections
of

24 speech.

25 A. Uh-huh.

1 Q. Turn, please, to page 22. And we asked you flat
out here
2 in Question 100 about your opinion of the effectiveness
of the
3 criminal justice system and you told us flat out you
don't
4 think it's working very well. Not well at all, as a
matter of
5 fact. And then you go on to express your opinion of
lawyers,
6 which is not unusual for people in the medical
profession to
7 have this opinion of lawyers. But tell me a little
about the
8 reasons for your statements here about loopholes,
9 technicalities and so forth.

10 A. My impression is that I certainly -- I haven't
attended
11 trials and I haven't been involved in the legal system,
so I
12 wouldn't have any idea what kind of percentages it
might be
13 that way, but the impression that I get is that there
are many
14 trials where attorneys use whatever legal
technicalities they
15 can or whatever -- what could almost be described as
tricks
16 or -- including some information and leaving other
information
17 out so that whatever impression is given is maybe not
much

18 different than what you get in the news sometimes.

19 Q. Yeah.

20 A. And that some of the tricks that are played or the
21 loopholes that are used or the technicalities that are
used

22 don't have anything to do necessarily with whether
someone is

23 guilty of whatever the indictment might be, but because
this

24 was done improperly or something else applied, then it
can be

25 dropped.

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1 Q. And are there any particular trial results that you
have in
2 mind in expressing that view?

3 A. No. I haven't followed any trials closely enough
to know
4 de -- enough details to be able to make a judgment in
that way.

5 Q. Some people have expressed an opinion like that in
6 connection with the trial -- the criminal trial of
charges
7 against O. J. Simpson.

8 A. Well, that comes to mind, but I didn't follow it
closely
9 enough to know what they were -- specifically what they
were

10 saying and what they were doing.

11 Q. Okay.

12 A. Just kind of generally.

13 Q. Well, will you grant that there are rules of
evidence that

14 govern what can be considered in connection with
charges

15 against a person excused -- accused?

16 A. Yes.

17 Q. And that some of the things can be considered
18 technicalities, but yet, these technicalities are
designed and

19 have come about really over several centuries of human
20 experience to protect liberty?

21 A. I do know that that's the -- the background.

22 Q. Yeah.

23 A. And the -- the basic reason and justification for
why the

24 rules came about.

25 Q. And that when we talk about guilt, it's really a
legal term

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1 and that is whether it has been proven. Will you
accept that?

2 A. I accept that; that that is the -- the fact of --
the best

3 system we've been able to come up with.

4 Q. Okay. Sometimes it's frustrating?

5 A. Very much so.

6 Q. Sometimes you think it didn't work right, but if we
didn't

7 do these things, you would accept that we would be at
the risk

8 of having things come out unjust and people losing
liberty or

9 even life --

10 A. Uh-huh.

11 Q. -- inappropriately because the evidence isn't
there?

12 A. I think given our human limitations, this is
probably the

13 best system that we've been able to arrive at or that
could be

14 up to this point that we could have come up with. If
we were

15 clairvoyant or something and actually could know more,
but we

16 don't.

17 Q. Yeah. All right. Human frailty is a part of what
we deal

18 with in the courts.

19 A. Absolutely. And human nature, which is not
necessarily

20 straightforward.

21 Q. I want to turn to the questions on pages 28 and 29

22 concerning your views with respect to possible

punishment; and

23 those being, as we have them here, the punishment of
life in
24 prison without the possibility of any release and of
course,
25 the penalty of death. And you understand the reason
that we

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1 have to ask you these questions and did ask you these
questions

2 is explained in detail in the questionnaire; that we
only get

3 one opportunity to get information about people's
beliefs and

4 attitudes, and the fact that this is being discussed
has

5 nothing to do with anybody's assumption as to the
outcome of

6 the trial on the question of guilt or nonguilt. Do you
accept

7 that?

8 A. Yes.

9 Q. So we asked it in those terms and you gave us
answers, I

10 take it, that are in those terms. If you want to take
a little

11 time to review your answers, it's only fair that you do
that

12 because we looked at them carefully, of course. So

just take a

13 moment to do that.

14 A. Thank you. Okay.

15 Q. Let me ask you first -- these are very serious
questions,

16 of course -- the question of whether the legal system
should

17 result in a death sentence. Is this the first time
that you

18 have thought about this question of punishment and the

19 appropriateness of a death sentence?

20 A. No.

21 Q. So it's been something that you thought and --
about and

22 discussed before?

23 A. Uh-huh.

24 Q. Are the views that you have expressed here the
views that

25 you've held for most of the time that you've considered
it?

35

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1 A. I think the decision about the death penalty is
something

2 that is very serious. And my feelings about that
haven't been

3 firm and solid over time at all.

4 Q. And today, are they?

was
-- and
spent
general, it
judgment over
make.

5 A. I guess because I knew that I had been summoned and
6 going to need to probably fill out a questionnaire and
7 the potential of having to really consider this, I have
8 quite a bit more time thinking about it. And in
9 seems like it's people setting themselves up in
10 someone else, making a decision that isn't ours to

or some
-- and
least
puts
whoever
many
the --
things

11 On the other hand, there are some situations
12 circumstances that are, I guess, so profound and have
13 especially situations that have a high potential or at
14 possibility that it could be repeated in some way, that
15 many other lives in jeopardy, where -- obviously,
16 planned the Oklahoma City bombing had expectation that
17 people were going to die. And that must surely have --
18 hopefully have been very well thought out and not made
19 the decision not made lightly. The possibility of such
20 happening again certainly exists, if by example only.

with it

21 And certainly, someone who has been involved

22 in the first place -- and now that Timothy McVeigh has
been
23 found guilty, in some ways, to some people, he may be
like a
24 hero whose advice would like to be gained or whose
information
25 or whatever. And anyone else who might also have been
involved

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1 could be in some ways kind of a cult hero and could
indirectly
2 be involved with other activities like this again.
3 When someone sets themselves up in -- in a
judgment
4 place like whoever did this bombing did, they must be
making
5 some decisions on their own about the value of life and
-- and
6 how they are -- what their own role in this whole thing
might
7 be. Surely, they would know that it's something that
you can't
8 get away with and that it is on too large a scale and
too big a
9 thing to be -- it needs to be weighed very carefully
and very
10 seriously.
11 Q. Does that mean in your mind that anyone found
guilty here

12 should be given the same sentence as Timothy McVeigh?
13 A. I don't know legally how that works and what the
rules
14 might be.
15 Q. I'm not asking you for a legal -- this isn't a
legal
16 question.
17 A. Okay.
18 Q. I just -- we want to know a few things about what
you think
19 and then I'm going to explain the legal structure of
this in a
20 couple of minutes to help you, but forget about what
I'm going
21 to tell you about the law for a moment and just tell me
and all
22 of us if you believe that if a jury determines that
Terry
23 Nichols had anything to do -- any role to play in what
24 ultimately resulted in an explosion with death and
injury, that
25 he automatically should be put to death.

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1 A. I don't think I can answer that question
definitively. I
2 think it probably would have more to do with what kind
of role
3 was played, how -- how involved in the planning and the

4 decisions and the -- all of that.

a person

5 Q. And would it have anything to do with what kind of

6 he is or his background, some of those things that were

7 involved in his own development?

there

8 A. I think it depends more on what kind of involvement

9 was.

10 Q. In the crime?

11 A. In the crime. Uh-huh.

law

12 Q. All right. Well, let me explain a little about the

in

13 here so that maybe you have a better frame of reference

of

14 which to tell us your views. The trial of this case,

15 course, is going to be a test of the evidence. And the

responsibility

16 Government will be presenting evidence; that its

County.

17 is to present these charges, as I told you at Jefferson

18 By pleading not guilty, Mr. Nichols disputes all of the

19 allegations and puts them into dispute. And under our

charges

20 Constitution, he's presumed to be not guilty of these

presumed to be

21 and sits here in this room with us this morning

22 not guilty. You understand that?

23 A. Uh-huh.

24 Q. And the Government, having made the charges, has
the burden
25 of trying to prove them, so the Government will be
presenting

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1 evidence in the way of testimony of witnesses and the
2 introduction of exhibits. The defendant, Mr. Nichols,
has no
3 burden or duty of proving anything. He does not have
any
4 obligation to prove himself not guilty or even to
explain
5 anything. So he's not required -- first of all, he's
not
6 required to testify. Nobody can call him as a witness
and he
7 doesn't have to be a witness. And there can be no
inference
8 drawn from the fact, if it be a fact, that he chooses
not to be
9 a witness. Also, he has no duty to call anybody else
as a
10 witness. He can simply, by his not guilty plea,
challenge the
11 evidence that the Government presents, make objections
that you
12 might think were technicalities but which are
important,
13 cross-examine the witnesses and so forth. And the
burden of

14 proof is on the Government. And in fact, that burden
says that
15 under the Constitution, Mr. Nichols may not be found
guilty
16 just as no one else can be found guilty in a criminal
trial
17 unless all of the twelve jurors who are selected and
are
18 fair-minded people sworn to follow the law and the
evidence
19 decides that the evidence proved him guilty and proved
it
20 beyond a reasonable doubt.

21 These are basic concepts. And I'm sure you've
heard
22 of them before. Have you?

23 A. I have.

24 Q. And so after considering all of the evidence and
also the
25 law as it is given in detailed instructions by me, the
Judge,

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1 at the close of the evidence about what the law is --
what has
2 to be proved, what we call the elements of each crime
-- then
3 the jury must give the defendant the benefit of any
reasonable

4 doubt that remains and if there is reasonable doubt,
find him

5 not guilty. You understand that?

6 A. I do.

7 Q. And that has to be a unanimous verdict. All of the
jurors

8 must discuss and then agree. So the only way in which

9 Mr. Nichols or any other defendant could be found
guilty of any

10 of the crimes charged is that all of the jurors
unanimously

11 agree that what they heard and saw as evidence under
the law of

12 the Court's instructions showed him to be guilty beyond
a

13 reasonable doubt. Understood?

14 A. Understood.

15 Q. And accepted by you?

16 A. Yes.

17 Q. Now, then in cases that are not capital cases; that
is to

18 say, that do not involve the possibility of death as a

19 punishment --

20 A. Uh-huh.

21 Q. -- when a jury reaches that verdict, guilty or not
guilty,

22 that's it. The jury has discharged its duty. And in
the event

23 of a guilty verdict, the jury still has completed its
task; and

24 then it's up to the judge of that case to decide the
25 punishment; that is to say, the sentence. And in those

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1 situations, there's an -- you know, the trial; and what
2 happened at the trial is not enough, because where
there is
3 sentencing by the court, more information is provided
to the
4 court. And there's an additional hearing and arguments
are
5 presented; that is, both sides have an opportunity to
attempt
6 to persuade the court about the sentence and then
sentence is
7 decided. That's the way it is when we don't have the
8 possibility of the punishment of death. You understand
that?

9 A. Uh-huh.

10 Q. So the jury is not responsible for determining the
11 sentence; and when we talk to the jurors in selecting a
jury in
12 those cases, we don't talk about punishment at all. As
a
13 matter of fact, in the instructions in a criminal case,
the
14 jury is told, "Don't consider punishment." It's not a
factor.
15 And you can't even think about it when you decide the

question

16 of whether the evidence shows guilt beyond a reasonable
doubt.

17 Follow me?

18 A. Uh-huh.

19 Q. Now, that's the same thing that's true and will be
true in

20 this case. In deciding whether the evidence proves
guilt

21 beyond a reasonable doubt, the jury may not at all
consider

22 what the possible punishment might be. So that's a
separate

23 issue.

24 You're nodding your head. I take --

25 A. I agree it's a separate issue.

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1 Q. All right. But what's different here is that in
the event

2 that the jury find Mr. Nichols guilty, then the jury
does get

3 involved in the sentencing phase of the case. And
here,

4 though, as it is true with other cases, there has to be
more

5 information provided, more than what was provided at
the trial.

6 So we have what's referred to as a sentencing phase or

penalty

7 phase trial or hearing. And it's at that time that a
great
8 deal more evidence can be presented in the form of what
we call
9 information, information about the crime and the
circumstances
10 of it, but also information about the defendant, things
like
11 his life history, his employment experience, his family
12 relationships, all of those things that are involved
that make
13 each one of us unique as human beings. And then we say
and we
14 refer to these things in the course of that, still part
of the
15 adversary process, because the government emphasizes
those
16 things that would suggest a death sentence, and we talk
about
17 those as aggravating factors; and the defense, of
course,
18 emphasizes those things which suggest that death is not
a
19 mitigating justified sentence. And we refer to those as
mitigating
20 factors.

21 But in the end, argument is then presented
about that
22 and certain analytical instructions are given by the
court: how
23 you approach this, what are aggravating factors that
can be

24 considered, what are mitigating factors. And then it's
up to
25 the jury to decide. But although there is the
suggestion of an

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1 analytical approach, at bottom, it is a matter of
jurors who
2 come in here representing the conscience of the
community and
3 exercise of moral judgment. So there are legal
principles
4 involved that in the end, the question is a moral
question as
5 to in this case, to put it as plainly as I can, whether
after
6 considering all of these things, the jury believes and
each
7 individual juror has to make this judgment that Timothy
--
8 excuse me -- that Terry Lynn Nichols should live or
die.
9 That's the final issue. Understand?
10 A. I understand.
11 Q. Now, tell us whether you believe sitting here now
that you
12 could make such a decision and do it in full
consideration of
13 all of the matters that would be presented to you in
court.

serious 14 A. I think I can. I think -- I think it's a very
15 decision.
it; and 16 Q. Of course it is. And you know, you're reacting to
17 we understand that because of the enormity of the
decision, and
18 there isn't anybody in this room who would suggest to
you that
19 it isn't a heavy responsibility. And that's why I put
it to
20 you in as direct of terms as I can, because there's no
escape
21 from this being a very serious decision and a moral
judgment.
22 And that's why we go to these great lengths to ask you
23 something about yourself. I hope you understand.
We're not
24 trying to pry into your affairs, but we need to know as
much as
25 we can about you. So what I hear you saying is that
you

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1 believe that you could and would decide fairly in this
matter,
2 separate the questions of guilt or not and penalty. Is
that
3 it?

