

Nichols. 13 1308, Denver, Colorado, 80203, appearing for Defendant

14 * * * * *

15 PROCEEDINGS

16 (In open court at 1:50 p.m.)

17 THE COURT: Please be seated.

18 We have No. 58.

19 Good afternoon. If you'll raise your right
hand and

20 take the oath from the clerk, please.

21 (Juror No. 58 affirmed.)

22 THE COURTROOM DEPUTY: Thank you.

23 THE COURT: Please be seated.

24 VOIR DIRE EXAMINATION

25 BY THE COURT:

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Juror No. 58 – Voir Dire

a 1 Q. You're here, of course, I'm sure you understand, as

computer- 2 person whose name has come up in a chance process, a

service 3 generated chance process as a person summoned for jury

Nichols. 4 in the trial of the United States against Terry Lynn

short 5 You, after getting your summons, filled out a

6 questionnaire and then came out on September 17th to
the

7 Jefferson County Fairgrounds and filled out a much
longer one

8 after taking an oath like this. Right?

9 A. Yes.

10 Q. And at that time, I explained to you and other
members of

11 the jury panel who were present the background of this
case,

12 the movement of the case from Oklahoma City, the
charges that

13 were filed against Terry Lynn Nichols and Timothy
McVeigh; that

14 separate trials were ordered. And I explained that
Timothy

15 McVeigh's case has been tried and the result. You
recall those

16 things?

17 A. Yes, I do.

18 Q. And when we were there, you were also introduced to
you and

19 the others lawyers for the Government and the defendant
and

20 Mr. Nichols. And we want to do that again so you know
who is

21 here participating in this process. At this first
table, you

22 will recall these are attorneys for the Government:

23 Mr. Lawrence Mackey, who was there; Ms. Beth Wilkinson.
We

Patrick 24 have two others who were not there at that time, Mr.
25 Ryan and Mr. James Orenstein.

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1 You also met Mr. Michael Tigar, who is
standing here;
2 Mr. Ronald Woods, attorneys for Terry Lynn Nichols, and
3 Mr. Nichols is here again.
4 Now, there are other people here within your
view, I
5 guess, who are assisting in the case, but we're not
going to
6 take time to introduce everybody.
7 You know, too, that because of the nature of
the
8 questions that we've asked of you and which are, we
admit,
9 pretty invasive of your privacy and some matters that
really
10 aren't anybody else's business but your own -- but we
need --
11 I'm sure you understand -- to get such information.
We're
12 making every effort to protect your privacy and we'll
continue
13 to do so, and that is why we're referring to you here
by a
14 number instead of name. And your answers will not be
made

15 public except the answers here in the courtroom, of
course, are
16 public. You understand.
17 And what we're going to do is to go over a few
of the
18 answers and ask you for some additional information,
perhaps in
19 some cases some explanation and then maybe some
additional
20 questions that aren't there. We're not going to repeat
the
21 whole questionnaire, of course.
22 A. Okay.
23 Q. I want you to know, though, that you can change any
answer
24 here. You're not stuck with it, so to speak, so we
know that
25 getting all of these questions under the circumstances
can

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1 certainly be a situation where -- we would understand
this --
2 you answered something, upon further thinking, you may
have a
3 little different answer. If that happens, you're free
to
4 change it. You're not bound by this except, of course,
we have

wrong 5 to rely on this information. And there are no right or
honest 6 answers to any of these things. There are only your
7 answers.

was 8 One of the things that we talked about there
about some 9 publicity about this case, about Mr. McVeigh's case,
something in 10 of the original happenings. And you've told us
I asked 11 the questionnaire about your exposure to publicity, and
television 12 you when you left to be careful and -- and not watch
and be 13 or listen to radio accounts that may relate to the case
isn't 14 careful in discussion with others. We know, too, that
course, when 15 easy because there's a lot of it out there and, of
curious and 16 people find out that you may be on a jury, they are
17 sometimes free of -- to give advice.

it's 18 Tell us -- you know, we would understand if
filled out 19 happened -- have you encountered anything since you
case? 20 this questionnaire, any of the publicity about the
ago, but 21 A. I did see something on the news like about a month
22 I did turn it off.

summons, 23 Q. Okay. So you started doing that when you got the
24 itself; is that right?
25 A. Started doing --

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1 Q. Being careful about what you --
2 A. Oh, yeah.
3 Q. -- became exposed to.
4 A. Uh-huh.
5 Q. And you are married, have some children at home?
6 A. I have two children.
husband; 7 Q. And discuss -- have you discussed this with your
8 that is, by --
9 A. No.
10 Q. -- by that --
11 A. Just other than the fact that I'm part of this.
12 Q. Yeah.
13 A. Part of the process.
14 Q. Which could affect the family and --
15 A. Right.
16 Q. -- and a lot of --
17 A. Right.

18 Q. -- things, disrupting the regular routine,
obviously?

19 A. Well, yeah.

20 Q. And you have your own business?

21 A. I have my own business.

22 Q. Now, do you have people working for you in that
business?

23 A. No. I don't -- don't have anybody working for me
but me.

24 Q. So -- and I assume you have some regular people who
come

25 in --

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1 A. I have a pretty large clientele, yeah.

2 Q. -- who have repeat appointments and that, and this
would

3 affect your ability to care for them.

4 A. Dramatically.

5 Q. Yeah. And affect the family's income.

6 A. Yes.

7 Q. Which is a matter of some concern to you,
obviously.

8 A. Yeah.

9 Q. We can't here today tell you how long this would
be. We

10 can't even tell you when the trial is going to start
because we

to be, 11 don't know how long the jury selection process is going
12 and obviously, it will take some time because of all of
the 13 circumstances attendant upon this case. I'm sure you
14 understand that.

15 A. Oh, yeah.

involved 16 Q. But it could well be that several months will be
17 in the actual trial. Now, can you do that?

18 A. Honestly, that would affect my business.

19 Q. Well --

20 A. Especially at this time of the year, from now till
21 Christmas, we are extremely busy.

22 Q. And you do it all yourself?

owner, 23 A. Yes. And I rent my -- I rent my station from the
24 so --

25 Q. I see.

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1 A. It's my business.

physical 2 Q. I see. So, you know, you're in somebody else's
3 shop.

4 A. Right.

5 Q. But you have your own customers or clients?
6 A. Right.
7 Q. And take care of your own appointments and all
that?
8 A. Right.
9 Q. Let me just -- we'll come back to that. Not that
I'm
10 ignoring it. Obviously, it's a matter of concern to
us, too.
11 And as I'm sure you appreciate, a lot of people are
similarly
12 affected, that it would disrupt their income stream and
13 their -- not just their life's routine, but also the
family
14 finances.
15 A. Right.
16 Q. We know that there are sacrifices involved in jury
service.
17 There always are. In a case that goes on for a long
time,
18 that's even more true.
19 Let me go to some other things, as well. And,
you
20 know, we want to be somewhat circumspect and careful in
asking
21 you some questions, but don't go farther than we need.
But I
22 want you to turn -- if you'll take your questionnaire
there.
23 You have it. Turn to page 5, please.

24 A. 5.

without 25 Q. And at the top of the page, Question 20. Now,

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this 1 getting into any of the details, is this continuing,
2 counseling?

3 A. Yes.

there an 4 Q. And the cause of it continuing, too? I mean, is
5 ongoing difficulty?

is 6 A. Well, it's -- it's -- well, it's -- the counseling
7 trying to fix --

8 Q. Solve it?

9 A. -- the problems.

10 Q. Or ameliorate it or whatever?

11 A. Right. Help us to learn to --

12 Q. How long have you had the -- let's speak of it in
13 generalities. How long have you had this situation?

14 A. About a year.

or -- 15 Q. And do you expect it to continue indefinitely now

We don't 16 A. Right now, it's -- right now, it isn't definite.

17 want to continue forever, obviously.

18 Q. The way it is.

19 A. It's costly.

20 Q. Yeah.

21 A. Hopefully, we'll --

22 Q. In many ways, not all of which are money.

23 A. Right.

fact,
is it,
24 Q. And you mention over here earlier, as a matter of
25 items on page 4, 19. This is one of those stressors,

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now?
1 that in this -- are you experiencing these problems

2 A. It's getting better.

3 Q. Taking any medications --

4 A. No.

5 Q. -- for it?

6 A. No.

7 Q. Do you see that matter of dealing with stress also
8 affecting you as a juror which has some stress involved
in it?

way, no.
9 A. Probably -- probably not affect -- affect me that

10 Q. Okay.

11 A. It's -- the stuff with my family definitely would.

12 Q. Yeah.

13 A. And does.

14 Q. Yeah. Let's get to some other things. Since I
gather it,

15 you were born in Detroit?

16 A. Yes, sir.

17 Q. And you lived there until -- what? You came out
here

18 during high school?

19 A. Uh-huh.

20 Q. And finished high school here in Colorado?

21 A. Yes.

22 Q. And then you've been in Colorado ever since, have
you?

23 A. Yes.

24 Q. Do you still have family in Detroit?

25 A. Yes, I do.

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1 Q. And in -- are your parents living?

2 A. Yes. They live here.

3 Q. Oh, they live here. Other family members --
brothers or

4 sisters back there?

5 A. I have a sister there and a brother.

6 Q. In the Detroit metropolitan area?

7 A. Yeah. And I have lots of aunts and uncles,
cousins.

8 Q. All right. Are you in contact with them by phone
or

9 E-mail --

10 A. Well, I talk to my sister and brother. I don't
talk to too

11 many of my other relatives there.

12 Q. All right. But you regularly communicate with your
sister

13 and brother --

14 A. Uh-huh.

15 Q. -- do you?

16 Have you talked with them about your possibly
being a

17 juror in the trial of Terry Nichols?

18 A. No.

19 Q. You have indicated here that your husband is now --
has a

20 business associated with golfing.

21 A. Yes.

22 Q. Golf. And there was a time, apparently, when he
did other

23 things, and you've got it identified here on page 11.
Do you

24 see Question 50?

25 A. Question -- okay.

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1 Q. 50.

2 A. Uh-huh.

3 Q. One of those things is private investigations.

4 A. Yes.

5 Q. How long ago was that?

6 A. That had to be years ago. I just -- I know that he
did

7 that.

8 Q. Were you married then?

9 A. No.

10 Q. Okay.

11 A. No.

12 Q. Isn't -- and is that the same thing that's
addressed here

13 on page 53 -- excuse me, on Question 53, when you show
private

14 investigation agencies?

15 A. Yeah.

16 Q. Is that because that was your husband's work?

17 A. Well, he had done it, yeah. I didn't know -- I
thought I

18 was just supposed to put it because I knew he had done
it.

19 Q. Yeah. That's fine. We're just -- want to make
sure that

20 it's the same thing.

21 A. Yeah.

the
22 Q. You also on that same question, but going over to
federal. 23 following page, have marked any court, state or
See 24 that?
25 A. Uh-huh.

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1 Q. What's that referring to?

attorney. 2 A. I was referring to my brother-in-law, who's an

3 Q. All right.

4 A. I don't know that I truly understood what that was.

5 Q. Where does he practice law?

6 A. In Denver.

do -- 7 Q. What kind of work does he do as a lawyer? Does he

8 A. Civil litigation.

9 Q. Civil?

10 A. Yeah.

11 Q. Any criminal, to your knowledge?

12 A. No. Not to my knowledge.

work? 13 Q. Does he do like personal injury, that kind of civil

14 A. Yeah. And insurance.

15 Q. Okay. And then you also have marked any job
connected with
16 farming or ranching. What's that referring to?
17 A. My husband grew up on a farm.
18 Q. Where was that?
19 A. In Iowa.
20 Q. Iowa. And does he still have family on a farm back
in
21 Iowa?
22 A. Yes.
23 Q. Do you visit there as a family?
24 A. We haven't visited for a very long time.
25 Q. Okay. Do you know anything about farming?

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1 A. Not much, sir.
2 Q. Okay. It's not a test. We're just asking you for
a little
3 information.
4 A. I'm a city girl.
5 Q. Okay. Now, you have, while we're on this same
page, 12 --
6 you've identified a religion here.
7 A. Uh-huh.
8 Q. And your adherence to it. And I don't recognize
the name.