4 A. Very much so. And I think they are separate. As
you said,
5 they are separate issues. And one may even be easier
to decide
6 than the other, but I think I would be able to -- once
the
7 point of the decision of guilt or not was made, be able
to
8 consider the rest of the -- the concept of punishment.
And
9 it's much more than a concept, because a person is
involved.

10 Q. And when you say one may be easier to decide than
the
11 other, what are you thinking?

12 A. I think the guilt or innocence may be easier to
decide.
13 It -- it probably still would be a very difficult
decision.
14 It, in itself, is not a death sentence. It's guilt or
15 innocence.

16 THE COURT: Well, thank you for responding to
all
17 these questions. Now both sides have an opportunity to
ask you
18 some additional questions and some follow-ups; and you
19 understand that's part of what is involved in a fair
trial.

20 Mr. Ryan . . .

21 MR. RYAN: Thank you, your Honor.

22 VOIR DIRE EXAMINATION

23 BY MR. RYAN:
24 Q. Good morning.
25 A. Good morning.

44

Juror No. 215 - Voir Dire

1 Q. Do you feel like you're on the rack?

2 A. No. Thank you. I was afraid I might be.

3 Q. You're not. Would you like some water?

4 A. I'm okay. Thank you.

5 Q. My name is Pat Ryan. I'm the United States
Attorney in

6 Oklahoma City. I'm here with my fellow prosecutors --

7 MR. WOODS: We object. We object to
personalization

8 by Mr. Ryan as to the Oklahoma City connection.

9 THE COURT: The objection is overruled. I
believe

10 that the juror and everyone else knows the case got
moved here

11 from Oklahoma City.

12 So you may proceed, Mr. Ryan.

13 MR. RYAN: Thank you, your Honor.

14 BY MR. RYAN:

15 Q. I'm here with my fellow prosecutors to present the
evidence

16 in this case against Mr. Nichols. And after all of the

few; 17 questions you've answered from his Honor, I only have a

18 and if you'll just bear with me.

19 I gather Kellogg, Idaho, is in northern Idaho?

20 A. Very much.

21 Q. Is it up by Coeur d'Alene?

22 A. Uh-huh.

23 Q. About how far is it?

24 A. About 35 miles.

is that 25 Q. And you grew up all of your childhood in Kellogg;

45

Juror No. 215 - Voir Dire

1 right?

Lake that 2 A. In Kellogg; and we had a cabin on Coeur d'Alene

3 we spent all summer, every summer.

4 Q. Do you still have that cabin?

5 A. No.

read 6 Q. The -- I've read the -- your res -- not resumÇ. I

employment, and 7 your questionnaire on your education and your

if I 8 I -- I'd like to just kind of track through the years,

school, 9 could. And I'll do it quickly. But after you left

10 high school in Kellogg, what did you do?

11 A. I went to college at the University of Idaho.

12 Q. And did you obtain a degree then?

13 A. I got a bachelor's degree.

14 Q. Is this your bachelor's in nursing?

15 A. No. It was a bachelor of science. It was called
16 bacteriology med tech, and I never worked as a med
tech.

17 Q. All right. And then following graduation from
college,

18 what did you do?

19 A. I went to Washington, D.C. While I was in college,
I

20 worked as a summer intern for a congressman on the Hill
in

21 Washington, D.C.; and when I went back to Washington,
D.C.,

22 after college, I worked for that congressman for a
couple of

23 months until I found a job that was medically oriented.
He was

24 willing for me to just -- they were willing for me to
hire on

25 permanently; but even to come for a couple of months,
he was

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Juror No. 215 - Voir Dire

1 willing.

2 Q. You had some interest in politics, I gather?

3 A. No.

4 Q. Your father did.

5 A. My father did. And it was because of my experience
with

6 that that I did not. I got -- I got a good education
of how

7 the political system functions and a lot of the behind-
the-

8 scenes way that things work; and I knew that I didn't
want to

9 be involved with that.

10 Q. And your father ran for Congress two separate
times?

11 A. Yes, he did.

12 Q. What party did -- what ticket did he run on?

13 A. He was Republican.

14 Q. After you left Washington, D.C., what did you --
where did

15 you go from there?

16 A. I went to Seattle, Washington.

17 Q. Okay.

18 A. I worked for the federal government for about five
months

19 with the Alaska Native Claims Settlement Act and had
some trips

20 to Alaska back and forth trying to help, I guess,
understand

21 what the law was and what needed to happen for the
Alaska

22 natives.

23 Q. Following that five months, where did you --

24 A. Let's see.

25 Q. I'm really just looking for large blocks -- fairly
large

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1 blocks of your experience.

2 A. Yeah. I was -- the office dissolved, and I was
unemployed

3 for several months. I took a couple of courses at the

4 University of Washington; and then I went back to
Spokane,

5 Washington, and worked in a radiology department of a
hospital.

6 Q. Somewhere along the line, you converted to Judaism?

7 A. Uh-huh.

8 Q. Would you tell us about that.

9 A. It was something I'd been interested in all my
life. There

10 were no Jewish families at all in the area where I grew
up.

11 And there weren't any people I could ask questions of.
I had

12 the opportunity when I was in college to travel, and I
chose to

13 go to Israel because I wanted to find out more about
that and

14 spent six months and got a semester's worth of credit
in
15 Israel. When I came back, I talked with a rabbi and
got a list
16 of things that were suggested readings; and then I
considered
17 that for the next three years before I made the
decision that I
18 actually wanted to convert.

19 Q. Was this decision made in any part based on
marriage?

20 A. No. It was several years before I met my husband.

21 Q. All right. And how long did you attend school
there in

22 Washington?

23 A. Just one quarter.

24 Q. All right. Then after that, what did you do?

25 A. Then I went to Spokane, Washington.

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1 Q. All right.

2 A. Worked in the radiology department just for a few
months.

3 I worked then as a field representative for the March
of Dimes

4 for a little less than a year. And then I went back to
school

5 for my master's degree.

6 Q. All right. And when did you ob -- is that when you
7 obtained your Master's in developmental psychology?

8 A. Yes.

9 Q. So you obtained that before your degree in nursing?

10 A. That's right. I've only been a nurse for five
years.

11 Q. Okay. And did you practice developmental
psychology?

12 A. A little bit. I set up a -- a program in the
county that

13 we lived in in Washington state that was -- I can't
remember

14 what it was called, but it was for birth -- kids who
were from

15 birth to three who had some kind of developmental
disabilities

16 and needed to both be found and then be able to be
plugged into

17 some kind of a therapy-type program. So I helped set
that

18 program up; and once it was up and running, I started
doing

19 other things.

20 Q. All right. Have you thought about whether or not
your

21 developmental psychology education and experience --
how that

22 might bear on this case or a sentencing decision in a
case

23 before coming here today?

24 A. No. I don't think I did.

25 Q. I think some of his Honor's questions were -- hit
at this a

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1 little bit, but I guess the question I have is in
thinking

2 about a person in terms of what their punishment should
be for

3 a given crime, I take it -- or I shouldn't say I take
it.

4 Would you be influenced to some extent by what your
concepts of

5 the developing person are?

6 A. Well, I suppose a decision like that doesn't get
made in a

7 vacuum; and all of who I am would be part of what made
a

8 difference in what I was considering. So it probably
would.

9 Q. You don't have the view, I take it, that somebody
is born

10 to be a -- you know, a murderer or a rapist?

11 A. No. I don't.

12 Q. This is something they choose to do later in life?

13 A. Uh-huh.

14 Q. So you -- you got your -- was it your -- University
of

15 Tennessee where you obtained your nursing degree, then?

16 A. Yes, it is.

17 Q. And that's when you started becoming a labor --
18 A. I've only been a labor and delivery nurse since the
end of
19 April.
20 Q. Okay. All right. I noticed that you had as one of
your
21 interests possibly becoming a midwife at some --
22 A. Potentially. I taught childbirth classes for a
long time.
23 I started that in the late 70's, and so that's a
thought that
24 I've had off and on. I don't know that I'll pursue
that.
25 Q. And another one of your interests is in what you've
called

50

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1 "energetic healing." Could you explain to me what that
is.
2 A. Therapeutic touch is one of the -- the phrases that
gets
3 used to describe some energetic healing. It's not
massage.
4 It's not hands-on manipulation kinds of things. It
involves
5 each of us, our energetic beings; and to get into a
discussion
6 of that even gets into the whole -- what Einstein
discovered:

7 that matter and energy are pretty much interchangeable
and that
8 what feels solid is really something that actually is
vibrating
9 at a specific rate. And we perceive it as solid, but
it really
10 is something that's an energetic something. And
healing energy
11 can flow and interact and all of us interact with each
other,
12 whether we're aware of it or not, energetically. All
physical
13 symptoms of things have an energetic counterpart and
really
14 can't be disconnected from whatever that is. And
assisting
15 energy blocks to be freed up and energy to flow more
freely can
16 make a lot of difference in physical symptoms, but it
can also
17 begin to help heal and deal with whatever else is
behind that
18 with emotional, psychological, ourselves as a whole --

19 Q. Does your --

20 A. -- being.

21 Q. Excuse me. I didn't mean to interrupt. Does your
husband
22 share your interest?

23 A. No. Definitely not.

24 Q. And his teaching at the faculty, medical school,
has
25 nothing to do with energetic healing. It's purely

obstetrics?

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Juror No. 215 - Voir Dire

1 A. He's family practice.

2 Q. Family practice professor but specializes some in
3 obstetrics?

4 A. His primary activity area is obstetrics.

5 Q. Does he still deliver children?

6 A. Very much so.

7 Q. In the middle of the night?

8 A. In the middle of the night.

9 Q. One of the questions asked -- and it's Question
132, if you

10 want to look at it. It's on page 30. It asks you
about the

11 events at Waco. And I'll paraphrase here a bit. You
said,

12 "I'd like to know," quote, "'the rest of the story.'"

13 A. Uh-huh.

14 Q. End of quote. And I guess I'd like for you to just
take a

15 moment and tell me what kinds of things you're thinking
about.

16 A. Oh, I think the news doesn't -- that the people who
are

17 reporting the news often probably don't know and what
gets

18 reported sometimes is what information they have been
able to
19 find. Occasionally, I think there's censorship. Who
knows. I
20 think there could be a lot of other parts to the story
about
21 what the government's role was, about what the people
in the
22 compound -- what their involvement was and what they
were
23 doing. And there's a lot of things that we will never
be able
24 to know.
25 Q. Based on what you do know, do you have a judgment
about the

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1 responsibility, if you will, for the tragedy of Waco?
2 A. No. I don't. I don't feel like I know enough
about it. I
3 wasn't there. I haven't studied it in -- in depth; and
even if
4 I did, I'm not sure that I'd gather enough information
to be
5 able to make a definite judgment one way or the other.
6 Q. One of the questions is Question 127. It asks you
to, on a
7 scale of 1 to 10, to rank how you felt about government
8 intrusion. And you rate it a 7. And did you have
certain

9 things in mind?

10 A. No, I don't. There's rules everywhere and
paperwork

11 everywhere and, you know, the -- I guess kind of the
way I

12 operate my life is I find out what the rules are, kind
of

13 adjust myself to them and then operate within those
guidelines,

14 for the most part. And then I don't think about the
rules a

15 whole lot until I come up against something, and then
it's --

16 I've got to rethink the whole thing. So no, I didn't
have

17 specific things in mind.

18 Q. And I read that you had some knowledge about
explosives.

19 And I --

20 A. Very little.

21 Q. Okay. And this was in building a home?

22 A. Yeah. In developing our -- our ten acres that were
totally

23 undeveloped when we started. There were rocks in the
way.

24 Q. This is the property on the Columbia River?

25 A. Uh-huh.

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involved in 1 Q. Did you and your husband -- were you personally
2 building or constructing the home?

the work 3 A. We were. We had a contractor, but we did a lot of
4 ourselves.

was that 5 Q. And as part -- as part of the work that you did,
6 the explosives part?

the 7 A. There were rocks in the way of the foundation, and
8 contractor and those who were doing the foundation work
did use

but it's 9 some dynamite to help get those rocks out of the way;
10 a very rural area, and the person who was doing that
was --

way in 11 became a friend of ours. And when we had rocks in the
12 the garden, he came and helped us with that.

13 Q. And again, did he use dynamite?

14 A. He used dynamite.

15 Q. Any other explosive used other than dynamite?

16 A. No.

17 Q. Do you have any knowledge of explosives beyond that
18 experience?

19 A. No. I really don't. I -- very vague.

attended a gun 20 Q. And one of the questions asked you if you'd

you 21 show, and you indicated that you had. Had you -- have
22 attended more than one?
interest. 23 A. No. I've just attended one. My husband has an
was a -- 24 Guns are -- we were in England a year ago, and there
a long 25 an exhibit of ancient weaponry in England; and he spent

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1 time in there.
2 Q. Okay.
some 3 A. And he's gone to a couple of other gun shows, did
wanted me 4 target shooting for a while. And I went because he
5 to come.
6 Q. When was this?
7 A. In Tennessee.
8 Q. Several years ago?
9 A. Uh-huh. Probably four years ago.
penalty, and so 10 Q. You obviously have struggled with the death
It 11 I -- I don't have much I want to further go over that.
that this 12 seems clear to me -- and correct me if I'm wrong --

the last 13 is something you've thought quite a bit about here in
14 twelve days.
15 A. Uh-huh.
death 16 Q. Did you talk to your husband about the issue of the
17 penalty?
18 A. Uh-huh.
19 Q. Does he have a view on it?
like 20 A. It's easier for him to make a decision. He feels
would be 21 there are definite times when it's appropriate; and he
22 able to make that decision more quickly and more easily
than I 23 would.
24 Q. Now, I have the sense that, intellectually, you
think that 25 the death penalty is appropriate in certain
circumstances that

55

Juror No. 215 - Voir Dire

1 you've sort of outlined for us.
2 A. Uh-huh. Sort of.
3 Q. Excuse me?
4 A. Sort of.
5 Q. In a vague way, and I don't want to specifically

talk about

6 facts of this case.