It's 9 A. Christedelfians. They are originally from England.
10 actually 1st century Christianity, is what it is.
11 Q. And would you explain a little more about some of
the 12 doctrine and teachings of that faith.
13 A. Well, the doctrine, basically, believes in a
kingdom on 14 earth. We don't believe you die and go to heaven.
15 Q. Uh-huh.
16 A. We believe that hell is the grave and that all
things 17 belong to God.
18 Q. Now, you know we don't want to put your religion on
trial 19 or you on trial for your religious beliefs, nothing
like that.
20 A. Okay.
21 Q. But we do need to know what influence your
religious 22 beliefs might have on your ability to judge as a juror,
and 23 you've talked about that somewhat here.
24 A. Right, because I don't believe that -- that we
should judge 25 any man.

1 Q. And you at one time -- I suppose you were born and
raised

2 as a Catholic; is that right?

3 A. Yes.

4 Q. And you changed to this. This -- you developed
your own

5 beliefs. And about how long ago did you adopt the
beliefs of

6 this church?

7 A. It's been about three and a half years.

8 Q. Is your husband also with you on that?

9 A. He's just starting. He's -- he's only been
attending for

10 about -- not quite a year.

11 Q. And is there a church that you go to or do you go
to

12 meeting in -- meetings in family homes or --

13 A. We meet -- well, we meet, actually, in the
conference room

14 of a -- of a bank. And they have met there for years.

15 Q. And is there a -- a teacher or religious leader
presiding?

16 A. There's no leader. The men in the church, which
our --

17 ours here in Denver is very small --

18 Q. Uh-huh.

19 A. -- they -- they take turns doing the sermons and
things

20 like that.

21 Q. Okay. Now -- and you do say on the following page
what you
22 just alluded to, that you in this religion do not
believe in
23 judging other people.
24 A. Uh-huh.
25 Q. Does that mean sitting on a jury and making a
decision in a

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1 court of law? You don't believe in doing that?
2 A. It -- it would make it a little difficult, but --
you know,
3 if I had to, I suppose I could.
4 Q. Yeah. Well, there are different ways of judging.
5 Obviously, one can say, well, I'm not going to judge
the
6 conduct of another internally or even to my other
family
7 members or friends or anybody. It is another thing to
say, I
8 cannot perform the duty of a citizen to sit in a court
of law
9 as a juror. There are people who believe that --
10 A. There's a lot of people.
11 Q. -- whose religion says that to them. I'm trying to
find
12 out from you whether you are in that grouping.

13 A. My religion does believe that.

14 Q. Well, let me come at it a different way. Please
understand

15 that I'm not arguing with you.

16 A. Okay.

17 Q. Can you set your religion aside and perform this
civic duty

18 with the distinction that is sometimes made about doing
for

19 Caesar what is Caesar's and for God what is God?
You've

20 probably heard that somewhere.

21 A. I probably could. I probably could if I had to.

22 Q. You could. Okay. Now, you also understand --
well, have

23 you ever had any experience with the courts? Ever
watch a

24 trial or --

25 A. Well, I sat on a jury a couple years ago.

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1 Q. Oh, that's right, you did. In fact, you told us
about that

2 on page 26.

3 A. Right.

4 Q. So let's turn to that. It looks like this was an
injured

5 railroad worker.

6 A. Uh-huh.

7 Q. Was it here in the federal court then?

8 A. Yes.

9 Q. And this was about how long ago?

10 A. That was about two years ago.

11 Q. In this building?

12 A. Am I downtown? I didn't know where I was going. I
suppose
13 it probably was.

14 Q. It's been a long day. Well, I'm just going to --
do you
15 remember whether I was the Judge in the case?

16 A. Oh, no, you weren't.

17 Q. Okay. And did the jury go ahead and decide the
case or --
18 you talk about a settlement here. Was it --

19 A. Well, yes. We had to -- to just really basically
come up
20 with a sum of money to award him.

21 Q. For his injuries on the job?

22 A. Yes.

23 Q. And you did that?

24 A. Yeah. We did that.

25 Q. Now, were you working into your changed religion at
that

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1 time?

in it

2 A. Yeah. I was just getting started in it. Had been

3 about a year.

case?

4 Q. And you found yourself able to judge that kind of

5 A. Uh-huh. Yes.

6 Q. And how many people were on that jury?

7 A. Six.

talked

8 Q. Six. Okay. And so you heard evidence and then

happened?

9 about it and arrived at a figure? Is that what

10 A. Yes.

11 Q. And awarded that sum to the man -- was it a man?

12 A. It was a man.

13 Q. Who was hurt?

both

14 And you'll recall then, of course, there were

were

15 sides in the case, both represented by counsel, and you

the

16 given some instructions about having to decide based on

Remember all

17 evidence and follow the law and the instructions.

18 that?

19 A. Yes.

20 Q. Now, in a criminal case, of course, it's much the

same in

21 terms of the structure of the case. There are two
sides, each

22 side represented by lawyers. But there are
differences, too,

23 because we're not talking about a sum of money here.

24 A. Right.

25 Q. We're talking about the charges that I referred to
from an

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1 indictment. And the issue isn't decided as that one
was, I'm

2 sure, on what do you think -- you know, preponderance
of the

3 evidence. Do you remember that phrase? The
preponderance or

4 greater weight of the evidence?

5 A. Right.

6 Q. Is how you should find. That's not the way it is
in a

7 criminal case. Here we're talking about life and
liberty. And

8 accordingly, the standards are higher. So basic to the

9 criminal justice system is the presumption of
innocence,

10 nonguilt. I mentioned that, you'll recall, when I
talked with

11 you before.

12 A. Yes, I do.

13 Q. And I told you that by his pleas of not guilty,
Terry
14 Nichols has put into dispute everything the Government
has
15 alleged against him and that that's why we're going to
have a
16 trial and that the indictment can't be considered
against him
17 at all as any evidence because it isn't; it's just a
statement
18 of charges, and that he doesn't have any burden or duty
of
19 proving himself to be not guilty or proving anything.
The
20 Government, having filed the charges, must now come
forward
21 with the evidence and bring in the witnesses and offer
the
22 exhibits and attempt to prove what they have charged.

23 Do you follow me on that?

24 A. Yes.

25 Q. And the defendant then not only does not have to
call any

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1 witnesses, he doesn't have to take the witness stand
and be a
2 witness. He can remain silent and simply challenge the

to 3 Government's case through cross-examination, objections

4 evidence and the like. Do you understand that?

5 A. Uh-huh.

6 Q. And the jurors may not consider it, if it be a
fact, at the

7 end of the trial that the defendant has not testified.
They

8 can't talk about that even or give it any weight in
their

9 analysis of the evidence. What the jury has to then
finally do

10 is to say, having heard it all now, whether the charge
has been

11 proved beyond a reasonable doubt, they are convinced of
it. Do

12 you follow that?

13 A. Yes.

14 Q. Mr. Nichols sits here presumed to be not guilty,
and that

15 carries throughout his trial and entitles him to a
verdict of

16 not guilty unless the jurors do become convinced by the

17 evidence beyond a reasonable doubt that he is guilty of

18 something.

19 A. Yes.

20 Q. Right?

21 And what proving beyond a reasonable doubt
means is

22 simply you give the defendant the benefit of any

reasonable

23 doubt that remains after considering everything from
the trial.

24 Now, do you accept that as something you would follow
as the

25 law if you were to serve on the jury?

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1 A. Well, I -- I would follow it.

2 Q. Well, and follow it believing it to be correct?

3 A. As far as -- as it's the law, I -- I would be able
to

4 follow that. I --

5 Q. Okay. But again, coming to your mind is who am I
to judge?

6 Is that what you're saying?

7 A. Well, I mean, when you asked me if that's correct,
I

8 mean --

9 Q. Well, it's correct in the -- in the sense that you
accept

10 that as the law and would follow it?

11 A. Right.

12 Q. That's what I meant.

13 A. Yeah.

14 Q. Now, we've got to ask you some questions that may
involve

15 your religious views again, and that is the matter of
penalty.
16 Because in cases that do not involve the possibility of
a death
17 sentence, which we -- cases other than capital cases --
and
18 when we say capital cases, that means a capital offense
for
19 which death is a possible punishment. Ordinary
criminal
20 cases -- by ordinary, I mean those that do not involve
capital
21 crime -- the jury hears the evidence and then decides.
If they
22 decide not guilty, that's the end of it, obviously. If
23 unanimously they decide they are persuaded beyond a
reasonable
24 doubt that the charge has been proven, the verdict is
guilty.
25 And then that's it for the jury. The judge then
decides the

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1 punishment.
2 And before a decision on a sentence can be
made, more
3 information has to be provided. You can't just go on
the basis
4 of what the trial showed. So that is collected and
presented

5 to the judge, the court, information about additional
6 circumstances about the crime and also a lot of things
about
7 the defendant that wouldn't have come out at trial,
things
8 about his background, the -- the way he was raised,
family
9 relationships, employment history, all those things
that go
10 together to make each person different from all others.
11 Uniqueness. And then there's a hearing and the judge
hears
12 from both sides and makes a sentence decision that is
believed
13 to be appropriate to that individual person.
Understand?

14 A. Uh-huh.

15 Q. So that even for the same crime, another person
might be
16 punished differently because the circumstances about
the
17 defendant are part of the process that has to be
considered.

18 Do you understand what I'm saying?

19 A. Basically.

20 Q. Well, do you have any question about what I've said
so far?

21 A. No.

22 Q. Okay. Now, the reason that we're talking about
punishment
23 as a possibility here is that it is different under
federal law

24 for a capital offense. Because we don't have the judge
making
25 that decision in cases of this type -- that is, with
charges of

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1 this type -- the jury must decide. And the jury must
decide
2 with three possible outcomes. One is that the
defendant
3 should, if found guilty -- of course, all this is only
if
4 there's a guilty verdict -- the defendant should serve
in
5 prison for the rest of his life with no chance of ever
being
6 released. The second is that he should be put to
death. And
7 the third is that some sentence less than those two
should be
8 imposed and it should be up to the court. But the
life-or-
9 death decision is made by jurors. And just as is the
case with
10 a judge making a sentence decision, so the jury has to
hear
11 more than they heard at the trial. So there is a
second trial,
12 a penalty phase hearing.

13 And of course, punishment is not something the

jury

14 can consider at all in what we talk about at the trial
as to
15 whether the charges are proved. But at the penalty
phase
16 hearing, the jury will hear a lot of additional
information
17 that did not come out at the trial. And these can
include, of
18 course, this same kind of thing: The circumstances of
the
19 offense and the circumstances of the defendant, the
offender,
20 background, history, kind of work he's done, what he's
done for
21 others and that sort of thing.

22 And then the jury has to weigh these things
and
23 consider all of what they have heard. And it goes
forward
24 where the Government offers what they call or we call
25 aggravating factors, things that are believed to
support a

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1 sentence of death. The defendant offers information to
the
2 contrary that we call mitigating factors to support the
view
3 that death is not justified for the defendant,

regardless of

4 the crime involved. Do you understand?

5 A. Uh-huh.

discuss

6 Q. And then the jury has to think about all of that,

decision

7 it, and then each juror has to make an individual

the

8 which comes out to be a moral judgment as to whether

9 defendant should live or die. Do you understand that?

10 A. Yes.

as to

11 Q. And that's why we ask these questions of you here

views you

12 whether you can do that and whether you can set aside

and

13 have about whether there should even be a death penalty

of the

14 decide according to the way the law is, considering all

15 facts and circumstances.

in

16 Now, if we'll turn to page 28, you were asked

17 questions about what you think about punishment, life

18 prison, and death. And you gave us these answers.

19 A. Uh-huh.

20 Q. Take a moment to read them.

is that

21 Now, what I understand you to be saying here

sentence

22 you're open to the possibility of life in prison as a

23 and to death as a sentence, depending upon the
individual

24 circumstances. Is that what you're saying?

25 A. Yes.

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Juror No. 58 – Voir Dire

1 Q. And is that what you believe?

2 A. Is that what I believe?

3 Q. Yes.

4 A. Well, I believe that each have their purpose.

5 Q. Yeah. And is it your belief then that it depends
on what

6 you're provided, what information you're provided and
what the

7 individual case circumstances are? I'm not trying to
say this

8 for you. I'm --

9 A. No.

10 Q. I'm just trying to summarize it.

11 A. Yeah. I tried to be as honest as I could about how
I felt

12 about each of these.

13 Q. Sure. And I've now told you what the process is
and that

14 you would be getting instructions -- the jury would be
getting

15 instructions about how to analyze the information.

16 A. Right.

17 Q. And how -- what aggravating and mitigating factors
have

18 been shown and therefore should be considered. But
nobody can

19 tell anybody how to decide this.

20 A. Right.

21 Q. It's not by some kind of a formula, like a chemical
formula

22 or an arithmetic equation. The bottom is, you have to
decide

23 what you think is right as a moral judgment.

24 A. Well, that's where I think, you know -- that's
where -- it

25 wouldn't make that decision any easier.

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1 Q. No.

2 A. I mean --

3 Q. It's a very hard decision.

4 A. Yes, it would be. That's how I view that.

5 Q. And that's what we expect, that the -- the jury
carefully

6 consider it and make the hard choice. And do you
believe that

7 you can do that if called upon?

8 A. Let's see. How I would look at that, if I was
called upon

I put 9 to do that, I suppose I would have to do that. I think

10 that somewhere in here.

involved in 11 Q. Yeah. Well, we understand you'd rather not be

12 the whole thing.

that. If 13 A. It -- but, you know -- that's how I feel about

that as 14 that's what I had to do, I would certainly try to do

15 fairly and honestly as I could.

And we 16 THE COURT: That's all we can ask you for.

lawyers 17 appreciate your responding to these questions. The

additional 18 have an opportunity to ask some follow-up and some

them as 19 questions, so please listen to them and ask -- answer

20 you have me.

21 JUROR: Okay.

22 THE COURT: Mr. Mackey.

23 MR. MACKEY: Thank you, Judge.

24 VOIR DIRE EXAMINATION

25 BY MR. MACKEY:

a
1 Q. No promises. I have to talk about the death penalty
lighter.
2 little more, but let's start on something a little
3 You like to play golf?
4 A. I love to play golf.
5 Q. Your husband works at a golf course?
6 A. He builds custom golf clubs.
7 Q. Okay. And did you all meet at a driving range?
8 A. At his.
9 Q. There you have it. Who's a better golfer?
10 A. Yesterday, I was.
right
11 Q. That's the great thing about Denver. You can play
12 through the year.
13 A. Yeah. Most -- most of the time.
14 Q. You've got a couple small children.
15 A. Yes, I do.
16 Q. You put a golf club in their hand yet?
17 A. Oh, yes.
18 Q. All right. Let me spend a little bit of time
talking about
19 work, if I could.
20 A. Okay.
21 Q. And his Honor touched on a few of the topics, but I
want to
22 ask you a few more questions. The shop that you're at
now, I

23 take it you've been there for a while?

24 A. I've been at this salon for just a year.

25 Q. Okay. And I take it it's taken you a little while
to build

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Juror No. 58 - Voir Dire

1 up your client base?

2 A. I've been doing this for 16 years. I have -- when
I

3 started over here -- I really right now have more than
I can

4 almost deal with.

5 Q. All right. If you were selected for the jury and
were

6 working here, not at the shop for -- through the end of
this

7 year, for example, would you still have to pay for your
space

8 at the shop to keep it?

9 A. Yes, I would.

10 Q. Would you? Knowing your clients as you do, is
there a

11 chance that you would lose some of those customers if
you

12 weren't available to them for the next two, three
months?

13 A. I believe I would, yeah.

14 Q. And for the same reasons the Judge has indicated, I
don't

there 15 want to explore openly your personal situation, but is
own 16 any risk that you will become more dependent upon your
future? 17 financial income, your own sources of income in the

18 A. I would like to think not.

no pay 19 Q. Okay. But at least in the short term, you'd have
employed? 20 from your position if you're a juror? You're self-

21 A. Right. I would have no pay.

month? 22 Q. Okay. How much is the rent, if I can ask, each

23 A. It's \$150 a week.

your 24 Q. A week. I have a couple questions about answers on
Question 84. 25 questionnaire. Take a look, please, at page 18,

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1 A. Okay.

"New World 2 Q. And you had mentioned you had heard of the term
3 Order."

lot 4 A. I've heard of it. You know, I couldn't tell you a

couple years 5 about it. I had a couple of clients approach me a

a phone 6 ago about voting on something as far as that or making
7 call, which I never did, but -- something about that.

about 8 Q. Okay. On the next page. 89. There was a question
9 interaction with the government, and you indicated that
there 10 was an audit at one time. Tell me about that
experience and 11 whether that experience might affect your ability to be
fair in 12 a case that involves the government.

any 13 A. I don't know if I understood this question. Oh,
14 dispute. There's been dispute with the IRS, of course.
15 Probably everybody has had one of those.

16 Q. Anything about that that you think would --
17 A. No.

18 Q. -- impact your ability to give both sides in this
19 particular lawsuit a --
20 A. No.

21 Q. -- fair trial?
22 A. Huh-uh.

enforcement or 23 Q. You know a number of people who work in law
24 at least you know them from --
25 A. Knew them from my husband.

Juror No. 58 - Voir Dire

1 Q. -- rounds of golf you play together?

2 A. Yeah.

3 Q. Is there anything about that connection, knowing
people

4 involved in law enforcement, that might affect your
ability to

5 be fair in a case that will likely involve testimony
from FBI

6 agents and the like?

7 A. No. I don't think so.

8 Q. On page 24, would you take a look at your answer to

9 Question 105.

10 A. No. -- oh, 105?

11 Q. Yes.

12 A. Uh-huh.

13 Q. Let's talk first about the situation with your
brother.

14 Can I have a few more details about that and --

15 A. He just went through an ordeal here recently where
he had

16 drank too much, had threatened to commit suicide. A
buddy of

17 his had called the police and told them that he was
worried

18 about him and they had responded to that. And he was
living

19 with my father and they, I guess, had called him to

talk to him

20 and he had obviously threatened them and said he would
shoot

21 whoever came in the door. Knowing my brother like I
know my

22 brother, I could say, you know, please, you can walk in
the

23 door, he isn't going to hurt a fly, but -- and my dad
being

24 there. But anyways, I suppose because of that comment,
they, I

25 believe, a little overreacted, but, you know, I
understand that

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1 they don't know him from anybody else.

2 Q. And this happened in Michigan?

3 A. No. This happened here.

4 Q. Oh, all right.

5 A. And virtually pretty much, you know, destroyed my
father's

6 home. When they finally got in the house, they -- you
know, I

7 don't know why they beat him up, but they did beat him
up

8 pretty good. I don't know if he was -- he might have
been a

9 smart aleck. I don't know.

10 Q. Was anybody charged as a result? Anybody taken to

court

11 because of what happened?

12 A. Oh, yeah, he was. He was.

13 Q. All right. And is that case concluded?

14 A. Yes.

15 Q. What happened?

That's

16 A. He was fined. He was given two years' probation.

17 about it.

property

18 Q. Okay. In the process of that altercation, was

19 damage done to the home, as well?

20 A. Serious property damage.

of your

21 Q. Is that what you're referring to in the second part

22 answer, that your father's home was damaged?

23 A. Oh, yeah.

24 Q. Okay. So it's the same incident?

25 A. Uh-huh.

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Juror No. 58 - Voir Dire

it was

1 Q. Is there anything about that, especially given that

that would

2 a family member, both your father and your brother,

United

3 affect your ability to be fair in a case where the

a 4 States, a police agency, the FBI or the like would play

5 principal role?

6 A. Because of that?

7 Q. Right.

8 A. No.

9 Q. All right. You understand why I would ask?

10 A. Yeah.

11 Q. All right. Thanks.

12 On page 24, Question 109, there was an answer
about

13 criminal history. Was that also referring to your
brother?

14 A. Yeah.

15 Q. That incident? Okay. Good enough.

16 On page 25, on Question 113, can you expound
upon your

17 answer there.

18 A. I don't even think -- well -- I don't know that I
even read

19 that right.

20 Q. Okay. On reflection -- let me ask it more in the
contexts

21 of this courtroom. When witnesses would come to this
stand, it

22 would fall to you as a juror to judge their
credibility, to

23 listen to what they had to say, to test it against your
own

clues and 24 life experiences, watch their demeanor, look for all
someone 25 signals that you rely upon every day in judging whether

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past or 1 is being honest with you. Is there anything about your
a 2 any of this situation where you would give one witness
they be on 3 different kind of advance score or another, or would
4 the same plane when it came to the jury?

plane. 5 A. I think I'd probably be on the -- on the same

witnesses in 6 Q. And that would be true even if a number of the
officers? 7 this case were law enforcement officers, police

8 A. Yeah.

had to do 9 Q. Okay. One of the questions in the questionnaire
that on 10 with following the Court's instructions. Do you see
11 page 30? It's Question 129.

12 A. 129?

13 Q. Yes, ma'am.

-- you 14 A. Well, I just -- like I told the Judge, if I had to

15 know, I'm not going to not follow the rules.

16 Q. What did you understand this question was asking
you when
17 you answered it?

18 A. If I would follow the instructions. That would be
what the
19 question asked.

20 Q. And you answered that you would agree somewhat.

21 A. Right.

22 Q. When you qualified your answer like that, were you
-- was
23 that simply a means to express your reluctance to do so
or just
24 to tell us all that there are occasions when you don't
always
25 agree with the rules of law? You tell me.

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1 A. I don't know that anybody always agrees, but I can
-- I
2 certainly follow the law.

3 Q. So in a case where you would be a juror, where his
Honor
4 would explain the law to you, tell you what the jury
must do,
5 what rules they must follow, even if in any situation
you found
6 yourself disagreeing with that rule, would you follow
it

7 nonetheless?

8 A. Oh, of course, I would.

9 Q. Let me ask you if I can, ma'am, a few questions

further

10 about your religion because, as you've already told us

in the

11 questionnaire, there may well be some tension between

your

12 faith and what you might have to do as a juror. Am I

right

13 about that?

14 A. Yeah.

15 Q. Is that something that occurred to you in the

course of

16 filling out the questionnaire?

17 A. It occurred to me when I got the first letter.

18 Q. All right. And what was your immediate reaction

when you

19 got a summons, saying even though my religion doesn't

20 necessarily believe in serving as a juror, I now have a

jury

21 summons? Tell me what your reaction was.

22 A. What do I do? I don't know what my reaction was.

It was

23 just a little upsetting.

24 Q. Okay. Something I take it you'd rather not have

had

25 happened?

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1 A. Of course.

2 Q. Had you given --

3 A. Not put in that position.

4 Q. And again, as his Honor has emphasized, there's no
right or
5 wrong answers here in this courtroom.

6 A. I understand that.

7 Q. I'm simply trying to understand what feelings and
beliefs
8 people have.

9 Did you give it any thought before you went to
Jeffco
10 to fill out the long questionnaire how you would
resolve or
11 report to the Court and the parties this conflict, this
special
12 situation you were in with your religion beliefs?

13 A. Not really. Well, I did a little. If I was asked,
I was
14 going to be honest about it. That is what we believe.

15 Q. Of course. Did you talk to other members at your
church
16 about the fact you'd gotten a summons and now you were
face to
17 face with this conflict?

18 A. Yeah. I spoke to the lady that I do Sunday school
with.

out the 19 Q. Okay. And did you talk to her before you filled
20 questionnaire?
21 A. No.
that 22 Q. Okay. Since that time? You've talked to her since
23 time?
24 A. Yeah.
advice 25 Q. And tell me about that conversation. What sort of

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1 or guidance did you get?
just 2 A. She really didn't give me much advice other than
3 reiterate the beliefs and --
conflict 4 Q. And what belief in particular do you feel most in
5 with as you sit here as a potential juror?
judging. 6 A. The judging belief. That we don't believe in
innocence 7 Q. And when you say judging, do you mean guilt and
8 or do you mean life and death or do you mean both?
9 A. Probably both.
judgments -- 10 Q. The job of a juror, of course, is a series of
11 A. Right.