7 A. Right.

But

8 Q. I want to talk about it in more of a general sense.

you

9 the point I want to ask you about is it's one thing to,

you

10 know, sit at home and think about it, and we appreciate

thought

11 doing that. I sincerely mean that. We appreciate the

about it at

12 you've given to this. But it is one thing to think

for a

13 home in theory that perhaps we need capital punishment

but it's

14 certain type of crime or a certain type of individual,

couple of

15 another to come in this courtroom every day for a

to the

16 months and -- and look at a defendant in a case, listen

make

17 evidence about his life, and then make that -- actually

warranted, I

18 the decision that I can do that, I think it's

take it

19 think it's justified, I've heard all the evidence, I

be done.

20 all into account, I think it's justified, it ought to

21 Can you do it?

your

22 MR. TIGAR: Object to the seeking commitment,

23 Honor.

24 THE COURT: There's no commitment until the --

25 BY MR. RYAN:

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1 Q. I'm not talking about this case, even.

2 A. Right.

3 Q. Do you think you are a person who can actually come
into

4 court -- not come into court but actually make the
decision

5 that involves sentencing someone to death?

6 A. Until I was -- received a summons for this jury, it
was

7 theoretical. When I received a summons for this jury,
it was

8 no longer theoretical. I needed to really sort that
through,

9 to know how I felt about that and feel whether I would
be able

10 to honestly sit on a jury and be able to really
consider that

11 possibility; and I feel like I can.

12 MR. RYAN: Thank you very much.

13 THE COURT: Mr. Tigar . . .

14 VOIR DIRE EXAMINATION

15 BY MR. TIGAR:

16 Q. Good morning.

17 A. Good morning.

18 Q. One thing I wanted to ask right away is you've said
one of

19 the magazines you read is called ASP0 Lamaze?

20 A. Uh-huh.

21 Q. And I didn't know what ASP0 stood for.

22 A. The American Society for Psychoprophylactics in
Obstetrics.

23 Q. That was Dr. Lamaze's --

24 A. Yes.

25 Q. -- name for his method?

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Juror No. 215 - Voir Dire

1 He didn't call it the Lamaze method?

2 A. Psychoprophylaxis, that's what he called it.

3 Q. How long have you been teaching the Lamaze method?

4 A. I've been certified for a few months. I've been
teaching

5 the method for 20 years. 20-some years.

6 Q. So you're convinced that that it is the way to --
to go

7 through childbirth?

8 A. I'm convinced that relaxation techniques and
visualization

9 things and kind of putting the whole package together
can make

10 a big difference, yes.

11 Q. Now, you mentioned also -- and I know Mr. Ryan
asked about

12 it -- that you were thinking of taking additional work
to

13 become a midwife.

14 A. I'm not thinking very seriously about it. It's not
15 something I'm going to do next week.

16 Q. I understand. But tell me about that. What --
what moves

17 you in that direction?

18 A. Oh, the whole aspect of the -- I guess the
childbearing

19 year is tremendously interesting to me, which is also
-- that

20 includes the newborn period, which is also where the
infant

21 development comes in. It's just a very dynamic time in
22 someone's life. And the Chinese figures for the word
"crisis"

23 are "dangerous opportunity." It's one of those times
in a

24 lifetime when your whole life is changing and whatever
happens

25 with the woman in labor is what she brings from her
whole life.

that
extremely
study,
times, I
don't
system that
system was
the way
mainly or

1 There are huge emotional issues and all kinds of things
2 kind of come into that whole scene and it's an
3 powerful event. A lot of things can happen.
4 Q. When you talked about energetic healing and that
5 have you been interested in eastern medicine?
6 A. Not enough to have done much study with it.
7 Q. Well, Dr. Lamaze was a welcome guest in China many
8 guess.
9 A. I don't know that. I know he was in Russia, but I
10 know a lot about his life.
11 Q. Well, you mentioned in talking about the legal
12 you were -- you didn't think the criminal justice
13 working terribly well and in part, that was because of
14 lawyers behave.
15 A. Uh-huh.
16 Q. Now, is that defense -- criminal defense lawyers
17 prosecutors or --
18 A. Both.
19 Q. -- what kind?
20 A. Both.
21 Q. Both.

22 A. Uh-huh.
23 Q. Now, does your husband have the same view of this?
Is this
24 something you talk about at home?
25 A. I don't know what his view is. I think, in
general, it's

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1 not very positive. But I don't know specifically.
2 Q. Well, can you give me an example of a lawyer who
you've
3 observed manipulating the system? It's okay. I can
take it.
4 A. I haven't seen you manipulating the system.
5 Q. We hardly know each other.
6 A. Right. No. I can't think of an example.
7 Q. But you also said that juries probably take their
job
8 seriously and honestly.
9 A. I -- I suspect, for the most part, they do. I have
an idea
10 that it's possible to tamper with a jury. You hear of
those
11 things occasionally, but I think that a lot of
precautions are
12 taken these days. And especially involving these
trials, a lot
13 of precautions are being taken.

for a 14 Q. Well, I'd like to ask about the fact that you have,
and 15 while, been a member of the Southern Poverty Law Center
16 knew about their project Klan Watch.

17 A. Uh-huh.

when you 18 Q. And then you also mentioned that it disturbed you
19 see people trying to get gullible folks to follow them.

20 A. Uh-huh.

Southern 21 Q. Do you -- in reading whatever you've read from the
is, 22 Poverty Law Center, have you seen that as a theme; that
similar 23 their concern about demagogues and other folks with

24 views trying to get followers in political movements?

considered 25 A. I think any movement, especially that might be

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about 1 more on the fringes, appeals to someone's emotions

groups 2 something. And to a large extent, I suspect that the

members feel 3 that they kind of monitor are groups that -- the

there's a 4 very strongly about what they're involved with and so

a high
through
direction
wouldn't be
religious
night
and the
about it to
they
so proud
a lot
to it
about
put in

5 high level of emotion with that. And whenever there's
6 level of emotion, it's easier for someone who can see
7 all of that to kind of manipulate things whatever
8 they would like for it to go. And certainly, it
9 limited to -- to a political group. Certainly,
10 groups and a lot of other groups, that's also true.
11 I even went to a fund-raising dinner the other
12 and there was a video about the University of Colorado
13 hospital, and it was beautiful. And I knew enough
14 know that a lot of what they said was very accurate and
15 left a whole lot out, and so this video makes you feel
16 that you're part of this whole thing and then you know
17 more of the story and realize that there really is more
18 than that. So that's an example of the manipulation.
19 Q. I remember that when you were talking to Mr. Ryan
20 Waco in your Waco answer, you said you don't know, you
21 quotes, "the rest of the story."
22 A. Uh-huh. I really don't.

comes 23 Q. Do you know where that phrase "rest of the story"
24 from? Do you have a --
25 A. No.

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quotes 1 Q. Okay. I just wondered if the reason you put it in
2 is you'd seen it somewhere.

3 A. Oh, no.

4 Q. Well --

5 A. I thought you were going to tell me.

6 Q. No. I'm not -- I'm just supposed to ask.

7 A. Oh.

things 8 Q. In that -- in the years that you've been receiving

affiliation 9 from the Southern Poverty Law Center, would that

about 10 cause you problems if there were evidence in this case

and so on? 11 different movements and who was associated with them

the 12 Would you be able to keep separate Morris Dees' view of

13 world from your view of the evidence?

someone 14 A. Morris Dees is Morris Dees. He's -- that -- what

me. 15 else's view of something is belongs to them and not to

16 That's a pretty strong, I guess, value of mine.
Throughout my

17 life -- and a lot of my life has been spent trying to
sort

18 through those things so that I make my own decisions
instead of

19 rely on what someone else has to say.

20 Q. I notice you mention that you had -- you at least
own a

21 book by John Grisham.

22 A. I read one. I've read a couple.

23 Q. Oh. And based on having -- we're not trying to
advertise

24 for Mr. Grisham, but did that affect your view of
lawyers and

25 the legal system?

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1 A. I think it just added to what I already suspected.
That

2 probably is where some of the information came from
that I

3 based some of my conclusions on.

4 Q. I have to ask you what books were they and what is
it that

5 they added to what you suspected about us?

6 A. I read them while I was in Tennessee. And it's

been a fair

7 number of years since then. I read The Client, and I
think the

8 other one is A Time to Kill. And then because The
Client took

9 place in Memphis, I had to go see the movie to see if I
10 recognized any of the landmarks.

11 Q. All right.

12 A. But I don't remember enough specifics. I think A
Time to

13 Kill had a lot more to do with the legal system than
The Client

14 did. I mean, he was running and, you know, all of
that, but

15 there were actually courtroom scenes in A Time to Kill.

16 Q. Did you see the movie?

17 A. No. It was enough to read the book.

18 Q. I can understand that. Well, what -- what did you
think of

19 that -- how were your views of the legal system, the
criminal

20 justice system, affected by reading that book A Time to
Kill?

21 A. I think I also know enough about American history
to know

22 that the system has been manipulated significantly
probably

23 since its beginning. Immigrants who came in the 1900's
or the

24 late 1800's and who got involved in unions in New York
City and

25 a lot of not necessarily lawyers but legal maneuvers
that were

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1 pulled that would help silence them and the freedoms
that we
2 all are guaranteed, we really aren't all guaranteed or
have not
3 always been guaranteed. And it just kind of is an
extension of
4 that. It has more to do with human nature than it does
with
5 the rules and the way things are supposed to work. The
rules
6 are basically good and the way things are supposed to
work is
7 basically good, and the way that they do work in
practice has
8 more to do with people in some cases than it does with
what the
9 rules are.

10 Q. Did -- did you follow the skinhead case that Morris
Dees
11 was involved in?

12 A. I followed a little bit the one that was involved
in
13 Oregon, especially because I -- I lived 60 miles from
there a
14 lot of years and so it was interesting to me.

15 Q. And --

16 A. A little bit.

17 Q. Did that have any effect on your judgment? What
did you

18 think of that process?

19 A. Which part of the process?

20 Q. Well, what do you think of how the lawyers behaved?

21 A. That part, I wasn't involved with enough. I didn't
see

22 anything on TV. I read maybe one article about it.

And I

23 don't know how they behaved.

24 Q. You mentioned in your response on the punishment
question

25 that in making an important decision, you draw on
everything

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1 that -- in your life.

2 A. Uh-huh.

3 Q. You said that before in talking to Mr. Ryan and in
talking

4 to his Honor. How does your -- if at all, does your
religious

5 training and teaching affect the decisions that you --
that you

6 make?

7 A. My religious education and teachings are basically
pretty

8 eclectic, and I did convert to Judaism because there
were a lot
9 of things that -- within that that fit with who I am.
But I
10 think what's more important is the spirituality that's
behind
11 it and -- for who I am. And if we were just going to
talk
12 about Judaism, you can find anything almost anywhere
within
13 Judaism to argue any side of any issue. And you know,
there's
14 a lot of jokes about having two Jews together and
having five
15 different opinions about things which, you know -- so
Judaism
16 itself doesn't -- there are some basic moral concepts
that are
17 lovely, and what you do with them is individual. It's
not
18 dogmatic.
19 Q. Have you, in the context of religion, talked about
what the
20 Torah says about the death penalty and what subsequent
later
21 rabbinic interpretations of procedure in capital cases
ought to
22 be?
23 A. I probably have and I don't remember. I -- you
know, the
24 phrase an eye for an eye and tooth for a tooth comes to
mind.

25 And there are always in any situation an -- and if you
get into

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1 any of the rabbinic discussions, there will be ten
different

2 opinions about whatever and they can be from one
extreme to

3 another and a whole lot of things in between.
Sometimes they

4 don't seem to make any relationship to whatever the
issue was,

5 so . . .

6 Q. I'd like to ask you a couple of things about what's
in your

7 questionnaire.

8 A. Okay.

9 Q. You mention that a child either of yours or a close
family

10 member died at an early age.

11 A. Yeah.

12 Q. Can you tell us about that. I'm sorry to pry.

13 A. I had a -- a brother who was three years -- well,
no, who

14 was six months old when I was three years old who died.
It --

15 it was similar probably to SIDS and so it was very sad
and I

16 remember that. I don't remember a lot of things from

when I

17 was that age.

18 Q. You don't think that would have any effect on your
service

19 as a juror here --

20 A. No.

21 Q. -- having been so long ago?

22 A. No.

23 Q. Now, you mentioned that when you were working for
less than

24 a year in Washington state, you were an investigator.
You used

25 to go out to people's homes and look into the
situation. Did

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1 that involve asking questions and judging who's telling
the

2 truth and who's not?

3 A. Yeah. Inevitably, it did. And trying to assess
what the

4 situation really was. I didn't feel real comfortable
with

5 that, which is why I didn't do it for a long time.

6 Q. Well, here you are again. Can you share with me
some

7 thoughts about how you decide if somebody is telling
the truth

8 or not? They're going to sit right there.

9 A. There goes life experience again. And I had a
friend who

10 took her daughter to another friend's house for child
care.

11 And this friend is someone that I work with and I knew
and felt

12 very comfortable with. But the friend occasionally
needed to

13 be away from home and her husband would watch the kids.
And my

14 friend's daughter was molested. These were people that
I knew

15 and I knew the woman fairly well. I didn't know him
very well,

16 but I decided at that point that I'm not good at being
able to

17 look at somebody and figure out, you know, whether it's
really

18 a safe situation or not a safe situation and so I made
some

19 rules in that case. I have a daughter, too, that I --
that

20 would help cover the situation because I'm not always
real good

21 at being able to discern who's telling the truth and
who's not

22 and who is okay and who's not. It's a matter of
discernment.