12 Q. -- you understand?
13 We talked earlier about credibility. There
could be
14 dozens and dozens of witnesses called and it would fall
to you
15 and the rest of the jury to judge their credibility,
you know,
16 are they telling the truth, do you give them any credit
in
17 your -- as you took their testimony. Do you understand
that?
18 That would be one of your obligations. And there may
well be
19 conflict between two witnesses, one that says X and the
other
20 one says Y, and it falls to you to resolve that
conflict. You
21 have to judge who's telling the truth. Does that
prospect give
22 you difficulty, maybe being called upon time after time
to
23 judge the credibility of a witness?
24 A. I -- I kind of think that would be tough for
anybody.
25 Q. Does your religion and your faith and the circle of
people

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1 that you count on -- would that add some measure of
pressure or

2 difficulty to the job if you were a juror?

3 A. It -- it would be on my mind. I -- you know, I --
like

4 I -- like I said, if I had to do that, if I was called
upon to

5 do that, I -- I could do it.

6 Q. Okay. Of course, you've not sat as a juror in a
death

7 penalty case and so I'm assuming that you don't have an
inside

8 look at all that goes on in a criminal case. Right?

9 A. No.

10 Q. All right. You've not studied criminal procedure
or --

11 A. No.

12 Q. -- studied criminal prosecutions or criminal
defense or the

13 death penalty.

14 All right. Well, bear with me a little bit
further

15 and let me ask you: In a criminal case, the jury would
have to

16 decide guilt or innocence, and what that means is
judging

17 whether the United States, the prosecution, has proven
to your

18 satisfaction beyond a reasonable doubt that the
defendant is

19 guilty as charged. And that is a judgment that the
law, his

20 Honor, would impose upon the jury. Do you understand

that?

21 A. Yeah.

22 Q. With that kind of specific judgment in mind, is
there

23 anything about your faith, anything about your
religious

24 beliefs that would make it particularly difficult for
you to

25 carry out that duty, to make that judgment?

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1 A. The fact that I don't really feel like I should
make that
2 judgment.

3 Q. You understand that in a -- in a jury, it is a body
of 12

4 people and they rely upon each other to discuss and
review

5 evidence together, to talk through the evidence, what
they saw

6 and what they observed, what they take from their
review of

7 what they have heard appear before them, the documents,
the

8 witnesses. It would be your obligation to participate
with

9 those other 11 jurors and to freely discuss what you
were

10 seeing and your assessment of it. Would your religious
beliefs

and help 11 impair or interfere at all with your ability to engage

12 out those other jurors in doing that task?

13 A. That's a tough question. I mean, I -- I would not

14 not -- try to be as fair as I felt I could possibly be

15 to do that.

16 Q. I understand. And again, this is -- you shouldn't

17 embarrassed if this is a job you can't take. We

18 that. That's not the issue. The issue is this is a

19 religion that's important to you; correct?

20 A. Yes, it is.

21 Q. And you depend upon it, I take it, in managing your

22 day-to-day decision-making?

23 A. Yes.

24 Q. And you seek the advice of the people in the church

25 to help make important decisions; is that right?

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1 A. Yes.

2 Q. And I take it as you set there now, most of the

people in

3 your church, maybe all of them, would say that you
should not
4 sit as a juror in judgment of any other person?
5 A. Right.
6 Q. If you were chosen as a juror and went to church
every
7 Sunday, as you would be free to do, would you feel any
pressure
8 or any separation from that body of friends and other
believers
9 if they knew that you were that day, that week, setting
as a
10 juror in a criminal case?
11 A. No. Would they treat me differently? No, because
of their
12 beliefs.
13 Q. Okay. You trust that they would -- would treat you
the
14 same, even though the -- you were still a juror in the
case and
15 judging someone?
16 A. Well, they would treat -- yes. They would treat me
the
17 same. I don't know that they would be in full
agreement, but
18 then they would not treat me any differently.
19 Q. Is there any concern on your part that if you sat
as a
20 juror in this case and had to decide in judgment the
guilt or
21 innocence of a person and ultimately perhaps the life
or death

22 of an individual, that you could stay in your church,
that you
23 could remain a member of your faith?
24 A. Yes, I could.
25 Q. Do you feel like it would tend to push you away
from that

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1 organization or push you away from that religion?
2 A. Me personally away through them or myself?
3 Q. Yes. Through yourself. Being chosen as a juror.
4 A. No. I think it would probably push me a little
closer.
5 Q. Do you know or can you tell me in your own words
why it is
6 that your religion does not believe in judging man?
7 A. Because the Bible -- that's what the Bible says.
8 Q. Do you know in your own view what the Bible says
about the
9 death penalty?
10 A. No. I -- no, I don't. Not about the death
penalty.
11 Q. Do you know in your view whether the Bible is for
or
12 against the death penalty?
13 A. No.
14 Q. At your church, have the group of you ever talked

about the

for 15 death penalty, whether it's an appropriate punishment

16 society in any circumstance?

17 A. No.

death 18 Q. Do you know whether your church has a view on the

19 penalty?

discussed it 20 A. I truly, truly don't know that. I've never

21 with anybody.

in 22 Q. Okay. On page 13, Question 56, you use the words

your 23 answering questions about religious belief impacting on

men. I 24 role as a juror, "I do not believe in judgment of other

do not 25 would not feel good about judging this man's fate. I

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Juror No. 58 - Voir Dire

best I 1 believe it is my place. I leave everything to God as

2 can."

3 A. Right.

4 Q. And is that your view as you sit there now how your
5 religious view might impact on you as a juror?

6 A. That's -- that's what we believe. I mean, I don't

know --

7 I don't know anyone in our church that participates in
the jury

8 system.

9 Q. Do you know of others in your church who have
declined to

10 participate as a juror?

11 A. Oh, yeah.

12 Q. Has it happened that they have been summoned like
yourself

13 and gone to court and simply explained, you know, my
faith, my

14 religion would not permit me to serve, carry out this
duty?

15 That's happened?

16 A. Yeah.

17 Q. Have you talked to those people about that
experience?

18 A. Have I talked to them about it?

19 Q. Yes.

20 A. Like in length?

21 Q. What's been talked about?

22 A. That is that that -- that's what -- what we
believe. That

23 we don't.

24 Q. In a federal capital case such as this one, if the
jury as

25 a whole decides on guilt -- that is, unanimously agrees
that

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1 the Government has met its burden -- and that is the --
the
2 defendant's been proven guilty, then there's a second
trial, as
3 his Honor has described, and a very different question
is then
4 posed, and that is the question of the appropriate
sentence,
5 whether it be life without possibility of release or
death or
6 some third option that the Court would decide. You
understand
7 that in this case if you were chosen as a juror and if
this
8 case resulted in conviction, that you would be face to
face as
9 a member of that jury with deciding the appropriate
sentence.
10 Do you understand that?
11 A. Yes, I do.
12 Q. Carrying out that responsibility, you would have to
listen
13 to all of the evidence in that second phase, the
penalty phase,
14 with an open mind, consider all the testimony, all the
evidence
15 that was presented, and then follow the Judge's
instructions
16 and the law that he would provide to you to guide that

process

17 in deciding. Do you understand that?

18 A. Yes, I do.

19 Q. In the end, at the close of that hearing, each
individual

20 juror would have to decide for his or herself whether
it was

21 morally correct to impose a death penalty. Can you
make that

22 kind of decision?

23 A. Whether it was morally correct?

24 Q. Would you make the moral choice if you thought,
after

25 listening to all the evidence, that it was warranted
that a

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1 person should be put to death for a crime?

2 A. I -- I don't know if I would feel that that was
morally

3 correct.

4 Q. Would you feel that it was morally wrong for you to
set in

5 judgment about the life or death of another individual?

6 A. I find the whole process pretty difficult. I mean,
that's

7 as honest as I can be. I truly don't know how I'd feel
about

8 that.

9 Q. In this case, as in any case, there can be no death
10 sentence unless each and every one of the twelve jurors
agrees

11 that that's their moral choice, speaking as the moral
12 conscience of the community, so it would fall to you
13 individually to make that moral choice. You
understand?

14 A. Yes. I do. That doesn't make that choice
comfortable

15 or -- or any easier.

16 Q. I understand. Is it largely your religious faith
and your

17 beliefs in those teachings --

18 A. That's a part of it, and part of it's just my own
self.

19 Q. Sure. I understand. Okay. As you set there now
in final

20 assessment -- this is my last question -- would it be
difficult

21 for you to carry out the duty of reviewing the evidence
and

22 deciding life or death for an individual?

23 A. I think it would be very difficult.

24 MR. MACKEY: Thank you, Judge.

25 THE COURT: Mr. Woods?

1 MR. WOODS: Thank you, your Honor.

2 VOIR DIRE EXAMINATION

3 BY MR. WOODS:

4 Q. Good afternoon.

5 A. Good afternoon.

6 Q. As the Judge introduced me, my name is Ron Woods.
I'm one

7 of the attorneys that was asked by the Court to
represent Terry

8 Nichols in this case.

9 One of your answers caused some question with
me.

10 When you asked, "Are we downtown," are you being
brought

11 downtown in a van with the blacked-out windows where
you can't

12 see where you're going?

13 MR. MACKEY: Objection.

14 THE COURT: Well, she is, yes.

15 BY MR. WOODS:

16 Q. Did someone explain to you what the reason for that
was?

17 A. Not really.

18 Q. Did you ask?

19 THE COURT: Well, I'll tell you now and
everybody

20 else, it's done so that -- it's for your privacy so
people

21 can't look in the window and see who the jurors are

coming in.

22 That's why. And so the photographers can't take your
pictures

23 and television cameramen and so forth.

24 MR. WOODS: Thank you, your Honor.

25 BY MR. WOODS:

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1 Q. Did you at any time think that it was because of
this

2 person, Terry Nichols, that he comprised some threat to
you in

3 any way?

4 A. No.

5 Q. Okay.

6 A. No. I drove to Jefferson County Fairgrounds and he
--

7 Q. Okay. Without going into those details, but you
didn't

8 attribute that to any threat from Mr. Nichols?

9 A. No.

10 Q. Okay. Thanks.

11 MR. WOODS: Thank you, your Honor, for the

12 explanation.

13 BY MR. WOODS:

14 Q. I want to talk to you briefly about your employment
at the

that 15 salon. I assume you work on Saturdays like most do; is
16 correct?
17 A. Yes, I do.
18 Q. Okay. Now, does your salon do both men and women
--
19 A. Yes, we --
20 Q. -- or solely men?
21 A. Men and women.
22 Q. What's the majority of your clientele?
23 A. It's about 50-50.
there, the 24 Q. Okay. It's been my experience that when you're
events. Do 25 barber or the stylist wants to talk about the day's

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topics 1 you talk about the day's events, the news, the current
2 of the day with your clientele?
client 3 A. No. Not usually. That's only if I have a -- a new
weather 4 in my chair or something, I might try to talk about the
5 just to get something going.
6 Q. Okay.
7 A. Most of my clients, I've known for a very long

time.

when
that
8 Q. Have you ever talked about this case? For example,
9 the verdict came in on Mr. McVeigh, did you talk about
10 with your clients?

up too
I'm sure
11 A. You know, honestly, that really -- it didn't come
12 much. I don't know -- I don't really know why. I --
13 that somebody -- I'm sure that we talked about the
verdict was
14 as it was, but not anything in depth.

that at
the
15 Q. You would agree that it was of some public interest
16 the day it happened, the day after, it was headlines in
17 newspaper and there were special editions of the
newspaper put
18 out on the verdict. You recall that?

at a
19 A. Oh, I recall the day. I recall -- I was actually
20 different salon.