23 It has to do with body language. It has to do with
probably

24 some expressions. It has to do with instinct and a gut
reaction to people. And beyond that, I think it would

25

be real

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1 nice if I could -- had a crystal ball or I could read
someone's
2 aura and I can't, so . . .
3 Q. You mentioned that you have -- of course, you watch
the
4 news a lot and you've read a lot about -- you must have
seen a
5 lot about the Oklahoma City bombing case.
6 A. It was on a lot.
7 Q. And did you talk about it with friends?
8 A. Not very much. A little. That it was awful. But
-- and
9 who might have done it and how long it might take to
find
10 whoever might have been involved and, you know, there
was a
11 John Doe No. 2, who might that be and -- but just more
on the
12 surface of things. Hearing a little bit once people
were
13 arrested, very little about involvement, and I wasn't
paying
14 close enough attention to remember always who was who,
so . . .
15 Q. I want to ask you a little bit about it because one
of the

stand. 16 ways, you know -- it won't just be a witness on the

it out. 17 There will be a lot of different clues to sort of sort

seeing about 18 What's the first thing you can remember hearing or

19 Terry Nichols?

Michigan, 20 A. The farm in Michigan. Something about a farm in

of them 21 and I think it was -- it was his brother, and the two

recollection 22 together were involved with the farm. And even my

lives 23 of that is hazy enough that -- that I think his brother

if he 24 on the farm, and I don't remember if he lived there or

had 25 visited a lot, so -- and that -- that Timothy McVeigh

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not be 1 visited there, as well. So no -- what I just said may

2 accurate.

3 Q. I understand.

follow things 4 A. So -- so I guess that is to say that I didn't

memory. I 5 real closely and I didn't try to commit anything to

6 just knew there were some vague things like that.

7 Q. Do you remember anything -- reading anything about
8 Mr. Nichols' family?

9 A. No. I don't think I did.

10 Q. Well, as you sit there right now, what do you think
11 about -- based on what you've heard and read from the
media, do

12 you have an opinion about Terry Nichols?

13 A. No. Not at all. Truly, I don't. I -- I didn't
hear

14 enough before to begin to make any decisions and there
really

15 hasn't been much for a long time that had to do with he
or his

16 life or involvement with Oklahoma City. I think
there's been a

17 real good hit on that. So I don't really remember very
well

18 what I kind of heard before. I suspect it's not any
different

19 in Denver than it is in any other city in the country
for what

20 kind of information was on the news for, you know --
anyway, I

21 don't think there was any more here than there was
anyplace

22 else.

23 Q. Now, you mentioned that you had discussed this some
with --

24 with your husband and I guess with your daughter.
She's 12.

25 Does she follow the news at all?

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1 A. She has some assignments recently that she needs to
try.

2 She mostly has tuned it out up to this point.

3 Q. She mostly has what?

4 A. Tuned it out.

5 Q. I see. Tuned it out. Well, she's about to be 13
and then

6 the long tunnel called adolescence starts.

7 A. Uh-huh.

8 Q. Have you read a book called Get Out Of My Life But
First,

9 Would You Take Me and Cheryl To The Mall?

10 A. I've heard of the book. I haven't read it. There
have

11 been some parents I've heard discussing it.

12 Q. Well, we study that at our house. Well, if your
daughter

13 isn't reading the -- the book, do you -- does your --
has your

14 husband expressed strong views -- and I don't mean to
suggest

15 that he would control or whatever, but is this -- this
trial or

16 what it means or the issues been a subject of
discussion in

17 your house?

with 18 A. I think there was one discussion and that had to do
or not. 19 the death penalty and whether it was ever appropriate
my 20 And she was sitting there with her eyes wide open and
and I 21 husband had some definite feelings about it probably is
22 was considering everything everybody said so . . .

we only 23 Q. You understand that we -- we -- as the Judge said,
this man 24 get to ask this once. We can't seat a jury to decide
they 25 that's presumed innocent and then if, for some reason,

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have to 1 come in with a verdict, then go through it again, so we
2 start now. That's clear.

3 A. Uh-huh.

4 Q. If Judge Matsch at the end of this case should give
phase, some 5 instructions that says that at -- there's some life
things that 6 penalty phase and he says, Look, these are all the
include 7 you're required by the law to consider and they would
8 and if that list included things about Terry Nichols,

the human

9 being, in addition to facts about the Oklahoma City
bombing,

10 the crime, would you be able to follow his instructions
about

11 that?

12 A. Uh-huh. I think I would.

13 Q. Well, I hear you say, "I think I would." I -- it's
like if

14 my wife said, Do you love me and I said, I think I do,
she'd

15 want to ask another question.

16 A. It's kind of the pattern of my life of considering
as much

17 information as I can before I make a decision. Even
before I

18 converted to Judaism, it was a -- it was a three-year
process

19 before I made a definite decision and then followed
through

20 with it. And I needed to think about it for a long
time before

21 I was able to make the decision. But I needed to weigh
as many

22 aspects as I knew of that were part of that.

23 Q. But I'm asking -- what I'm asking is about the
judge's

24 instructions because, of course, after the study
process, there

25 comes that moment up on the bimah where they ask you
the

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1 questions. And then you answer yea or nay. I'm saying
here,
2 if the judge instructs you as to what the rules are for
making
3 a decision, can you do it?

4 A. I can do it.

5 MR. TIGAR: Thank you, very much.

6 THE COURT: All right. Well, we're not making
7 decisions about who will serve and who will not serve
as we go
8 along. I'm sure you understand that. So you're going
to be in
9 a time of uncertainty, and so will your family and the
people
10 where you work. And we just have to ask you to be
patient with
11 us and accept that. We're going to be talking to quite
a few
12 people, as you can imagine. We ask of you, though,
now, just
13 as when you were excused there when we were together at
14 Jefferson County, conduct yourself on the assumption
that you
15 will serve on this jury and that you will have the
16 responsibility to make the decisions in this case.
17 Accordingly, do not follow the publicity about the
case. Avoid

and be 18 things in radio, newspapers, publications of any kind
with 19 very careful now in the discussions with your husband,
I'm 20 your friends, with your daughter, all -- you know what
jury, 21 saying, because we want you, if you're selected on this
is when 22 to be able to come back in here and whatever day that
in the 23 we start the trial and come in with an open mind and be
that. 24 same frame of mind as you are just now. So please do
process. 25 And also, we ask of you that you not discuss this

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we've asked 1 We apologize for all these questions that
So we 2 of you, but I believe you understand the importance.
we are 3 will be in touch with you and be letting you know where
4 on this. And for now, you're excused.

5 A. Thank you.

questionnaire 6 THE COURT: You can leave and take your
Thank you, 7 with you, if you will, please. It'll be picked up.

8 very much.

9 A. Thank you.

10 THE COURT: We're going to take a recess, I
think.

11 We'll take a 20-minute recess. So I believe that'll be
about

12 ten after.

13 (Recess at 10:50 a.m.)

14 (Reconvened at 11:10 a.m.)

15 THE COURT: Be seated, please.

16 Okay. We have 391.

17 Good morning. Sir.

18 JUROR: Good morning.

19 THE COURT: We'll ask you to raise your right
hand and

20 take the oath of affirmation, please.

21 (Juror No. 391 affirmed.)

22 THE COURT: Did you say, "I do"?

23 JUROR: Yes, sir.

24 THE COURT: Please be seated.

25 I didn't hear you. That's why I asked.

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1 JUROR: I apologize.

2 THE COURT: All right.

3 VOIR DIRE EXAMINATION

4 BY THE COURT:

5 Q. Now, you remember taking that same oath earlier
when you

6 and others were out at the Jefferson County Fairgrounds
a

7 couple weeks ago on September 17?

8 A. Yes.

9 Q. And I was there -- excuse me -- and at that time,
you also

10 met two lawyers for the Government, two for the
defendant, and

11 Mr. Nichols. Do you recall that?

12 A. Yes, sir.

13 Q. And we have some additional people here this
morning, so

14 I'd like to introduce to you the people who are here
now at

15 these counsel tables. Here at the first one, which is
the

16 Government's table, Mr. Lawrence Mackey. He was there.

17 Ms. Beth Wilkinson, she was there.

18 Mr. Ryan, Patrick Ryan, is now here, and Mr.
James

19 Orenstein.

20 You met out there Mr. Michael Tigar, who is
here

21 again, Mr. Ronald Woods; and, of course, Mr. Terry
Nichols you

22 met before.

23 There are other people here in the immediate
area that
24 we're not going to take the time to introduce now, but
they are
25 also assisting with the lawyers in this case; so that's
why

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1 they're here.
2 And you understand that you have through a
chance
3 system -- your number came up, so to speak -- been
called in
4 here to have us ask you some additional questions
besides those
5 written ones that were asked you out at the fairgrounds
6 regarding the possibility of your serving on the jury
for the
7 trial of this case. You understand that's why you're
here?

8 A. Yes, sir.
9 Q. And you remember that I explained to you and the
others who
10 were out there on the 17th the background of this case,
what
11 the charges are that are here to be tried, generally
about that
12 the Government has alleged that Timothy James McVeigh
and Terry
13 Lynn Nichols and other persons not named in the

indictment were

14 in a conspiracy to use a truck bomb to destroy a
building,
15 Federal Office Building in Oklahoma City and to kill
and injure
16 people in it; that an explosion did occur in Oklahoma
City on
17 April 19, 1995, and that there are some other crimes
charged,
18 including the murder of law enforcement agents in that
19 building. You remember I told you those were the
charges?

20 A. Yes, sir.

21 Q. I also told you that Mr. Nichols pleaded not guilty
to each
22 of those charges and that under those pleas of not
guilty, that
23 puts in issue -- that is, disputes -- all of the
allegations
24 that the Government has made. And what we're here to
do is to
25 try the evidence, to determine whether the Government
has

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1 proved what is charged. You understand generally about
that,
2 do you?
3 A. Yes, sir.

of
us to
now.

4 Q. Okay. Now, I want to reassure you about a couple
5 things, and one is that on these answers that you gave
6 the questionnaire -- and you have it in front of you

7 A. Yes, sir.

ask you
those
that you
given under
oath, but
sometimes
along
you're

8 Q. And feel free to refer to it. We're not going to
9 to read through it, and I'm not going to ask you all
10 questions over again; but what I want you to know is
11 can change your answers. I mean these were answers
12 oath as these questions now are being answered under
13 all of us have with more time to think about it
14 something else that we would say. And we put a lot of
15 questions to you in a short time here. So if as we go
16 you want to change anything, just let us know. And
17 perfectly free to do that.

18 A. Yes, sir.

We're not
anything.
to

19 Q. Okay. And also, understand this is not a test.
20 here for you to decide or to answer right or wrong on
21 We just want to hear from you as to your honest answers

22 these questions. And a lot of these things did deal
with some
23 areas of your life that are somewhat private, and we
understand
24 that; and that's why we're referring to you here not by
your
25 name but by the number. So you're known to us here on
the

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1 record as Juror No. 391.

2 A. Yes, sir.

3 Q. We apologize for that in a sense, but also I'm sure
you
4 understand why we have to do it.

5 A. Yes, sir.

6 Q. Now, I want to turn to what you've told us, but
before I do

7 that, I want to ask you this question: When you left
out

8 there, I gave you some additional instructions about
you'll

9 have to assume that you're going to be on the jury and
you'll

10 have to be careful about things that might be on radio,
on

11 television, in the newspapers and in conversation.
Were you

12 able to do that?

13 A. I pretty much left everything alone, yes, sir.

14 Q. All right. We understand that it's not always
possible to

15 do that; that no matter how careful we are, sometimes
listening

16 to the radio or on television something comes up that
deals

17 with this case or something about it, even though we're
18 careful.

19 Now, has that happened with you? I mean, have
you

20 stumbled across something or inadvertently heard
something or

21 read something?

22 A. Oh, I have personnel that I've been around -- has
asked me

23 a few things about it; and I just flat tell them -- I
said I

24 can't talk you on it.

25 Q. Yeah. Now, that's a natural thing when people hear

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1 about --

2 A. Oh, yes.

3 Q. -- your being called in for service on the jury,
they ask

4 you a question. Are you talking about a workplace?

5 A. Yes.

employed. 6 Q. Now, I understood here that you were now not
there and 7 A. No, I'm not employed; but I pick up a day here,
8 yonder with --
9 Q. I see.
where he 10 A. -- an auto broker by bringing vehicles back to
11 wants them.
12 Q. Driving them back?
13 A. Yes.
14 Q. Is that a broker out of Fort Collins?
15 A. No. He's out of Windsor, right up by Fort Collins.
of the 16 Q. Yeah, that's not far. So you go out to other parts
17 country and pick up vehicles?
18 A. No, just here in the state.
Slope, 19 Q. And the whole state? I mean over on the Western
20 too, or --
21 A. Far west as we go is Granby.
you do 22 Q. Okay. Now, what, do you drive over? Tell me what
23 instead of my trying to guess it.
and I 24 A. Mr. Villa and I -- he goes and buys the vehicles,
he has 25 help him bring them back through to other dealers that

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1 sold them to.

2 Q. Okay. So what, do you travel together and --

3 A. Yes.

4 Q. And then you drive one car and he another?

5 A. Yes.

6 Q. I got it. And that's just occasionally when the
time comes

7 up?

8 A. Right.

9 Q. Now, you live in Fort Collins.

10 A. That's right.

11 Q. You've only lived there six or seven months now?

12 A. That's right.

13 Q. Were you affected by the flood?

14 A. No. We were high and dry in the area that I was
at.

15 Q. Yeah. Well, the whole town was affected by the
flood.

16 A. Oh, yes.

17 Q. But I mean the property, your own property.

18 A. No.

19 Q. And did you do any work at all in connection with
the

20 flooding? Any rescue or repair? Anything like that?

- 21 A. No.
- 22 Q. Originally, you were born in Missouri?
- 23 A. That's right.
- 24 Q. Mark Twain's Hannibal, Missouri?
- 25 A. That's right.

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- 1 Q. And then you lived in Laredo, Texas?
- 2 A. I was discharged from the Air Force at Laredo,
Texas, and
- 3 stayed there for a while.
- 4 Q. Okay. Where did you go to high school? I guess
I'm mixed
- 5 up here a little bit. Where were you living when you
went to
- 6 high school?
- 7 A. At Laredo.
- 8 Q. Okay. And you've lived -- before Fort Collins, you
were in
- 9 Weld County?
- 10 A. That's right.
- 11 Q. In or near Evans and Greeley?
- 12 A. Right.
- 13 Q. Well, Evans is right near Greeley?
- 14 A. Yes, sir.
- 15 Q. And you worked on a dairy farm for a good many

years?

16 A. Yes.

17 Q. Now, as I understand it, you were working -- that
wasn't

18 your dairy farm.

19 A. No.

20 Q. You were working --

21 A. Working for another man.

22 Q. Yeah. And that's seven days a week, long hours and
hard

23 work.

24 A. Yes, sir.

25 Q. You -- you developed an asthma, a breathing
problem?

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1 A. May I go into that a little bit?

2 Q. Sure. I was going to ask you whether it's in
connection

3 with working with the livestock.

4 A. Partially. I went in and had a triple bypass with
5 open-heart surgery and it went into pneumonia. I come
back --

6 come out of the hospital, went back to work. I was
working

7 around a lot of feed, a lot of hay, mold and dust.

8 Q. Sure.

from the 9 A. And developed into asthma with having weak lungs
10 pneumonia.

11 Q. When was that that you had a surgery?

12 A. Approximately three years ago.

a heart 13 Q. Was that as a result of what we usually refer to as
14 attack?

15 A. Yes, sir.

16 Q. An episode like that?

17 A. Yes, sir.

did 18 Q. Had you had any problems with your heart before, or
19 this come as a surprise?

that 20 A. No. I've had few problems with it before, but not
21 amounted to very much.

22 Q. Well, that slowed you down?

23 A. Oh, boy.

were 24 Q. Possibly. Yeah. And then when was it that you
25 working for Monfort?

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1 A. That's when I had the heart attack.

2 Q. That's where you were then?

3 A. Yes.

4 Q. Now, were you driving over the road?

5 A. No.

6 Q. Just --

7 A. Driving a feed truck in the lot.

8 Q. Okay. And, of course, you were working around a
lot of
9 cattle in a feedlot.

10 A. That's right. I think the smallest amount they've
had in
11 there was approximately 6,000 head.

12 Q. Yeah. In the Greeley -- you were working in the
Greeley
13 feedlot?

14 A. No, it was Gilcrest just south of Greeley.

15 Q. And when did you stop working then? I mean at
Monfort. I
16 don't mean the day, but --

17 A. I can't remember. It's been a little over a year
ago.

18 Q. And that's because of your --

19 A. Because of the asthma. I couldn't breathe, I
wouldn't
20 work.

21 Q. Now, you take some inhalers to control the asthma?

22 A. Yes, sir. I have three of them right here with me.

23 Q. And do they work okay? I mean --

24 A. So far.

25 Q. I mean when you get breathing --

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1 A. So far.

2 Q. All right. Do you also take some medication for
your

3 heart?

4 A. For my heart and also to help my one lone kidney
work

5 right.

6 Q. Have you had a kidney removed?

7 A. Yes, I have.

8 Q. And how long ago -- I don't want to dwell on all
these

9 things, but we want to know --

10 A. A year before the heart attack.

11 Q. Yeah. Well, I guess I would ask you how do you
feel now,

12 but I don't mean it as a joke. I mean really, how do
you feel

13 now?

14 A. The brown cloud down here don't do me any good.
But other

15 than that, I feel pretty good.

16 Q. And when you go on these trips, you can drive for a
long

17 stretch, several hours, eight, nine hours?

18 A. No, we don't drive that long.
19 Q. Okay. Well, if you will tell us a little more
about your
20 health; and what we're talking about here, of course,
is coming
21 in and, you know, meeting at a place outside the
building here,
22 like you did today --
23 A. Yes.
24 Q. -- being brought in here and then sitting with us
in the
25 trial, which is essentially 9 to 5.

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1 A. Yes, sir.
2 Q. With breaks, of course, in between and a lunch
break. So
3 you think you can deal with that as far as your health
is
4 concerned?
5 A. I believe so, if you can put up with my inhalers
when I
6 have to use them.
7 Q. That doesn't disturb anybody. You just put that up
to your
8 mouth and squeeze it off, don't you?
9 A. That's right.

notice 10 Q. Okay. In looking at your questionnaire here, I
11 that -- well, you're married.
12 A. Yes, sir.
homes? 13 Q. And your wife has been doing some work in people's
14 A. Yes, in home health.
15 Q. Taking care of elderly people?
16 A. That's right.
17 Q. And is she doing that now?
18 A. No, she isn't.
19 Q. She --
20 A. She's not working at all right now.
21 Q. Okay. And is that because of her health?
22 A. No.
23 Q. She just kind of retired from it?
24 A. She's backed off from it to a certain extent.
25 Q. Okay.

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and she 1 A. Last lady that she was taking care of died on her,
2 was pretty close to the lady.
3 Q. Yeah. Hard. Hard emotionally.
4 A. Yes.

5 Q. On page 11, if you'll turn to that, please. We
asked you
6 here about employment, you or members of your family
and some
7 other lines of work, and you marked security guard.
Have you
8 done some of that?
9 A. Yes, I have.
10 Q. Where did you work as a security guard?
11 A. In Indiana.
12 Q. How long ago are we talking about there?
13 A. About eight years ago.
14 Q. What -- what was it? You know, there are generally
two
15 areas for security work. One is guarding a building, I
mean
16 protecting buildings.
17 A. Yes. I worked for Pinkerton.
18 Q. Was it in building security?
19 A. Yes.
20 Q. Like an office?
21 A. No, it was the entire building.
22 Q. Yeah, but I mean was it an office building?
23 A. No.
24 Q. What kind of a building?
25 A. It's -- it was a plant that they made what they
called a

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1 "Bush Hog," which is a mowing machine.

2 Q. Behind the tractor?

3 A. Yes.

4 Q. Okay. And then where was that in Indiana?

5 A. Peru, Indiana.

6 Q. How long did you live back there?

7 A. About a year.

8 Q. And when was that? As you said, about eight years ago?

9 A. About eight years ago.

10 Q. Had you been working on this dairy farm before that?

11 A. No.

12 Q. I'm a little mixed up.

13 A. I took up dairy work after I came back out here. The

14 moisture in the air back there, the doctor said I needed to get

15 to a drier climate, so I came back out to Colorado.

16 Q. So were you having breathing problems there, too?

17 A. Yes.

18 Q. Okay. So what, I got the impression here that you have

19 worked on a dairy farm for some 20 years.

20 A. Yes, sir, I have.

21 Q. But --

22 A. On and off, yes.

23 Q. I got you.

24 You were in the Air Force during the Korean
War?

25 A. That's right.

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Juror No. 391 - Voir Dire

1 Q. Where were you stationed?

2 A. Williams Air Force Base, Laredo Air Force Base, and
I was
3 at Amarillo for schooling and Biloxi, Mississippi, for
4 schooling, and I was on Kelly Air Force Base for a
while in San
5 Antonio.

6 Q. So all of your time was stateside?

7 A. That's right.

8 Q. And you've got a brother who is career Air Force?

9 A. He was.

10 Q. Is he retired now?

11 A. Yes.

12 Q. And your father was in the Air Force?

13 A. No, father was in the Army.

14 Q. Army. Okay. And was he career Army, or just in
during the

15 war?

16 A. No, during the war.
17 Q. You belong to some veterans' organizations?
18 A. Yes.
19 Q. American Legion?
20 A. American Legion.
21 Q. DAV?
22 A. DAV.
23 Q. And you've been an officer?
24 A. Yes, sir.
25 Q. Are you now?

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Juror No. 391 – Voir Dire

1 A. No, sir. I quit being an officer in any of them.
2 Q. Were you in a post there in Fort Collins?
3 A. Yes, sir, I'm at Post 4 in Fort Collins.
4 Q. And were you in one in Greeley?
5 A. Yes, Chapter No. 8.
6 Q. And then you also have been active in the Elks?
7 A. No. In the Eagles.
8 Q. Eagles. I'm sorry. That's a bad thing to mix up
the Elks
9 and the Eagles.
10 A. I helped start the Eagles' Lodge South, which is
south of

the 11 Greeley, and was first president. And I went through

12 chairs again and was the 12th president.

13 Q. How long ago was that, then?

14 A. That's been three years ago.

15 Q. Are you still active with the organization?

16 A. Yes.

Would you 17 Q. I want to ask you about a question on page 24.

18 turn to that, please.

19 And it's Question 109. You have it?

20 A. Yes.

referring 21 Q. Can you tell us a little about that, what you're

22 to about your "yes" answer?

His 23 A. I'm referring to my oldest son, which is a stepson.

went to 24 wife was too good of mimicking his handwriting, and he

slate and 25 Caşon City for 18 months. He's out now with a clean

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Juror No. 391 – Voir Dire

1 is an over-the-road trucker.

handwriting? 2 Q. You say his wife was too good at mimicking his

3 A. That's right.

4 Q. I'm not understanding what you're saying.

5 A. Well, she forged his name on several checks.

6 Q. And they were bad checks?

7 A. And they were bad checks, very bad.

8 Q. Okay. And so he was prosecuted for bad checks?

9 A. Yes.

10 Q. Was that a trial? Did that go to trial?

11 A. Yes, it did.

12 Q. And apparently a jury thought the evidence
supported the

13 charge and found him guilty. Is that right?

14 A. That's right.

15 Q. And he did time?

16 A. He did time.

17 Q. But you think that was unjust; that he didn't do
the crime.

18 Is that your thought?

19 A. That's my thought, yes.

20 Q. So that's a case in which the trial didn't come out
right.

21 A. That's right.

22 Q. Is that because somebody lied, or what happened?

23 A. I know she did.

24 Q. Was she a witness?

25 A. Yes. They brought her in, too.

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1 Q. Did you go to the trial?

2 A. I went to three of them.

3 Q. Tell me why there were three trials.

4 A. Three different hearings on it. It was never a
jury trial

5 on the --

6 Q. Oh. Well, tell me, I guess, what happened in your
own

7 words as far as these charges were concerned. I know
this

8 isn't something you want to talk about, but we'd like
to -- you

9 can understand why we want to know.

10 A. Yes, I can.

11 Q. Okay. Just tell us what happened.

12 A. Well, he turned himself in.

13 Q. Uh-huh.

14 A. And he was living in Louisiana at the time. They
15 extradited him back to Colorado; and when he got back
here,

16 they put him in the county jail in Weld County, where
he stayed

17 while he was having the three different trials or three
18 different hearings. And they finally decided that they
would

19 put him in a state institution for a period of 18
months,

20 and -- I'll catch my breath.

21 Q. Okay. Take your time.

22 A. And then he was transported to Cañon City, and he
was put

23 into what they called Four Mile. Then by having a
dairy

24 background, they put him on the dairy farm out there.

25 Q. Well -- excuse me.

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Juror No. 391 - Voir Dire

1 A. He had all good time. When he was released, all
the

2 accusations and everything were wiped off the slate.
He has a

3 clean slate; and like I say, he is working as an over-
the-road

4 trucker now.

5 Q. Now, do you know the process by which the slate was
wiped

6 clean?

7 A. No, I don't.

8 Q. He had a lawyer, did he?

9 A. Nothing other than what was assigned to him.

10 Q. Like a public defender?

11 A. Yes.

12 Q. Well, did he plead guilty to the charge, or a
charge?

13 A. I think he finally did.

14 Q. Okay. He went through some preliminary motions and
15 hearings, and that's what you're talking about?

16 A. Yes.

17 Q. And was this a plea that was arranged like a plea
bargain?

18 A. That, I have no idea, sir.

19 Q. Did he talk to you about what he should do as far
as a plea
20 or go to trial or anything like that?

21 A. Oh, he talked with his mother. Like I said, he's a
22 stepson.

23 Q. Uh-huh.

24 A. He and I are close to a certain extent, but not
like a

25 regular father and son.

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Juror No. 391 - Voir Dire

1 Q. Okay. So he didn't come to you for advice like
what should

2 I do and --

3 A. No, he didn't.

4 Q. All right. Well, just tell me -- you say here on
the next

5 page in Question 111, where we asked do you feel that
they were

6 justly investigated, arrested, accused and so forth,

you answer

7 yes.

8 A. Yes.

9 Q. Is that your answer, because I heard you saying you
don't

10 think he did it.

11 A. Well, I know for a fact that he didn't do part of
it; but

12 for the full amount of them, I think he was probably in
on it,

13 too.

14 Q. Okay. So there was some of the wife or former
wife?

15 A. Yes.

16 Q. And some of his own doing. Is that what you're
telling us?

17 A. Yes.

18 Q. All right. We asked you in this questionnaire
about going

19 to gun shows, and this is over on page 32, if you'll
turn all

20 the way over there. You see Question 139?

21 A. Yes.

22 Q. You've been to one or more gun shows?

23 A. Yes, I have.

24 Q. About how many times have you gone to a gun show?

25 A. I have no idea. Been quite a few.

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1 Q. All right. Is that something when you see a gun
show being

2 advertised, you tend -- if you don't have anything
conflicting

3 with that, you go over and take a look?

4 A. Usually if they're up around Weld County or Larimer
County,

5 I do.

6 Q. Have you bought and sold guns at a gun show?

7 A. No.

8 Q. Have you bought and sold anything at a gun show?

9 A. No.

10 Q. Or talked to any of the folks there who have got
tables?

11 And sometimes at gun shows, I'm told, they have guns
for sale

12 and other things for sale.

13 A. They do.

14 Q. Used military equipment, and also sometimes at gun
shows

15 there is literature there and things about --

16 A. That's right.

17 Q. -- gun ownership and that.

18 A. Yes.

19 Q. Have you picked up some of that material?

20 A. No, because I -- I don't have the money to buy
anything at

21 the gun show for what I would really like to have.