21 Q. Actually what?
22 A. I was at a different salon that day. I was working
at my
23 previous job.

verdict?
24 Q. And did you talk to the clients there about the

25 A. Sure. I -- I think everybody was talking about it.

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1 Q. Okay. Was there any general consensus of what
people were
2 stating and what opinions were given?
3 A. Just other than it was devastating.
4 Q. The punishment verdict?
5 A. I'm talking about the day of the --
6 Q. Okay.
7 A. -- the bombing.
8 Q. Back in April of '95, you're talking about?
9 A. Yeah.
10 Q. The day it happened. As the Judge explained to you
out at
11 Jeffco, it's April the 19th, 1995, was the day it
happened. So
12 you're working at another salon at that time and there
was
13 general discussion, of course, about the devastation.
What
14 about two days later, when the arrest of Mr. McVeigh
occurred?
15 Was there discussion about that?
16 A. I think the owner of our salon had some discussions
going
17 on in there.
18 Q. Okay. Do you recall any particular statements
about the

19 arrest?
20 A. Not really.
21 Q. Okay. Do you have any recollection from the press
that
22 you've read and seen on television or in discussing it
with
23 other people as to where Terry Nichols was at the time
of the
24 bombing?
25 A. No. And the only -- the only thing I even remember
about

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1 that is that there was possibly another person.
2 Q. Do you remember --
3 A. The only other thing would be that -- that I -- it
was in
4 Michigan.
5 Q. That it was in Michigan?
6 A. Yeah.
7 Q. And your sister and brother still live in the
Detroit area;
8 is that correct? One of them lives in Jackson?
9 A. Right. And my sister lives in --
10 Q. And in fact, a lot of the news events took place on
Friday
11 after the Wednesday bombing. On Friday, when McVeigh
was

12 arrested, there were a lot of news events that were
happening
13 right near Denver (sic) up in the Thumb area. Do you
recall
14 that? Do you recall seeing the pictures on television?

15 A. You mean near Detroit?

16 Q. I'm sorry. Detroit. I'm getting my Ds mixed up.
I

17 apologize. Up in the Detroit area, in the Thumb area.
Do you

18 recall seeing on television the search warrant being
executed

19 out on a farm in the Thumb area with a lot of people
dressed in

20 black combat suits?

21 A. Yes.

22 Q. Okay.

23 A. Yes.

24 Q. And have you talked with your brother and sister
about

25 that? There's been some news in the Detroit newspapers
about

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1 that. Have you talked with them over the phone about
this case

2 in the last two and a half years?

3 A. No.

the news 4 Q. Okay. What do you understand from what you saw in
5 happened in Michigan in the Detroit area, in the Thumb
area?

6 A. You mean what did I see?

understand 7 Q. Yes, and what do you recall and what do you
8 about that?

happening 9 A. The only thing I really recall is that this was
was 10 in Michigan and it was on a farm. That -- and there
11 fertilizer. That's what -- what I recall. I really
don't read 12 the newspaper very much and --

news 13 Q. You stated in your questionnaire that you get your
is that 14 from TV and you watch one to three hours of TV a day;
15 correct?

16 A. Uh-huh.

from 17 Q. Okay. And so I take it then that you get your news
18 the TV news?

19 A. Yes.

20 Q. Is that the nightly news at 10?

to get 21 A. I watch the news at 10, and basically, I watch it
22 the weather so I know how to dress my children.

23 Q. Okay. Do you watch television in the morning when

you're

24 getting up and getting ready to get the kids off to
school?

25 A. No.

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Morning" 1 Q. Watch the morning shows, the "Today" show, "Good

2 or any of those?

3 A. No. I don't watch TV very much.

4 Q. Okay. Okay.

5 A. Usually cartoons.

you did 6 Q. Okay. You stated in your questionnaire as to what

Go to 7 know about the case, and if you would turn to page 36.

or 8 Question 158, "Please summarize what you've seen, read,

9 heard about the Oklahoma City bombing."

front of 10 And you stated that the bomb was set off in

Michigan 11 the building by Tim McVeigh; that he was part of the

This may 12 Militia. Many little children died and many people.

have 13 have had to do with an occult. There were many who

14 suffered because of the tragedy of this."

15 A. That's about all I know.
16 Q. Okay. What did you hear concerning an occult?
17 A. You know, I don't know. But I just remember
somebody
18 saying that.
19 Q. Okay. What do you define "occult" as?
20 A. I would define it as -- as a religious something.
21 Q. A religious something?
22 A. Well, group or --
23 Q. All right.
24 A. Charismatic leader.
25 Q. All right. And the next question, "Please
summarize what

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1 you've seen, read, or heard about Terry Nichols."
2 "That he is an expert in firearms. He lived
in
3 Michigan. He's part of the Michigan Militia."
4 A. And that's what I remember about -- that's all I
remember.
5 Q. Can you recall what you heard that makes you
remember that
6 he was part of the Michigan Militia?
7 A. Well, I think just, you know -- I'm from Michigan.
8 Q. Right.

only
whole
9 A. I love Michigan. And, you know, I think that's the
10 thing that might have even caught my attention in that
11 statement.

12 Q. In what statement?

Michigan
13 A. In Michigan Militia. I never even heard of the
14 Militia. I just heard some people talking about that.

part of
15 Q. And it's your understanding that Mr. Nichols was
16 the Michigan Militia?

somebody
17 A. Was -- it wasn't my understanding. That's what
18 said.

19 Q. All right. Do you know who said it?

20 A. No, I don't. There was --

21 Q. Was it somebody from the Government?

22 A. No.

firearms?
23 Q. And where did you hear that he was an expert in

24 A. I think I heard that on TV right after --

25 Q. And do you know who was saying that?

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1 A. I think I heard it on the TV.

2 Q. Well, I understand that.

3 A. The news or --

4 Q. Were they attributing the statement to anyone, that
he's an
5 expert in firearms? Were they attributing that to the
6 Government?

7 A. I don't know that they said he actually was. I
think
8 they -- that's probably what I got out of what they
said.

9 Q. That he's an expert in firearms and is part of the
Michigan
10 Militia?

11 A. I do remember some -- something about that. That's
why I
12 wrote that there.

13 Q. Now, you mentioned that McVeigh may have been part
of an
14 occult. Do you have the same association with Mr.
Nichols?

15 A. I don't know that he was or wasn't. That's just
what I
16 heard.

17 Q. That Mr. McVeigh --

18 A. You asked me what I knew about it and I wrote down
what
19 I -- what I had heard.

20 Q. All right. And the question is, was it just Mr.
McVeigh

21 that you heard was part of an occult or was it McVeigh
and

22 Nichols?

23 A. I don't even remember.

24 Q. Okay. If you would, while we're on that subject,
Question

25 No. 132, which is going to be on page 30, at the
bottom. The

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1 question is, "Do you have any opinion about what you
may have

2 heard or read about the incident at Waco, Texas,
involving the

3 Branch Davidians?"

4 And your answer was, "Yes."

5 "If yes, please explain."

6 "I think the incident and the people involved
were a

7 little crazy."

8 Are you referring to one group or both groups
that

9 confronted each other there?

10 A. I never -- I just think that that kind of stuff is
very

11 strange.

12 Q. What kind of stuff are you referring to?

13 A. Well, like being locked up in there and setting
fire to it.

14 Killing themselves. I just -- I --

15 Q. Well, let's start with the first part. Being
locked up in
16 there, what do you mean?
17 A. Well, I don't -- I don't know that much about this
18 particular incident other than that somehow, all of
these
19 people died in -- I don't really know what you call it.
20 Q. Well, they were locked up --
21 A. I don't read these things. I mean, I catch bits
and pieces
22 here and there. That is what I think of -- I just
don't
23 understand why things like that even happen.
24 Q. All right. And the fact that they were locked up
in there,
25 what do you mean by that? Who was locked up and who
locked

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1 them up?
2 A. Well, they didn't come out. I don't know what you
call
3 that. Are they in there because they want to be in
there or
4 are they in there because somebody won't let them out?
I
5 personally wouldn't have been in there to begin with.
That's

6 how I feel.

7 Q. All right.

8 A. I would have come out if I was in there.

9 Q. All right. And then your next statement was that
there was

10 a fire.

11 A. Wasn't there? Did -- I mean, I think it burned.

12 Q. As I recall, there was a fire. Is that what you're
13 referring to here that the people involved were a
little crazy?

14 A. Well, I -- you know, that's a -- a -- I suppose
that's what

15 I mean.

16 Q. Okay. Did you have any opinion as to the
activities of the

17 authorities that were surrounding the place?

18 A. No.

19 Q. Okay. Now, as I understood, when the Judge
questioned you

20 and you answered that -- you said that -- to the Judge
that you

21 could put your religion aside and do your civic duty by
sitting

22 on a juror -- sitting on the jury; is that correct?

23 A. I told him if I had to, I would do that.

24 Q. And that he went into your prior jury service and
that you

25 had done it before two years ago; is that correct?

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1 A. Yes.

2 Q. Okay. And you stated that it would make it a
little

3 difficult, but if I had to, I would set on a jury; is
that

4 correct?

5 A. Yes. That's --

6 Q. You understand that the law does not require that
you have

7 to return a death penalty verdict?

8 A. I understand that.

9 Q. In fact, the -- the law's only requirement is that
you have

10 to be able to consider the full range of punishment in
the

11 event you find Mr. Nichols guilty. You must be able to

12 consider the full range of punishment. That is from
the death

13 penalty down to life without release. And the only
question we

14 have is can you consider both of those when you make
your

15 determination if you're a juror in this case?

16 A. Can I consider life or the death penalty?

17 Q. Right. Can you keep an open mind and look at both
ranges

18 of punishment and base your decision on what you hear
in this

19 trial?
20 A. Well, I -- I think sentencing someone to death
would be
21 very difficult. I think I said that --
22 Q. Of course it would.
23 A. -- already.
24 Q. Of course it would. And nobody is requiring that
you have
25 to do that; that you have to sentence them to death.

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1 The Court took you through the procedure
involved
2 where a juror that gets chosen has to be able to
consider both
3 ranges, the death penalty and life without release.
And our
4 only question to you is, can you consider both of those
if
5 you're chosen on this case?
6 A. I really -- I -- if I had to, I have to. That's
how I
7 feel. I -- it wouldn't be something I would enjoy
doing.
8 Q. But you're willing to follow the Court's
instructions
9 and --
10 A. I said that. And I said I could do that, yeah.

11 MR. WOODS: Thank you very much.

12 THE COURT: We're going to have to leave you
in an

13 uncertain situation, unfortunately, because we're not
making

14 the decisions about who sits and who doesn't sit as we
go

15 along. I wish we could. I wish I could tell you, you
know,

16 you don't have to worry about this anymore or yes,
you're going

17 to be on the jury; but I can't. And I hope you
understand the

18 reason for that. We have a number of people to talk
with about

19 this, and it's a -- an important part of the case. The
process

20 of the case. So I'm going to ask you to assume that
you will

21 be required to serve in the case and will have the

22 responsibility to decide the issues in this case.

23 And accordingly, continue to do as you have
been

24 doing, staying away from any publicity about this or
anything

25 connected with it, avoid discussion with others about
it, keep

1 an open mind, and wait to hear from us. Can you do
that?

2 All right. We'll get back to you at a later
time.

3 JUROR: All right.

4 THE COURT: For now, you're excused. Thank
you very

5 much.

6 795.

7 If you'll please raise your right hand and
take the

8 oath from the clerk.

9 (Juror No. 795 affirmed.)

10 THE COURTROOM DEPUTY: Thank you.

11 THE COURT: Please be seated.

12 VOIR DIRE EXAMINATION

13 BY THE COURT:

14 Q. You'll recall taking that same oath at an earlier
time on

15 September the 17th, when you were at the Jefferson
County

16 Fairgrounds.

17 A. (Juror nods.)

18 Q. Yes?

19 A. Yes, sir.

20 Q. We have to answer out loud so we can put your
answers in

21 the record. I understand a nod of the head, but we
have to put

22 it in the record.

23 And at that time, I met with you and other
members of

24 the jury panel in a rather large group and also
introduced

25 the -- some of the lawyers and the defendant to you.
And I

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1 want to do that again, because we want you to know
who's here.