22 Q. Why do you go to them?

23 A. Because I'm interested in it, firearms, the
different

24 types, different classes.

25 Q. Okay. So -- and you like to window-shop, as it
were?

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1 A. Right.

2 Q. Take a look at what's there and talk to some of the
3 dealers?

4 A. A few of them, yes.

5 Q. Okay. Now, you tell us here that you have some --
I'm over

6 on 31. Sorry. I want to let you know where I am
looking.

7 You've got some black powder rifles?

8 A. Yes, sir.

9 Q. And also black powder handguns?

10 A. I have one handgun.

11 Q. What is it?

12 A. It's a .45 caliber derringer.

13 Q. And then you've got some modern hunting rifles or
shotguns,

14 or what?

15 A. I have one 12-gauge single barrel. I have a
semiautomatic

16 .22, and I guess that's it.

17 Q. You do some hunting?

18 A. Not anymore.

19 Q. Breathing is a problem for --

20 A. Oh, boy.

21 Q. -- hunting. Yeah.

22 Did you used to hunt dear, elk?

23 A. Biggest I've ever hunted was the black bear.

24 Q. Here in Colorado?

25 A. Here in Colorado, up around Crown Point.

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Juror No. 391 - Voir Dire

1 Q. Okay. I want to turn, please, to page 37. And
this really

2 kind of follows questions on the previous page, if you
want to

3 look there. For example, the question 158, please
summarize

4 what you've seen, read or heard about the Oklahoma City
5 bombing; and you've got down here you don't know very
much.

6 A. No, I don't.

7 Q. Is this something that you've -- you know, there
has been a

8 lot on television and everything.

9 A. Yes, there has.

10 Q. Starting with the events of April 19 of 1995. You
remember

11 any of the things that were on television, radio, when
the

12 explosion happened?

13 A. Only thing I know is that the explosion did happen
and

14 there was a lot of people that was killed in it, and
what got

15 me the worst on it was that there were so many children
in it.

16 Q. Uh-huh. You remember that.

17 A. Yes, sir.

18 Q. And then you know there has been a trial here.

19 A. Yes.

20 Q. With Timothy McVeigh.

21 A. Yes.

22 Q. And you know about the outcome of that?

23 A. Only hearsay.

24 Q. Well, what have you heard?

25 A. I heard that he was found guilty.

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Juror No. 391 - Voir Dire

1 Q. And when that trial was going on, did you pay any
attention

2 to the things on radio and television and newspapers
about it?

3 A. Oh, I don't take the newspaper; and I usually am
busy

4 working in my shop, puttering around. And the only
part of the

5 radio I hear is the musical part.

6 Q. Well, there are newscasts come on --

7 A. Oh, yes.

8 Q. -- even with those stations, aren't there? And you
know,

9 I'm not questioning your answer.

10 A. No, I understand.

11 Q. I'm not quarreling with you. I just -- I just want
to

12 know, you apparently have not paid very much attention
to all

13 this.

14 A. No, I haven't, sir.

15 Q. Okay. And of course, that which you have heard and
read

16 has to be set aside if you're serving on the jury. You
17 understand?

18 A. I understand that.

19 Q. And you understand that we're here to pick a jury
and then

20 we're going to have a trial, and that, as I've said,

21 Mr. Nichols has entered pleas of not guilty. So we're
going to

has to 22 call on the Government to produce whatever evidence it
understand 23 support these charges they've made against him. You
24 about that?
25 A. Yes, sir.

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1 Q. And that Mr. Nichols is not different from any
other person 2 who is accused of a crime. He's presumed to be not
guilty, so 3 he sits with us this morning presumed to be innocent.
You 4 understand that?

5 A. Yes, sir.

6 Q. And a person who is accused of a crime does not
have any 7 duty or burden to prove himself to be not guilty. In
fact, he 8 doesn't have to prove anything, doesn't have to call
any 9 witnesses, doesn't have to testify or explain anything.
You 10 understand all about that?

11 A. Yes, sir, I do.

12 Q. And that not only does he not have to call any
witnesses or 13 be a witness himself, but no juror can draw any

inference from

14 the fact, if it be a fact, that he doesn't testify or
offer any

15 evidence. You follow me on that?

16 A. Yes, sir.

17 Q. And that he can simply challenge the Government's
evidence

18 by cross-examining witnesses, raising objections and
all that

19 sort of thing and essentially make the Government prove
what

20 it's charged to see if it can prove it by legal
evidence

21 admissible under the rules. You follow that?

22 A. Yes, sir. I follow on it.

23 Q. And we say the Government has the burden of proof,
too;

24 that they must prove these charges, all of the
essential

25 elements, beyond a reasonable doubt, is what we often
refer to,

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1 and also convince all 12 of the jurors about that, so
there is

2 a unanimous verdict.

3 And at the end of trial, the Court, I, will
instruct

4 the jurors about what things have to be proved beyond a

after 5 reasonable doubt. And the jury will be told now, if
that I 6 considering all of the evidence and considering the law
to give 7 give you, you still have a reasonable doubt, you've got
that? 8 Mr. Nichols the benefit of that doubt. You understand

9 A. Yes, sir, I do.

10 Q. Are you ready to do that in this case?

11 A. Yes, sir.

of law 12 Q. Do you have any disagreement with these principles
13 that I've told you about?

14 A. None whatsoever.

them, 15 Q. And you've heard about them before I told you about
16 haven't you?

17 A. Yes.

same 18 Q. And you understand that the charges in this case,
is, 19 rules -- It doesn't make any difference what the charge
20 same rules apply to criminal cases.

21 A. Yes, sir.

case, 22 Q. Okay. Now, we asked you some questions in this
punishment, 23 though, about your views of certain kinds of

24 because there is a difference in this case dealing with

the

25 possibility, if convicted, there would be a hearing to

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1 determine whether death is a justified penalty. You
understand

2 that?

3 A. Yes.

4 Q. And we have, if you're going to turn to the
5 questionnaire -- I don't want to get you away from what
you

6 answered before here. And I think your answers are
over on
7 page 28. If you'll turn there, please.

8 You remember looking at this part of the
9 questionnaire?

10 A. Yes, sir.

11 Q. And you read the introduction part of it there
before the

12 questions, which say the fact that we're asking you
about

13 penalties and all that doesn't mean that you should
infer there

14 will ever be a guilt -- a penalty phase, because, as
we've just

15 talked about, Mr. Nichols is presumed to be not guilty.
You

16 remember that?

17 A. Yes, sir.

18 Q. So you answered all these questions here on page 28
with

19 pretty much the same answer: "Depending on the crime."

20 A. Right.

21 Q. What do you have in mind there? Would you expand
on that a

22 little bit?

23 A. If the crime calls for severe punishment, I would
say,

24 then, he should have severe punishment; and if it
doesn't and

25 he's found innocent on anything, then there should be
no

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1 punishment there.

2 Q. Well, now, if he's found innocent, there wouldn't
be any

3 punishment at all.

4 A. That's right.

5 Q. Because nobody who is not guilty of anything would
suffer

6 any punishment.

7 A. That's right.

8 Q. So we're only talking about if there is a finding
of guilt.

9 A. Right.

10 Q. And then you say that what should happen there --
and we're
11 asking specifically about the penalties of being in
prison
12 without ever being released, no possibility of being
released
13 and you spend your life in prison. That's one
possibility for
14 certain crimes; right?

15 A. That's right.

16 Q. You understood that. And another is to be put to
death.
17 A. Right.

18 Q. Now, that's what we want to talk with you about a
little
19 more, because when you say "Depends on the crime," are
you
20 saying that there are certain crimes that just the
crime itself
21 means that the death penalty is what should happen?

22 A. If it can be proven, yes.

23 Q. Now, one of the things -- and we're going to talk a
little
24 about the procedure and the law here -- but before I
do, I want
25 to get some more about what you think about the law,
because

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1 the law isn't the way we're talking now; but it's
important for

2 us to have you tell us something about what you think
-- sort

3 of what you think the law ought to be and what kinds of
crimes

4 you think would result in death as being the just
punishment.

5 A. The crimes that some other party was injured or
killed and

6 in particularly when there was mass murder, as it was
called at

7 Oklahoma City -- I think the capital punishment should
be on

8 that. And also, the -- I think on corporal punishment,
it

9 depends on the crime as to how much punishment should
be.

10 Q. Well, let's talk about what you know about Oklahoma
City.

11 You said there was an explosion, a lot of people killed
and

12 injured.

13 A. That's right.

14 Q. Now, is it your view that everybody who had
anything to do

15 with that, no matter what it is, should be put to
death?

16 A. I'm not familiar with the entire law on that.

17 Q. Well, we're going to talk about that in a minute,
but I

18 just want to have you tell me --

19 A. But I think the major ones should be, yes.

20 Q. Okay. So you do see a difference between what you
say as a

21 major role or participation and something less than
that?

22 A. Yes.

23 Q. And you think that's an important fact?

24 A. Yes, I do.

25 Q. Okay. Now, let me just explore this a little more
with

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1 you. Timothy McVeigh was tried here, was found guilty;
and the
2 jury did recommend the death sentence, and he's been
sentenced.

3 A. Yes.

4 Q. You understand that?

5 A. I understand that.

6 Q. Now, Terry Nichols is here. It's a different case.

7 A. Yes.

8 Q. We don't know, because we don't have the evidence,
what the
9 evidence will be with respect to what, if any, role he
played

10 or participation the Government even accuses him of.
You

11 understand that?

12 A. Yes.

found 13 Q. So there may be, even if Mr. Nichols were to be

14 guilty of something here, a difference in the roles.

15 A. Yes.

all; 16 Q. And in the part he played, if he played any part at

any 17 and of course right now, we're assuming he didn't play

18 part. There has nothing been put in evidence. Agreed?

19 A. Agreed.

were on 20 Q. Now, the question is whether you would say if you

should be 21 this jury and Mr. Nichols were found guilty that he

Would 22 treated the same as Timothy McVeigh and put to death.

23 you say that?

24 A. Yes, I would.

25 Q. Why?

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he has 1 A. Because if he is guilty like McVeigh, I feel that

2 caused enough damage and should be put to death.

3 Q. But we're not talking about guilty like Mr.

McVeigh.

4 That's what I was trying to get to.

5 A. Oh. All right, sir.

6 Q. Sometimes -- and here's a charge of conspiracy.
That means

7 people getting together and planning something. And
different

8 people do different things in connection with it. You
follow

9 me?

10 A. Yes.

11 Q. Now, I thought you were telling me that you see a
12 difference in the role as to whether it were major or
not. And

13 when we're talking about Timothy McVeigh, the
Government's

14 evidence there was that he drove a truck up there and
it blew

15 up. But they haven't accused Mr. Nichols of that in
itself.

16 You understand that?

17 A. I understand, yes.

18 Q. So what I'm asking you is if you see a difference,
then,

19 that there can be the possibility that someone may do
an act

20 that helps the event but not a major part. Do you see
that?

21 A. Yes, sir, I can.

22 Q. And would you see that as something that ought to
affect

23 the sentence?

24 A. Yes. I think it should.

25 Q. Okay. And you see that's -- you're telling me
something a

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1 little different now from what you just said.

2 A. Yes. I understand it a little more now.

3 Q. Okay. Well, I'm not arguing with you.

4 A. Yes.

5 Q. Just trying to draw you out on this a little bit.

6 A. Yes.

7 Q. Let me go through what would happen here. First of
all,

8 we're going to have a trial.

9 A. Yes.

10 Q. About whether these things that the Government says
he did,

11 they can prove as to Mr. Nichols. Do you understand
that?

12 A. Yes.

13 Q. Now, in that part of the case, this question of
punishment

14 doesn't come up at all because -- let's just take any
other

15 kind of criminal case --

16 A. Uh-huh.

17 Q. -- where a death penalty is not a factor. What happens is

18 a jury gets selected, the evidence gets put on, the jury is

19 asked whether under instructions that detail, what has to be

20 proved -- whether the evidence proves it beyond a reasonable

21 doubt. If not, the verdict is not guilty, that's the end of

22 it.

23 A. Yes, sir.

24 Q. On the other hand, if the jury finds that the evidence does

25 show guilt of the particular crime beyond a reasonable doubt,

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1 the verdict is guilty and the jury is done with it, because the

2 question of punishment is up to the judge. You understand

3 that?

4 A. Yes, sir.

5 Q. And there is another hearing about that. The judge just

6 doesn't make a sentence decision right then and there. There

7 is more information gathered. And that information
goes to not
8 only the circumstances of the crime itself but also
things
9 about the defendant, things about his background, his
life,
10 his -- where he was born and raised, what his family
11 circumstances were, what his employment history has
been, all
12 these things that we're asking you about, for example,
in your
13 life; things that make each one of us unique and
individual.

14 And then the court hears from both sides, the
prosecution and
15 defense, and then decides what sentence is just for
that
16 particular person. You understand that's the normal
process in
17 our system?

18 A. Yes.

19 Q. Now, here it's different because of the possibility
of a
20 death sentence. So the beginning part, though, is just
the
21 same. There is a trial and the jury is asked, "Has the
22 evidence proven guilt of the charges beyond a
reasonable
23 doubt?" The jury can't think about punishment at all
at that
24 stage.

25 A. Yes, sir.

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1 Q. That's just a question of what does the evidence
prove; and
2 of course, if the decision is it doesn't prove him
guilty,
3 that's the end of it.

4 But if the jury decides that guilt has been
5 established beyond a reasonable doubt, then we go ahead
with
6 another hearing. And that's called the penalty phase
hearing;
7 and that's the time when information beyond the
evidence at the
8 trial comes in, information about the offense itself
and the
9 circumstances, also information about the defendant,
things
10 about his individual life, his experiences and so
forth.

11 And what we require of the jury then is that
even
12 though the jury has heard the trial and decided guilt,
they
13 approach this question of punishment with open minds,
willing
14 to consider what's presented at this second hearing.
And we
15 talk about aggravating factors. Those are things that
the

16 Government suggests support that death is a deserved
17 punishment, and mitigating factors, those things that
are being
18 suggested by the defense that shows that death is not
justified
19 for this defendant.

20 Do you follow me on that?

21 A. Yes, sir.

22 Q. And then what a juror has to do, and each juror has
to do
23 this individually, is decide under some instructions
about the
24 law that I would give about what we call aggravating
factors
25 and mitigating factors and consider all of these
things,

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1 including things about the defendant himself and then
decide
2 really as a moral question, make a moral judgment, as
to
3 whether the defendant should live or die. That's the
question.

4 Do you understand that?

5 A. Yes, sir.

6 Q. Now, what I've got to ask you is whether you would
be

7 prepared to do that in this case.

8 A. I think I can, sir.

9 Q. So asking it another way that kind of turns back to
what we

10 talked about before, what I need to hear from you is
whether if

11 you served on this jury and you found the defendant
guilty,

12 would you just automatically say he ought to be
sentenced to

13 death?

14 A. That, I can't say, sir, because I don't know that
much

15 about it.

16 Q. Okay. So you're willing to consider these other
things

17 that would be up in front of the jury in a penalty
trial.

18 A. That's right, sir.

19 Q. Is that what you're telling me? I'm not trying to
put

20 words in your mouth.

21 A. No, I understand.

22 Q. And there isn't any right or wrong to this. I just
want

23 your honest view of it, whether you could listen to the
penalty

24 phase information and make a moral judgment.

25 A. I think I could.

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1
questions for

THE COURT: Okay. Well, we have some

2
answering

you, from the lawyers, too; and we appreciate your

3 these questions.

4 Ms. Wilkinson, do you have some questions?

5 MS. WILKINSON: Yes, your Honor.

6 THE COURT: All right.

7 VOIR DIRE EXAMINATION

8 BY MS. WILKINSON:

9 Q. Good morning, sir.

10 A. Good morning.

11 Q. How are you doing today?

12 A. I've done a lot better.

13 Q. Which is worse: answering all these questions, or
answering

14 the long questionnaire?

15 A. Probably a toss-up.

16 Q. I want to ask you a few questions about your
background, if

17 I could, about your work; and I'm not even going to try
and

18 pretend to you that I know anything about farming;
okay?

19 A. All right.

20 Q. So I'll ask you some basic questions. I grew up as

the

up near 21 daughter of a captain of a nuclear submarine. I grew

Okay? 22 the ocean, and I don't know anything about farming.

23 A. All right.

on the 24 Q. Can you tell me what you did when you were working

25 dairy farm day in and day out?

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to do the 1 A. Dairy farm, you have to collect milk, so you have

you have 2 milking; and after you get through with the milking,

have 3 to clean up, you've got cleaning to do, and you also

such 4 cleanup, which means the pens that the cows are in and

-- 5 like. And you have to dispose of the waste; and that's

6 Q. Go ahead.

day, 7 A. That's seven-and-a-half days a week, 25 hours a

8 approximately.

did you 9 Q. And when you did that, did you work by yourself, or

10 work with other people?

11 A. No, I had my boys that was helping me.

12 Q. And you're probably aware that some farmers have
had some
13 complaints along with lots of other people about the
federal
14 government and how they handle loans to farmers and
subsidies
15 to farm land. Is that right?

16 A. Yes.

17 Q. Have you ever had -- have you ever had any
discussions
18 about that with any friends who are farmers or workers
who are
19 familiar with those issues?

20 A. No. Your dairy farmers usually -- the hired help
is the
21 low part of it and the owners and such like are the
high part,
22 and they don't discuss very much with the lower end of
it.

23 Q. Would you consider yourself one of those real
workers
24 instead of one of the owners?

25 A. I would rather be the worker than the owner. It's
a lot

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1 less headaches.

2 Q. So do you have any opinions on those issues? Have
you

3 thought about those yourself about whether the federal
4 government treats farmers fairly?

5 A. My own opinion on it is yes, I think they have.

6 Q. Now, you mentioned something called a feedlot,
which I know

7 the judge understood what you meant; but could you
explain to

8 me what that is.

9 A. Yes. That's a collection of beef cattle; and the
lot of

10 which I worked on, when they had a full lot, was over
9,000

11 head. That meant a lot of running with trucks to feed
all of

12 them.

13 They also have a crew there that goes -- they
call pen

14 riders, that rides horseback through the pens and finds
the

15 sick cattle and culls them out for the veterinary
division to

16 doctor them.

17 Q. Now, I know that you can no longer do that work
because of

18 your asthma.

19 A. No.

20 Q. Do you miss that work?

21 A. Yes, I do. I've worked livestock most all my life,
and I

22 love it. As a matter of fact, I have what -- I

kiddingly say I

23 have a California ranch. It consists of 1 acre; and my
wife

24 and I have saved back, pinched pennies, and everything
else,

25 and we've bought a small mare. She's half Arabian and
half

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1 Welsh; and her back right now -- she's 4 months old,
just time

2 to wean -- is just about my belt high. And of course,
by the

3 time we get rid of her at a future date, she'll be the
most

4 spoiled little horse you've ever saw.

5 Q. I take it -- you have 11 grandchildren. Is that
right?

6 A. Yes.

7 Q. Do they come over and help you spoil her?

8 A. Oh, yes. Out of that 11, I have one girl.

9 Q. Ten boys and one girl?

10 A. Right.

11 Q. And do all of them live in the state of Colorado or
nearby?

12 A. Yes, sir.

13 Q. Do you get to spend a lot of time with them?

14 A. Well, there is three of them that I had for seven

years to

15 raise; and the girl happens to be one of them. Yes, I
helped

16 spoil them.

17 Q. So have you a close relationship with your
grandchildren?

18 A. Yes.

19 Q. I take it, then, that all four of your children
live in

20 Colorado, then, if all your grandchildren live here.
Is that

21 right?

22 A. No. The boy that's an over-the-road trucker is
based out

23 of Illinois, but the rest of them are here.

24 Q. You told the Judge that you had been in the Air
Force back

25 during the Korean War. Is that right?

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1 A. That's right.

2 Q. And you were honest enough to tell us that you had
gone

3 AWOL once when you were in the Air Force.

4 A. That's right.

5 Q. Can you tell us the circumstances behind that?

6 A. The funny part of it is I was carried present on
three

never 7 different bases at the same time; and actually, I was

8 over the hill over one night.

9 Q. So it was just a paperwork mix-up?

10 A. Yes.

when you 11 Q. And that's why you received an honorable discharge

12 left the Air Force?

13 A. That's right.

14 Q. Did you enjoy your service in the Air Force?

through 15 A. I enjoyed the first part of it; but as it got along

way, 16 the other part, I did not agree with the Air Force one

17 shape, or form.

disagree 18 Q. Tell me a little bit about that. What did you

19 with them about?

do one 20 A. Well, when I first went in, they trained one man to

men to do 21 job; and when I come out, they trained three separate

nonsense. 22 this same one job. To me, I thought that was utter

doing 23 Q. A waste of the taxpayers' money having these people

24 the same job?

25 A. That's right.

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Is that
disbanded
veterans?
citizen,
important
criminal
with about
right?
that
determine

1 Q. But it sounds like you've been active in the DAV.
2 right -- or you were for a while?
3 A. I was for a while. The chapter is pretty well
4 and closed down now. I was commander of it.
5 Q. Would you say that a lot of your friends are
6 A. Yes, I do.
7 Q. Do you think that's an important part of being a
8 is serving your country in the military?
9 A. Yes, ma'am, I sure do.
10 Q. You're proud of your service?
11 A. Yes, ma'am.
12 Q. As the Judge told you, there is obviously several
13 phases and concepts that you have to accept about a
14 trial in our country which you're probably familiar
15 presuming the defendant innocent or not guilty; is that
16 A. That's right.
17 Q. And understand in a case like this, a capital case,
18 there would be two phases, first one where you would

19 whether the Government had proved its case beyond a
reasonable

20 doubt.

21 A. Yes.

22 Q. And if you agreed with your eleven fellow jurors
that they

23 had, you would move on and only then to the penalty
phase. You

24 understand that; right?

25 A. Yes.

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1 Q. Are you sure that you can distinguish between those
two and

2 make one decision about whether the defendant is guilty
and

3 another decision about what type of penalty he should
receive?

4 A. Now that I understand more clearly, I believe I
can.

5 Q. Good. And you understand that once you get to that
second

6 decision, penalty, that even then you have to have an
open mind

7 and consider all of the facts and circumstances before
you make

8 that decision.

9 A. Yes.

10 Q. You're comfortable doing that?

11 A. Yes.

12 Q. Now, you've told us in your questionnaire that it depends

13 on the certain crime whether the death penalty is appropriate

14 or not.

15 A. Right.

16 Q. Right. Have you felt that way for a long time? Have you

17 held your views on the death penalty for quite some time?

18 A. Quite a while.

19 Q. You've thought about it over the years?

20 A. Yes.

21 Q. And have there been certain cases that you've seen where

22 you thought the death penalty was appropriate?

23 A. Yes, there was. I can't give you any examples.

24 Q. So you're not somebody who is going to sit in the middle of

25 trial if you're called as a juror and then change your mind and

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1 say I could never give anyone the death penalty; is that right?

2 A. That's true.

3 Q. You told the Judge that you've sometimes attended
gun shows
4 more to window-shop than to do anything else. Is that
right?
5 A. That's right.
6 Q. And I think he asked you about literature, and I'm
not sure
7 I understood your answer. Did you ever see anyone at
gun shows
8 talking about political issues or Waco or anything like
that?
9 A. Oh, there has been mention of it, but I am mostly
there to
10 window-shop. I'm not interested in a lot of gossip.
11 Q. And have you been to any gun shows since the
bombing in
12 Oklahoma City, which was back in April of 1995?
13 A. No.
14 Q. So you wouldn't know whether gun shows have changed
since
15 that time; is that right?
16 A. Well, basically your gun shows is gun shows. They
put out
17 the guns and they'll give you any information you wish
to have
18 about them, and they'll also give you a price. And the
price
19 was usually way above my head.
20 Q. How about ammunition? Do you know a little bit
about
21 ammunition?

22 A. Well, I know some about ammunition.
23 Q. Have you ever fired tracer rounds?
24 A. I expect I have while I was in the service.
25 Q. But never since you've been out of the service?

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1 A. No.
2 Q. That's not something you're interested in as a
private
3 citizen.
4 A. No.
5 Q. Okay. Do you know if any of your children -- do
they have
6 your same interest in guns? Have they gone to gun
shows with
7 you?
8 A. My oldest boy has. The other two, they've -- the
only
9 interest they have in the weapons is going out with dad
and
10 firing the black powder.
11 Q. So they only do it when they're with you to spend
time with
12 you?
13 A. Basically, yes.
14 MS. WILKINSON: I don't have any more
questions, but I

15 appreciate the ones that I've posed to you. Thank you.

16 JUROR: You're welcome.

17 THE COURT: Mr. Woods?

18 MR. WOODS: Thank you, your Honor.

19 VOIR DIRE EXAMINATION

20 BY MR. WOODS:

21 Q. Good afternoon.

22 A. Yes, sir.

23 Q. What was your occupation in the Air Force?

24 A. I was a flag line mechanic.

25 Q. And that was the school in Amarillo that you went
to?

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1 A. Yes.

2 Q. Now, I was a little confused as to your residency
in

3 Laredo. The Judge asked you if you picked up your --
if you

4 went to high school there. I noticed that you picked
up your

5 GED while you were in the Air Force in Laredo. Did you
grow up

6 some in Laredo?

7 A. No.

8 Q. So you were just --

9 A. I was stationed down there and then when I was
discharged,

10 I went out to the junior college and picked up on the
GED and

11 at the accelerated high school that was out there.

12 Q. Yes, sir. Okay. Now, as to your son's arrest and
his

13 conviction, did you feel that he should have fought
those

14 charges and taken them to trial and made a jury (sic)
prove

15 those?

16 A. I felt like he should have, but he didn't decide
to.

17 Q. And he didn't come to you for advice; is that
correct?

18 A. He come to me for a little advice but mostly to his
mother.

19 Q. Okay. On the dairy farm that you have worked on
for 20

20 years, those were different dairy farms. Is that
correct?

21 A. That's correct.

22 Q. On those farms, were there any crops raised at the
same

23 time?

24 A. Yes, there was.

25 Q. And what crops were those?

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1 A. Mostly corn and hay.

those

2 Q. Okay. Now, did the farmers utilize fertilizer on

3 crops?

4 A. Yes.

5 Q. Of course, I assume you were manufacturing your own

6 fertilizer there with the dairy farm.

7 A. Very much so.

purchase

8 Q. Did you use any other type of fertilizer? Did you

9 any fertilizer?

form.

10 A. I think he used some ammonium nitrate in liquid

11 Q. And do you know how that was applied?

anything

12 A. Through a trickle system. Myself, I didn't have

cut

13 to do with crops other than help harvest the silage and

14 bales and stack them from the hay.

the

15 Q. You never took part in applying the fertilizer to

16 crops?

17 A. No.

can

18 Q. Okay. And was that the only type you used that you

19 recall?

they

20 A. Yes, that's about it, other than the bugicides that

21 used on corn before they planted.
22 Q. Now, where were these farms located where the
ammonium
23 nitrate was being used?
24 A. It was at La Salle, Colorado, and also -- on up
north in --
25 about 4 miles straight east of Paris, Colorado.

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1 Q. Now, in Indiana, did you work on a dairy farm in
Indiana,
2 also?
3 A. No.
4 Q. Just solely within the state of Colorado?
5 A. Yes.
6 Q. I want to talk to you about the publicity in this
case. On
7 page -- let me get it.
8 It is Question 144, page 33. The
questionnaire asks
9 you if you had heard or read anything about the
Oklahoma City
10 bombing case and please indicate where you heard or
read about
11 it. And you checked off TV news, radio news,
newspapers,
12 conversations, and heard other people discussing the
case. Is

13 that correct?