2 So you recall at this first table here, we
have

3 lawyers for the Government; and you recall meeting Mr.
Lawrence

4 Mackey, who's the first one, right over here. Ms. Beth
5 Wilkinson; she was out there with us. These other two
men were

6 not there. Mr. Patrick Ryan is next, and Mr. James
Orenstein

7 is next to him.

8 Over at this other table, you recall meeting
9 Mr. Michael Tigar and Mr. Ronald Woods, attorneys for
Mr. Terry

10 Nichols; and Mr. Nichols is here, and he was there at
that

11 time, as well.

12 You also recall that at that time, I gave some
general

13 explanation about the background of the case: an
indictment
14 filed in the Western District of Oklahoma, in Oklahoma
City,
15 case got transferred here for trial, the reasons for
that; and
16 also sort of summarized what the charges are in the
case in
17 that indictment and that it charged Timothy McVeigh and
Terry
18 Nichols as two named persons and then other persons not
named
19 with a conspiracy to bomb a building in Oklahoma City.
You
20 recall that?
21 A. Yes, sir.
22 Q. And then other charges as well, including carrying
out a
23 bombing of a federal office building there and the --
including
24 also the murder of eight law enforcement agencies of
the
25 government -- agents of the government. You remember
that?

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1 A. Yes, sir.
2 Q. Okay. We're not going to go through all that
again, and I
3 know that you remember it; but I've got to recite it

here so

4 that we can make all of this a matter of record.

5 Now, you know that you were chosen here by a
chance

6 process. Your number came up, so to speak, or your
name. And

7 then we gave you a number as a member of the jury, and
we asked

8 you to complete this rather long questionnaire, which
you did

9 for us. And we also appreciate that many of the things
that

10 we've asked of you here are private in nature, personal
to you.

11 And we're attempting to do all that we can to protect
that

12 privacy, which is why we refer to you by number. And
your

13 questionnaire has not been released to the public, but
you're

14 in a public courtroom now so that the answers that you
give us

15 here, without identifying your name is -- will be
public.

16 Understand?

17 A. Yes, sir.

18 Q. And also, I want to caution you -- not caution you
but

19 advise you that you're free to change anything in these

20 answers, because we hit you with a lot of questions.
And upon

21 thinking about it some more, you may have some

differences in

22 your answers; and if that's the case, you should feel
free to

23 tell us. And we're not going to go through all the

24 questionnaire over again, but some of these things,
we're going

25 to sort of expand on.

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1 And I'll be asking you some questions, and
then the

2 lawyers have a chance to ask some additional questions.

3 Now, in -- you got a short questionnaire first
which

4 said you're called for jury service, and you answered
that by

5 saying -- asking really to be excused.

6 A. Yes, sir.

7 Q. And then you said in this big questionnaire that
you're

8 upset because we ignored your first questionnaire
answers.

9 Now, we didn't ignore them. You got the wrong idea
there. It

10 is simply that under the law, we can't excuse people
for

11 hardship or even, generally speaking, for medical
conditions

12 until we know more about it and until they come in and

go

13 through this process.

14 So no judgment has been made in your case
regarding

15 whether your request for excuse will or won't be
granted.

16 We're not ignoring you; and we realize, too -- and I
hope you

17 do -- that jury service, even in a short case, involves
18 disruption of the person's regular work and life's
routine.

19 And of course, in a longer case -- and this being a
longer

20 case; we don't know how long this is going to go -- the
21 disruption is the greater, of course. And that's part
of the

22 obligation of citizenship, not to suffer disaster, but
23 certainly, more than inconvenience.

24 So we want to talk about some of these things
with you

25 here this afternoon.

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1 You have your own software consulting company?

2 A. Yes, sir.

3 Q. And you've had that about how long?

4 A. About two years.

5 Q. And do you have employees working for you?

6 A. Yes, sir.

7 Q. On -- about how many people do you have working
there?

8 A. I have -- counting me and my partner, I have two
full-time

9 employees and I have four subcontractors.

10 Q. And four subcontractors, did you say? Like
independent

11 contractors?

12 A. Yes, sir.

13 Q. You don't put them on the payroll in the sense of
--

14 A. Right.

15 Q. -- withholding?

16 A. They have their own EIN, and they bill me directly.

17 Q. Yeah. Okay. And in part, that's so you don't have
the

18 business of withholding tax and Social Security and all
that?

19 A. Yes, sir.

20 Q. I mean, a lot of people do that in the contracting
21 business, like carpentry and home-building and that
sort of

22 thing. We're not suggesting anything wrong with your
business

23 arrangement. Don't worry about that.

24 A. Okay.

25 Q. But your -- tell us a little about your business.
What

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1 kinds of clients do you service and what kinds of
things do you

2 do for them?

3 A. We're working on the client server arena. Deal
mostly with

4 billion dollar corporations such as GE Capital,
Oppenheimer,

5 those types, developing applications enterprise-wise.

6 Q. Designing what kind of a system would best serve
their

7 needs?

8 A. Uh-huh.

9 Q. Is that the case?

10 A. They have requirements -- usually come to us for --
with

11 their requirements, and we build the system for them,
train

12 their people while we're doing it. We do our work on
their

13 site.

14 Q. So they come to you with "We want a computer system
that

15 will do this for us; you tell us what kind of hardware
and what

16 kind of programming, what kind of people to operate
it"?

17 A. Usually, they already have the hardware in place.
18 Q. Do they?
19 A. So we build the systems around their hardware.
20 Q. Okay. And that includes the designing of the
program,
21 itself?
22 A. Yes, sir.
23 Q. And you do that --
24 A. Yes, sir.
25 Q. -- individually. Your partner: Is he equally
skilled in

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1 this field?
2 A. Yes, sir. Both of us are billable full-time, too.
3 Q. Okay.
4 A. And running the business.
5 Q. So, you know, the reason I ask that, sometimes
there's an
6 arrangement, one person is the business type and the
other
7 person is the technical type. But you're both
technical?
8 A. We're both technical.
9 Q. The business would survive without you for a while;
is that
10 right?

11 A. Potentially. I mean, it would suffer difficulties,
because
12 I do all the accounting; and we're in the process of
forming
13 another company right as we speak. And we're also
setting up
14 with a -- as a value added reseller and consulting and
training
15 partner with Silver Stream, a company in Boston. In
fact, I
16 was supposed to be out there this week, but that's been
moved
17 back a month.

18 Q. We appreciate your making that change so that you'd
be
19 available.

20 Well, I -- you know, I don't want to minimize
the
21 impact, but it isn't as severe as ruining the whole
business,
22 is it?

23 A. Well, my clients are -- are pretty upset about it,
too. In
24 fact, they want to know if they can send you a letter,
25 explaining the hardship that you're going to cause to
them.

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1 Q. The answer to that is no.

2 A. Okay.

litigants, and

3 Q. Some of those clients are in this court as

to hear 4 they expect service from the court. They expect juries

when we 5 their cases and their disputes. They get very upset

two. Tell 6 say, you know, you don't get to trial for a year or

7 them that.

the 8 Now, you -- what's your background in learning

do that 9 computer work, and so forth? You do that in -- did you

10 in college?

11 A. Yes, sir. I have a degree in computer science.

12 Q. And where was that?

13 A. West Virginia State College.

I'm 14 Q. Okay. Now, you gave us another concern here. And

And then 15 referring here to your answer on page 2, Question 5.

custody 16 over again on page 3, Question 10. There's a joint

17 arrangement with a small child?

18 A. Yes, sir.

19 Q. And this is a separation at this time?

20 A. Yes, sir.

21 Q. Is that right?

22 A. I have a court date November 14.

23 Q. For a dissolution of the marriage?

24 A. Yes, sir.

25 Q. Is that decided on? I mean, are -- I don't want to
pry

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1 unnecessarily; but it's one thing, maybe, for the other
things

2 going on in your life, that you're trying to work that
out;

3 it's another thing if you're settling it out.

4 A. We're currently seeking a marriage counselor and --

5 Q. As an alternative to it?

6 A. Yes, sir.

7 Q. How long have you been separated?

8 A. Since the first of June.

9 Q. And the -- you have an arrangement with respect to
the

10 joint custody, so many days or nights with one and the
other?

11 A. We alternate every week.

12 Q. Okay. Well, when you have custody and you're
working, who

13 takes care of the child?

14 A. She goes to day-care.

15 Q. For like extended day-care, like all eight or ten

hours?

16 A. I drop her off at about 7:00 in the morning. I
pick her up

17 around 4.

18 Q. And what would you do about that if you were
serving here

19 from 9 to 5?

20 A. I -- I'd have to find an arrangement, I guess.

21 Q. Is your wife also working?

22 A. She's going on interviews right now. She plans to
be

23 working by the end of the week.

24 Q. Does she use the child care during her weeks of
custody --

25 A. Yes.

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1 Q. -- as opposed to staying at home with the little
one?

2 A. Well, she was working. She just recently lost her
job.

3 Q. Okay. So the child goes to the same child care
place --

4 A. Yes, sir.

5 Q. -- whether you take her or your wife takes her?

6 A. Uh-huh.

7 Q. Or him. I can't remember which.

8 A. It's a girl.

wife
9 Q. Thanks. And, you know, are things such that your

you
10 could -- the mother of your daughter could take her, if

11 were on the jury, to the child care?

12 A. Probably could, yes.

Castle
13 Q. Okay. You -- let's see. You live now in or near

14 Rock?

15 A. Yes, sir.

16 Q. Come from West Virginia originally?

17 A. Yes, sir.

18 Q. Been here in Colorado about six years?

19 A. Yes, sir.

20 Q. You also lived in San Antonio; is that right?

21 A. Yes, sir.

Force?
22 Q. Is that where you -- because you were in the Air

23 A. Yes, sir.

to '91?
24 Q. There? And you spent, what in the Air Force, '84

25 A. Yes, sir.

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1 Q. What did you do in the Air Force?

2 A. Computer programmer.

3 Q. The whole time?

4 A. Yes, sir.

5 Q. So had you already been to school for computers at
that

6 time?

7 A. I had --

8 Q. I mean before you were in the Air Force?

9 A. Yes, sir. I graduated in '84 from West Virginia
State.

10 Q. Okay. Went right into the Air Force, did the type
of thing

11 you were trained to do?

12 A. Yes, sir.

13 Q. Were you stationed outside the continental United
States?

14 A. I spent two years in Germany.

15 Q. And what rank or grade were you when you came out
of the

16 Air Force?

17 A. E4.

18 Q. Had you thought about a career?

19 A. No, sir.

20 Q. You were there for longer than the usual hitch,
weren't

21 you?

22 A. Yes, sir.

23 Q. So you reupped at one time, did you, or were you on
an

24 extended program of some kind?

25 A. I was hit with an early-out proposition. They came
to me

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1 eight months early before my four years were up and
said either

2 get out or reenlist now because of the cutbacks; and at
the

3 time, I wasn't ready to get out. So I went ahead and
4 reenlisted.

5 Q. Okay. And then did you get an early out on the
second

6 hitch?

7 A. Yes, sir.

8 Q. Okay. Because they were downsizing again?

9 A. No, sir. I got a job offer.

10 Q. You got a better offer and they said go ahead and
take it?

11 A. Yes, sir.

12 Q. Modern military.

13 Now, you -- what caused you to come to
Colorado?

14 A. The same job offer.

15 Q. All right. And that was doing some work with -- in
the

16 same line but with other people before you started your

own

17 business, you and your partner?

18 A. Yes, sir. It was a consulting company. It was
downtown.

19 Q. Okay. We -- you've never been on a jury any time
before,

20 have you?

21 A. No, sir.

22 Q. And you didn't -- have you followed trials
anywhere,

23 watched Court TV, that kind of thing?

24 A. I generally don't watch Court TV, but I do
occasionally

25 follow the trials -- the bigger trials that are in the
media,

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1 like the O. J. Simpson trial. I did see some of the
McVeigh

2 trial stuff.

3 Q. In seeing the news?

4 A. Yes, sir.

5 Q. Or did you come in here to see it?

6 A. No. On the news.

7 Q. On the news. You saw reports about it?

8 A. Yes.

9 Q. Okay. You realize this is separate from that and

the

10 outcome of the trial of Timothy McVeigh cannot be
considered

11 with respect to this case?

12 A. Yes, sir.

13 Q. You understand that?

14 A. Yes, sir.

15 Q. That's -- You know, I ordered separate trials for
that very

16 reason, because circumstances were different, are
different.

17 And the -- your answers to the questions that we gave
you here

18 in the questionnaire suggest maybe you don't think that
way,

19 because I'm looking on page 35 and Question 149, asking
20 opinions or impressions about the lawyers representing
Terry

21 Nichols. You didn't answer anything on the lawyers
22 representing the Government. But the lawyers
representing

23 Terry Nichols, you apparently are using a phrase that
you

24 attribute to Mr. Tigar, "They weren't there," and
saying,

25 "Well, that doesn't mean he couldn't have done it."
What's the

1 background of that?

2 A. It's just what I've seen on CNN or on the news. I
saw a

3 picture of Mr. Tigar holding up that sign, or whatever.

4 Q. Holding up a sign?

5 A. Saying, "They weren't there."

6 Q. All right. When did you see that? I mean, about
how long

7 ago? Not the day.

8 A. I couldn't -- I couldn't tell you how long ago it
was, sir.

9 Q. So what are you saying here; that you've already
formed an

10 opinion, or that you're just saying that no slogans
here?

11 A. No. I think I have a -- formed an opinion just
from the

12 media. It's hard not to.

13 Q. Tell us what else you've seen on CNN or elsewhere
--

14 A. I've just --

15 Q. -- about this case.

16 A. I've seen the reports of like tire tracks by the
lake, the

17 explosive, the fuses, things like that. I don't -- I
haven't

18 followed it greatly, but I've seen enough.

19 Q. Have you pursued this on some sites on the
Internet?

20 A. I -- I regularly visit CNN Interactive.

this 21 Q. And is a -- they had at that site some things about
22 case?
23 A. Yes, sir.
24 Q. About Terry Nichols?
25 A. Yes, sir.

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I got 1 Q. When's the last time you did that?
2 A. Several weeks ago, before all this -- once -- once
CNN since 3 that questionnaire that said that, I have not been on
4 then.
5 Q. Or any other publicity about the case?
6 A. That's true, sir.
partner 7 Q. I take it, though, you've talked probably to your
8 about it in terms of what would happen if you got on
this jury? 9 A. Yes, sir.
10 Q. And did your partner make some suggestions to you
about 11 that?
12 A. No, sir.
13 Q. Like, "Well, you can't do that. Get in there and
tell them

14 Terry Nichols is guilty and get out of there"?

15 A. No, sir.

16 Q. Nothing like that?

17 A. He has not said anything like that, sir.

18 Q. Anybody else said it?

19 A. No, sir.

20 Q. Is it something you're thinking about?

21 A. You mean -- about being -- formulating this thing
being
saying?
22 guilty to get out of this trial? Is that what you're

23 Q. Yes, sir.

24 A. I had this before I even got the --

25 Q. Okay. I'm not putting you on the grill here. I'm
just

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1 asking you if you're telling me honestly and the rest
of us

2 what you think about, because it is easy for somebody
who

3 doesn't want to be on the jury to make some statements
like

4 that, isn't it?

5 A. I would agree with you.

6 Q. Now, you also agree, do you, with some of the
fundamental

7 principles of the criminal justice system and sort of
the
8 bedrock of the Constitution about the presumption of
innocence?

9 A. Yes, sir.

10 Q. I talked about that when I explained the case
generally.

11 Do you remember?

12 A. Yes, sir.

13 Q. And one of the things I said is these charges have
been
14 made and that Mr. Nichols has pleaded not guilty, and
that puts

15 in issue all of these things and requires of the
Government

16 that it come forward at trial with evidence to support
what it
17 claims in the charges. You understand about that?

18 A. Yes, sir.

19 Q. And that's what we're here to do, is to conduct
such a

20 trial and have a fair-minded jury consider the evidence
as

21 presented at the trial. That's the process. And
you're part

22 of that now, and we're here to determine whether you --
and

23 you're going to have to judge yourself on this -- can
do that.

24 Follow me?

25 A. Yes, sir.

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1 Q. So we begin with this presumption of innocence that
2 Mr. Nichols sits with us this afternoon presumed to be
not
3 guilty of these things. And that carries throughout
the trial
4 and entitles him to a verdict of not guilty, unless the
jurors
5 are satisfied beyond a reasonable doubt the evidence
shows
6 otherwise. You understand that?

7 A. Yes, sir.

8 Q. Neither he nor any other person charged with any
crime in
9 the United States, whatever the crime is or whoever the
person
10 is, has any burden or duty of proving themselves not
guilty.
11 It is up to the charging government, whatever it is, be
it the
12 national government, the state or local government, to
prove
13 charges made and do that by evidence. And the rules of
14 evidence govern what can be heard and decided or the
basis for
15 decision. You understand that?

16 A. Yes, sir.

17 Q. So no defendant in a criminal case has any duty to
call any
18 witnesses or to give testimony himself as a witness.
He
19 doesn't have to take the stand and say anything or
explain
20 anything. And in fact, he can simply remain silent and
require
21 the government to come in with its case and to
challenge the
22 evidence presented in the form of testimony and
exhibits. And
23 the jury can't consider the fact that a defendant, if
it be a
24 fact at a trial -- that a defendant does not testify or
does
25 not offer the testimony of others. You understand
that?

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1 A. Yes, sir.
2 Q. In fact, what we tell juries when that happens at a
trial,
3 Look, you can't even talk about that. So you can't
draw any
4 inference or talk about it when you deliberate about
the
5 evidence. And so the jurors in cases where there has
been
6 publicity, where things have been reported as if they
were

evidence. 7 evidence -- and of course, what's reported is not
A 8 lot of rumor and hearsay and a lot of other things get
9 reported, because, as I said to you when we were out at
the 10 fairgrounds, the media seeks to satisfy curiosity, not
11 necessarily to seek the truth of matters. You
appreciate that 12 difference, I trust.

13 A. Yes, sir.

14 Q. Here in the courtroom, we're concerned with what's
15 provable, what can be shown by the rules of evidence.
Anything

16 that a person sitting on the jury has seen or heard
outside of 17 the courtroom has to be set aside and put out of mind
and focus 18 on the evidence. Do you understand that?

19 A. Yes, sir.

20 Q. Are you prepared to do that?

21 A. I -- I have an opinion that's been preformed. I
don't know 22 if I could knock that opinion out of my -- that
preformed 23 opinion out.

24 Q. Well, do you have an opinion about the fairness of
the 25 criminal justice system and it's saying that you can't
do that?

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1 A. I -- I know what the law says and I know it -- what
you're

2 trying to say. But, I mean, even after the O.J. trial,
I mean,

3 it raises questions about the way the system works.

4 Q. Well, what is that question that it raises in your
mind?

5 A. Is it really working?

6 Q. And why is that a question in your mind?

7 A. Well, I wasn't there, I wasn't part of the jury;
but

8 from -- you know, then, again, it's based on what the
media or

9 from what the media has shown that everything led --
showed

10 that he was guilty, or a lot of it did. And, you know,
I form

11 my opinions --

12 Q. Doesn't that case simply demonstrate that there's a
13 difference between what's reported in the media and

14 evidence is?
what the

15 A. But then again, he's guilty in the civil trial.

16 Q. Different standard of proof. Do you understand
that?

17 A. Yes, sir.

18 Q. Now, you know, this isn't like computers. This

isn't like

19 feeding a lot of stuff into a database and pulling it
up. This

20 involves human judgment. That's what being on a jury
is.

21 Human judgment. That's why we don't have computers
deciding

22 cases. There's quite a difference. Do you agree?

23 A. Maybe we should look into computers. I would
agree, yes,

24 sir.

25 Q. Would you like to be judged by a computer?

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1 A. Depending on the given parameters.

2 Q. Parameters of judgment as to whether what a witness
says is

3 true? Do you think that's a human function, to judge
the truth

4 of what another person says?

5 A. It would be impartial and unbiased.

6 Q. Based on what it got -- what got put into it.

7 A. That would be true.

8 Q. Yeah. And we can't put in whether this person is
biased or

9 whether what this person says comes from actual sensory

10 perceptions or not -- those things, can we?

11 A. No, sir.

12 Q. Well, that's why we have juries, because these are
human
13 events. And we have human beings judge human beings.
And the
14 first obligation is to understand that and to set aside
these
15 things that are so easily reported. Because I can tell
you now
16 that I have seen and heard things that I know are not
true.
17 And have been in trials where things have been reported
that
18 way, and then in trial, the evidence is different. Do
you
19 understand that possibility?

20 A. Yes, sir.

21 Q. Well, so what is your view now? Are you going to
tell us,
22 or are you telling us that no matter what happens in
the trial,
23 you've got an opinion and that's that?

24 A. I am a pretty opinionated person. I could be
swayed. But
25 I'm starting with a preformed -- preformed opinion. It
doesn't

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1 mean I can't change, but I -- you know --

out the 2 Q. And what I'm telling you is the law says leave that

3 side -- leave that out the door.

off 4 A. I'm human. I'm not a computer. I can't just turn

5 things like that.

can 6 THE COURT: We're going to take a recess. You

We'll take 7 step down. We'll have you back here in 20 minutes.

8 a 20-minute recess.

9 (Recess at 3:38 p.m.)

10 (Reconvened at 3:58 p.m.)

11 THE COURT: Be seated, please.

in, 12 MR. TIGAR: Your Honor, before the juror comes

and 13 we'd like to place of record an objection to the tone

Juror 14 content of your Honor's last series of questions to

out on 15 No. 795. I don't know if your Honor wants to hear me

16 this now, or whether you want --

juror. 17 THE COURT: No, I want to proceed with the

18 MR. TIGAR: I'm sorry?

voir dire 19 THE COURT: I want to proceed with further

20 of the juror.

time 21 MR. TIGAR: Yes. Well, we would appreciate a

22 when we could make our objection more fully.

23 THE COURT: You'll have that opportunity.

24 Bring in the juror.

25 (Juror in at 4:59 p.m.)

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1 BY THE COURT:

2 Q. We were talking about the -- what a jury has to do
in a

3 criminal trial when we recessed. And I want to return
to that

4 and also discuss the matter of your views concerning
possible

5 punishments. That's something we dealt with in the
6 questionnaire, and you gave us some answers. But
before

7 turning to the answers that you gave, let's go back to
the

8 process of a criminal trial and the matter of the
burden of

9 proof, and so forth, and the exchange that we had
concerning,

10 you know, setting aside what you heard as publicity and
whether

11 you can do that.

12 Now, leaving that and going forward with what
the

13 process requires, the jury has to judge the credibility

of the

14 witnesses and decide who is telling the truth, whether
there

15 are contradictions in the testimony of witnesses, and
so forth

16 and then come to the final decision: Well, have these
charges

17 been proved? And it isn't just have they been proved
probably;

18 it is have they been proved beyond a reasonable doubt.
You

19 follow that?

20 A. Yes, sir.

21 Q. And that means, then, that it's a question of if,
after the

22 consideration of what all of the jurors have heard and
they've

23 talked about it, any reasonable doubt remains as to
whether the

24 defendant is guilty under the evidence and the law,
they must

25 give the defendant the benefit of the doubt and find
him not

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1 guilty. You agree with that?

2 A. Yes, sir.

3 Q. Now, in a case that does not involve the question
of death

4 as a punishment, the question of punishment goes to the
court.

5 I mean, if the jury decides not guilty, of course,
that's the

6 end of the case. If the jury decides, however, that
the

7 evidence does prove guilt beyond a reasonable doubt,
then it is

8 a matter for the judge to determine the punishment.

9 And before that can be decided, there has to
be more

10 information. I mean, a judge doesn't decide that just
on the

11 basis of the evidence that's been presented at the
trial; so

12 information is collected, not only more information
about the

13 circumstances of the offense, whatever it is, but also

14 information about the defendant, things about his
background,

15 things like family history, work history, everything
that goes

16 up to make each person unique. And then the court
considers

17 all of that, arguments that may be made by the
prosecution and

18 the defense, and then says this sentence is appropriate
for

19 this person for this crime. It's an individualized
judgment.