14 A. That's right, yes.

15 Q. Now, the Court 12 years -- excuse me -- 12 days
ago, when
16 we were out at Jeffco Fairgrounds, the Court advised
you of
17 what the charge was here; that both Timothy McVeigh and
Terry
18 Nichols were charged with conspiring together and with
other
19 people unknown to use a truck bomb to destroy the
Murrah
20 Building and kill and injure the persons in it. And he
further
21 went on to say that they were additionally charged with
the
22 murder of four agents of the U.S. Secret Service, two
agents of
23 the Customs, etc., a total of eight agents. Do you
recall the
24 Court explaining to you what the charges against these
two
25 people were?

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1 A. At that time, yes.

2 Q. Do you understand that the charges against both are

3 identical?

4 A. No, I didn't realize that.

5 Q. Okay. Do you understand it now from what I've
explained to

6 you what the Judge explained to you?

7 A. Yes.

8 Q. 12 days ago?

9 A. Well, I comprehend on it now, yes.

10 Q. And further, the Judge went on to explain to you
that the

11 case as to Timothy James McVeigh has been tried earlier
to a

12 jury and found him guilty and sentenced him to death.
The

13 Court told you that; right?

14 A. Yes.

15 Q. And he's told you that again here today.

16 A. Yes.

17 Q. Now, there has been a great deal of publicity about
this

18 case; and you've acknowledged that.

19 A. Yes, I know there has been.

20 Q. And this case started over in the state of Oklahoma
and

21 then was moved over here to Colorado, back in 1996. Do
you

22 recall when that was done?

23 A. Approximately, yes.

24 Q. And there was a lot of publicity up to this time of

25 Mr. McVeigh's trial which started in April and May and

June of

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1 this year, just a few months ago. Do you recall that?

2 A. Yes.

3 Q. Okay. Now, during this period of time, which is almost a

4 year and a half it's been in Colorado now, there has been a lot

5 of publicity within the local media, the local radio shows,

6 local TV and local newspapers; is that correct?

7 A. As far as I know, yes.

8 Q. And you've stated that you've heard and read about this and

9 you've talked about it with other people. You've had

10 conversations and you've heard other people discussing the

11 case.

12 Now, when was the last time that you were working on

13 the farm, sir?

14 A. Been around a year or a little better.

15 Q. Okay. So would that be last summer, the summer of '96?

16 A. Yes.

17 Q. And were there other people that worked on the farm there

18 with you that you conversed with during the day?
19 A. Yes. The only way, conversations that we had was
calling
20 back bin numbers to verify the fact that we had fed
them. I
21 was working at a feedlot at that time.
22 Q. Oh, this was at a feedlot.
23 A. Yes.
24 Q. Did you take lunch breaks?
25 A. Yes.

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1 Q. You sat and talked with other people you were
working with?
2 A. No, because we was usually in a hurry to get done
eating to
3 go back to work.
4 Q. Okay. Well, who did you have these conversations
with that
5 you marked on your questionnaire about this case within
the
6 last year and a half, starting from when the Judge told
you not
7 to have any 12 days ago -- before that, who did you
have the
8 conversations with?
9 A. Well, a few of the co-workers, a few of the people
that I

10 was in the lodges with.

11 Q. The Eagles' lodge?

12 A. Eagles' lodge.

13 Q. Is the DAV -- does that stand for Disabled American
14 Veterans?

15 A. That's right.

16 Q. And you're pretty active in both of those; is that
correct?

17 A. DAV no longer, no.

18 Q. But Eagles, certainly?

19 A. Eagles and the American Legion.

20 Q. And the American Legion. All right.

21 What type of conversations did you have with
these

22 individuals?

23 A. Well, they come up with their opinion as to what it
24 actually was and what it wasn't. And I flat tell them
that I

25 don't know because I haven't followed it.

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1 Q. You were telling them that a year and a half ago,
last

2 summer?

3 A. Yes.

4 Q. When you checked TV news, radio news and newspaper
that
5 you've read about the case on, what did you gain from
reading
6 that? Do you recall how many people were killed in the
7 bombing?
8 A. No, I don't.
9 Q. Do you recall whether or not it was over a hundred?
10 A. I do know that it was quite a few.
11 Q. Okay. And you mentioned earlier in the Judge's
question
12 that you understood that there were children involved
that were
13 killed; is that right?
14 A. That's right.
15 Q. Do you understand why there were children involved?
16 A. No, I don't; but I do know that they were there and
it's --
17 that's the worst part of the deal, because there is
children
18 that they have no say, no control or anything else,
where an
19 adult does have a little more control and say on
things.
20 Q. Yes, sir. Do you recall how many children were
killed?
21 A. No, I don't.
22 Q. Do you recall what kind of bomb that the Government
claimed
23 it was?

24 A. I believe there was fertilizer connected into it,
which
25 was -- pertains to nitrates, doesn't it?

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1 Q. I was just asking if you recall of how the
Government
2 portrayed it in the paper.

3 A. No, I don't.

4 Q. Okay. Do you recall what kind of truck it
allegedly was?

5 A. Only that it was a truck.

6 Q. Okay. And the Judge told you in his discussion
with you

7 that the trial proved that Mr. McVeigh drove it up to
the front

8 of the building and left it. Did you hear him say that
to you?

9 A. Well, yes, I did.

10 Q. Okay. What do you -- what do you -- what did you
learn and

11 understand as to what Mr. Nichols was doing at the time
the

12 bomb went off?

13 A. I know nothing of where he was or what he was
doing.

14 Q. Okay. Do you know anything about his family,
whether or

15 not he's married with children?

16 A. No, I don't.

17 Q. Okay. When you would hear the other people
discussing the

18 case, what would they say about it?

19 A. I couldn't tell you truthfully on it because I
don't pay

20 any attention to them. I have other things that need
to be

21 done, and I usually try to take care of it.

22 Q. Now, during the questioning by the Judge, you
stated that

23 based on what you understand about the case, if a
person were

24 found guilty of a mass murder they should receive the
death

25 penalty. Did I understand that correctly?

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1 A. Yes, I honestly believe that.

2 Q. Now, there were questions on the questionnaire
about the

3 punishment range, and that's on page 28, if you would
refer to

4 that. That first question: "(A) What is your view as
to

5 whether the penalty of life in prison without the
possibility

6 of release should ever be imposed as punishment for any
crime?"

7 And you stated it depended on the crime,
"depending on

8 the crime," as you stated.

9 Can you give us an example of what you think a
type of
10 crime that should be punished by life in prison without
parole?

11 A. Well, I believe if they -- how do I want to put
this? I

12 believe anything short of murder should be imprisoned
for life.

13 Q. Okay.

14 A. If it is large enough.

15 Q. Like burglary, robbery?

16 A. Right.

17 Q. Those are life without release.

18 A. I believe that should be right, because most of
what I've

19 seen and heard, if it's robbery, they're put in for a
certain

20 length of time, they come out, and they start right
over again.

21 Q. Okay. Now, on (B) "What is your view as to whether
the

22 penalty of death should ever be imposed as a form of
punishment

23 for any crime," can you give us examples of what you
feel, you

24 personally feel, that the death penalty should be
assessed for?

25 What type of crimes?

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1 A. Well, one thing would be on mass murder.

2 Q. All right. Okay. What about the murder of one
person?

3 A. Well, the way some of these gang wars have popped
up and

4 such like, I think they should be. But as far as an
5 involuntary manslaughter, I don't believe the death
penalty

6 should be imposed on it.

7 Q. All right. And that's where there is no intent, no
8 premeditation. Is that your definition of involuntary
9 manslaughter?

10 A. Yes.

11 Q. I take it, then, that those murders where it's
proved that

12 the defendant intended to murder the other person,
there is

13 premeditation involved, and he intended to murder the
other

14 person, you would vote for the death penalty in those
cases.

15 A. Yes, sir, I believe I would.

16 Q. Okay. And if it was more than one person, as I
understand

17 your definition of mass murder -- and I don't know
where that

18 figure starts, but if it was more than one, certainly
you would

19 vote for the death penalty. Is that correct?

20 A. Yes, sir.

21 Q. And by mass murder, can you give me a figure of
where that

22 becomes relevant where you define it as mass murder?

23 A. No, I can't give you a definite number.

24 Q. Okay. Certainly two or more; is that correct?

25 A. I would say at least three or more.

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1 Q. Three or more? All right.

2 And it's your personal feeling based on your
life

3 experience with the Air Force and working that those
type of

4 crimes deserve the death penalty. Is that correct?

5 A. Basically, yes.

6 Q. Okay. Now, as explained to you and as the Court
has

7 earlier explained to you, Mr. Nichols stands accused of
the

8 identical crime that Timothy McVeigh was accused of.
There are

9 11 counts in the indictment that are all the same.
Now, in the

then a 10 event that Mr. Nichols is found guilty of any of those,
that? 11 punishment hearing goes into effect. You understand

12 A. Yes.

13 Q. And at that punishment hearing, the jury then has
to decide

14 on life without release or the death penalty. Now,
you've told

15 me that you believe where a person is found guilty of
murdering

16 someone where there is premeditation involved and you
did it

17 with intent, that person should get the death penalty.
Is that

18 correct?

19 A. I believe so, yes.

20 Q. Yes, sir. And certainly in a mass murder, if there
are

21 three or more people involved, if that person is found
guilty

22 of premeditation and intent to kill three or more
people, then

23 certainly the death penalty should be assessed. Is
that

24 correct?

25 A. That's correct.

1 Q. And those are your true feelings, are they not,
sir?

2 A. Yes, sir, they are.

3 Q. And we appreciate you being frank with us, because
that's
4 the purpose of this whole hearing, is to get your
feelings to
5 us.

6 And I take it because of those feelings that
if you
7 get to a punishment hearing where a person is found
guilty of
8 premeditation and murder with intent of three or more
persons
9 that you would not consider a punishment other than
death
10 penalty. Is that correct?

11 A. Yes, I believe that would be right.

12 MR. WOODS: All right. Thank you, sir. No
further
13 questions, your Honor.

14 VOIR DIRE EXAMINATION

15 BY THE COURT:

16 Q. Well, you've confused us a little here, and maybe
it's the
17 way the questions have been put to you; but, you know,
you were
18 asked some questions about what you would do here by me
and by
19 counsel, too.

20 A. Yes, sir.

the
to
21 Q. But also I talked to you about what the law is and
22 requirement that on the penalty phase that the jury has
23 consider the things that are presented in that hearing.
24 Remember that?
25 A. Yes, sir.

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have
that?
1 Q. And those things include circumstances that include
2 circumstances about the individual and what role he may
3 played in the crime. You recall when we talked about

would make
a
4 A. Yes, sir.
5 Q. And I thought you told me at that time that you
6 a distinction between major role and some other role in
7 crime.

8 A. Yes, that's right.
9 Q. And do you still hold to that?
10 A. Your Honor, I believe it would have to convince me
11 of what was happening and such like before I could really
12 answer that and answer truthfully.

13 Q. Sure. You have to look at the evidence.

14 A. That's right.

15 Q. And the information that's presented.

16 A. That's right.

17 Q. And the law.

18 A. Yes.

19 Q. And, you know, the law provides that before a juror
can

20 make this decision about death, life in prison without
ever

21 being released, or anything other than that, you have
to

22 consider all the circumstances, including whatever the

23 defendant may have done in connection with the overall
crime.

24 You follow me here?

25 A. Yes, sir.

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1 Q. I'm not trying to argue with you or trip you up.

2 A. I understand that.

3 Q. No trick question here. But when you were just
answering

4 these questions about mass murder, which you defined, I
guess,

5 as more than three people, or three or more --

6 A. Yes.

7 Q. -- if a number of people, several people,
participated in

8 what turned out to be a mass murder, would you see
distinctions

9 between what they did that resulted in these deaths?

10 A. Yes, sir, I think so.

11 Q. So it's one thing for somebody to shoot a bunch of
people

12 at a -- you know, we've seen these things happen, where
13 somebody goes out and takes an automatic weapon and
sprays a

14 crowd. You've seen such a thing.

15 A. Yes.

16 Q. And then you may have people who helped him in the
sense of

17 providing him with weapons, and so forth, who could
under the

18 law be guilty. Would you see a difference between
those

19 people, one who pulled the trigger and the one who
provided the

20 gun?

21 A. I feel that there is very little difference. In
other

22 words, the first man couldn't go ahead and shoot
everybody

23 without the aid of the other; therefore, I feel in my
own mind

24 that they would be just about as guilty as the other
one.

25 Q. And ought to be punished the same way?

Juror No. 391 - Voir Dire

1 A. Yes.

2 Q. Okay. Well, we thank you for your answering all
these
3 questions, not only the ones here this morning but all
those on
4 the questionnaire, and coming in from Fort Collins to
do that.

5 We're not making decisions as we go along here
about
6 who will or won't serve on this jury. You'll hear from
us
7 later about that; so until you do hear from us, you've
got to
8 continue to follow the instructions that I gave you.
Don't

9 talk to folks about it, including what we've talked
about here
10 in this questionnaire. Watch and be careful about
radio,

11 television, newspapers, whatever. Stay away from
anything that
12 could relate to this case and influence you on this
jury, and
13 expect that you will serve on the jury. Will do you
that?

14 A. All right, sir. Yes, sir.

15 THE COURT: You're excused now, and we'll be
back in

16 touch with you. You can leave.

17 JUROR: Thank you.

18 (Juror out at 12:29 p.m.)

Recess.

19 THE COURT: Okay. We'll recess till 1:45.

20 (Recess at 12:29 p.m.)

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14 REPORTERS' CERTIFICATE

15 We certify that the foregoing is a correct
transcript from

Dated 16 the record of proceedings in the above-entitled matter.

17 at Denver, Colorado, this 29th day of September, 1997.

18

19

Paul Zuckerman

20

21

Bonnie

Carpenter

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23

24

25