20 You're aware of that generally, are you?

21 A. Yes, sir.

22 Q. Now, it is different when the issue involves, under
federal
23 law and in federal courts, where we are, the
possibility that
24 because of the nature of the crime under statute, death
should
25 be considered as a possible punishment, because here,
when it's

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1 a question of life or death, we don't rely on judges;
we rely
2 on jurors, and a jury decides that. And that's why we
asked
3 you questions here about your views with respect to the
4 appropriateness and under what circumstances is it
appropriate
5 that there be a penalty of death or a penalty of life
in prison
6 without the possibility of ever being released. And if
you'll
7 turn to page 28, you will find your answers to those
questions.

8 So let's do that. You want to take a moment
to read
9 what you said, since it's been a while ago?

10 Okay. You have that in mind?

11 A. Yes, sir.

12 Q. And you have another answer that's relevant to this
back on

for a 13 page 13 in Question 56. If you'll turn back to that
14 moment.

15 Okay. Now, I'd like to expand -- have you
expand on 16 your views a little with respect to these answers. You
-- what 17 all of these answers suggest is that -- not suggest. I
guess 18 they say that you don't believe that the death penalty
is an 19 appropriate punishment for any kind of crime. Is that
what 20 you're saying?

21 A. Yes, sir.

22 Q. And tell us why that is so. You mention religious
or moral 23 view. I'd just like to have you explain that a bit.

24 A. I just feel that, you know, if people could have a
change 25 of heart, repent while in prison, and could affect
lives of

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1 others, other cell mates, guards, whatever in prison.

2 Q. Do some social good, still, even though --

3 A. Even though they're still in prison, they could
still do

4 some social good.

5 Q. All right.

6 A. And if you kill them or take their life, you know,
what
7 good could come out of that?

8 Q. Okay. And is that -- I guess I want to ask you
whether

9 there is in your mind a religious -- this is a
religious point

10 of view, or this is your view of good policy on a moral
-- a

11 moral ground.

12 A. I used to think I believed in the death penalty.

13 Q. Uh-huh.

14 A. But I've become -- I started going to church and
becoming a

15 little more religious in my life. My view has changed,
and

16 I've seen how people can change other people's lives,
even

17 though they were drug addicts, whatever; their life has
totally

18 turned around. So even if -- even if you're a
murderer, you

19 can still do some good, locked in prison or whatever.

20 Q. Do you belong to a church now?

21 A. I'm in the process of trying to find one.

22 Q. And, you know, I don't want to inquire too much on
this

23 because that is a personal thing, too; but have you
been sort

fulfills 24 of going to different kinds of churches to see what
25 your spiritual needs?

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like the 1 A. We've been -- my wife and I have been looking for
denominational 2 last year, and we were trying to find a non-
3 Christian church.

4 Q. Were you raised in the church?

Catholic 5 A. Several. I spent most of my life probably in a
6 church.

7 Q. And you've decided that's not for you; is that
right?

8 A. Yes, sir.

this 9 Q. And you -- well, let me go a little further with
too, 10 matter of the penalty and explain the procedures here,
jury -- 11 because in the event that a person is found guilty by a
been 12 that is, the jury decides that the burden of proof has

offense -- 13 met, the evidence shows guilt and it is a capital

essentially a 14 then we ask the jury to hear more. There is

15 second trial, a penalty phase hearing. And at that
time,
16 information is presented to the jury much the same as
what I've
17 talked about with a sentencing judge; only here, it's
brought
18 in -- witnesses are brought in and information about
the
19 circumstances of the crime, also information about the
20 background of the defendant, these very things that I
mentioned
21 about his life yesterday, what work, social good he has
done,
22 some other things, you know, what makes him unique.
And that's
23 done through the adversary process again, in that the
24 Government lawyers put on things that they believe
support a
25 sentence to death. We talk about those as "aggravating

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1 factors."
2 The defense puts on those things that suggest
that
3 death is not justified for this person for the crime,
whatever
4 it is. And then the jury has to weigh these things,
not in
5 some kind of a balance with arithmetic or formula but

in terms

6 of considering all of these things, whether the
defendant
7 should live or die. That's the question. And then
that does
8 become a moral question to be decided.

9 But what the law says is that the jurors
making that
10 decision have to be open to the possibility of either
sentence
11 and consider both. Do you understand what I'm saying?

12 A. Yes, sir.

13 Q. Now, my question to you is whether you can do that,
given

14 your views. And I guess in a way, this is sort of like
asking
15 the questions about publicity that you've seen, because
there,

16 as I asked you could you set that aside and decide on
the

17 evidence, so now I'm asking you whether you could, if
you

18 served on this jury, set aside your own views about the
death

19 sentence and consider it along with considering a life-
in-
20 prison-without-ever-being-released sentence.

21 Tell us what you could do.

22 A. I could give up the -- looking at the media. That
would be

23 easy to push out; but pushing out my morals -- I think
it's

24 morally wrong to kill somebody.

25 Q. And do you think, then, that in your own case, now,
looking

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1 at you as an individual -- because each juror has to
decide

2 this question, you know. It isn't a question of
majority or

3 consensus or anything like that. Each juror has to
make the

4 decision that you simply -- I'm not trying to put words
in your

5 mouth. I'm just trying to assist in the expression of
them.

6 And if you don't agree with the way I've expressed it,
you will

7 tell me. But what you're telling us, you simply
couldn't come

8 down on the side of the death sentence?

9 A. That is true, sir.

10 THE COURT: Okay. Now, we'll give an
opportunity for

11 counsel to inquire further.

12 MR. RYAN: We'll pass.

13 THE COURT: Mr. Ryan, do you have any
questions?

14 MR. RYAN: No, your Honor.

15 THE COURT: Mr. Tigar, have you?

16 VOIR DIRE EXAMINATION

17 BY MR. TIGAR:

18 Q. Good afternoon, sir.

19 A. Hello.

20 Q. I felt I had to ask you a question, since you sent
me a

21 note. Do you remember a time when I held up a sign?

22 A. Maybe it wasn't a sign. It was a caption, maybe;
but I saw

23 a picture of you.

24 Q. Well, maybe I could refresh your recollection. The
day

25 that Mr. Nichols was indicted, the Government held a
press

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1 conference and Mr. Nichols' counsel held a press
conference.

2 And at Mr. Nichols' press conference, you may recall
that

3 counsel for Mr. Nichols held up three signs. Is that
-- does

4 that sound about right?

5 A. All I saw was one picture on CNN Interactive, and
it's been

6 such a while ago.

7 Q. Now, do you find that typical of the media that

they only

8 give you one-third of the story?

9 A. That's probably true.

10 Q. Well, I need to ask you, if I could, first just cut
through

11 all of it. You've read a lot about the case; right?

12 A. I don't consider it a lot.

13 Q. But you have reached a conclusion?

14 A. Yes, sir.

15 Q. This word "mastermind" that you used in your
questionnaire:

16 Do you remember where you first heard that word or --
was that

17 one that came to you without any prompting from the
press?

18 A. That's one that just came to me.

19 Q. And you said in your questionnaire that the
defense's only

20 hope is Fortier, who plea bargained in the McVeigh
trial. Tell

21 me what the basis of that is. What do you think?

22 A. Well, from what I read that he was plea bargaining
to

23 point, you know -- I'm trying to think of how to say
it. It's

24 been a while.

25 Q. Take your time.

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1 A. He plea bargained out of it, pointing that McVeigh
did it 2 all; that there was nobody else, from what I recall.

3 Q. I see. Do you remember reading anything about what
4 Mr. Fortier said about Mr. Nichols?

5 A. I don't recall.

6 Q. Now, you say that you were more convinced after the
verdict

7 in the McVeigh case that Mr. Nichols, Terry Nichols,
was

8 involved. What was it about that or that you read
about it

9 that made you more convinced?

10 A. Just a general opinion from seeing the trial, or
from what

11 little I saw of it. He didn't seem like he had the
brains to

12 pull off something like that. That's just my personal
opinion.

13 Q. Oh, okay. Well, is it -- as you sit there today,
based on

14 everything you've read, are you convinced that Tim
McVeigh had

15 to have some help?

16 A. I would think so.

17 Q. And you haven't heard anybody else's name other
than Terry

18 Nichols; right?

19 A. No, sir.

20 Q. Well, after all the questions back and forth
between the
21 Court and you about this, do you think that as a juror,
you
22 could just put everything aside that you've heard and
read and
23 give Terry Nichols the complete presumption of
innocence; he
24 doesn't have to prove anything and you'd make the
Government
25 prove beyond a reasonable doubt?

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1 A. It would be difficult. I'm not saying it wouldn't
be
2 possible, but I think, you know, from what I've read
and seen,
3 not that it's a whole lot, but it's enough to form an
opinion,
4 I think.

5 Q. And that's an opinion that's just stuck there, and
you
6 can't tell me that you could promise me not to put it
out of
7 your mind.

8 A. How could I do that?

9 Q. Well, let's talk a little bit about your time in
the Air
10 Force. You served at Lackland?

11 A. No. It was Randolph.

12 Q. Randolph. Okay. Is that San Antonio as well?

13 A. Yes.

14 Q. I've only been on board Lackland, but there is a
lot of Air

15 Force down there.

16 A. Four bases.

17 Q. Pardon?

18 A. There is four bases.

19 Q. And did you enjoy that?

20 A. Yes, sir.

21 Q. And when you left, you went to something called the

22 Information Foundation. What was that?

23 A. It was a consulting company, computer software
consulting

24 company.

25 Q. Now, you said -- it's got "Foundation" in the name.
That

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1 makes it sound a little bit public-radio-like. Was it
a public

2 interest sort of a thing, or was that just a name they
had?

3 A. They were in software mostly for the Army and
mostly all

4 government contracts. It was C programming on 3B2
systems that

5 had nothing to do with any radio or anything like that.

6 Q. And you also -- you mentioned that sometime along
the

7 way -- of course, you've had with these different
companies,

8 you did -- you watched the O. J. Simpson trial with
some

9 attention. Right?

10 A. Yes, sir.

11 Q. What did you think of the defense lawyers in that
case?

12 A. They really played up to the jury, I think.

13 Q. In an improper way?

14 A. They did their job, and their job was to get him
out.

15 Q. Well, I'm really asking you what you think about
defense,

16 you know, lawyers. We're asked by the court to help
Terry

17 Nichols here. What do you think of the lawyers for

18 Mr. Nichols? You went out of your way to write me a
note. I'm

19 not challenging you about it, but --

20 A. I have nothing against you or the job that you're
doing.

21 That's just something that stuck out in my mind. It
was a

22 little premature. Just because someone is not there
doesn't

23 mean that they couldn't have a part in it.

24 Q. Absolutely. Absolutely. And I think that -- would
you

25 agree with me that the media reports a part of the
story, they

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Juror No. 795 - Voir Dire

1 represent something about what they think the defense
to the

2 case might be, but they may not necessarily get it
right?

3 A. I would agree.

4 Q. And would you agree also, you know, that they could
be

5 wrong about what the prosecution says, too?

6 A. I'd also agree -- I mean the government -- when I
was in

7 Germany during Desert Storm, the government -- the Air
Force or

8 the military was relying heavily on CNN, too. I tend
to like

9 CNN better than all the other media.

10 Q. So if you heard it there, you'd give credence to
it?

11 A. More so than the other networks.

12 Q. Well, let's talk, if we could, about the problem of
jury

13 service. When the Judge said, "Go back and tell that
to your

in the 14 client," how did you feel about that? Remember early
15 interview --
16 A. Yes, sir.
17 Q. What did that make you think?
18 A. My client won't be happy.
burden this 19 Q. And can you give us some idea of what kind of a
20 would be on you personally if you were to be selected
as a 21 juror? You said in the questionnaire it might cause a
business 22 bankruptcy, and I'd like you to just talk to me a
little bit 23 about that.
I'm in 24 A. Not a business bankruptcy, a personal bankruptcy.
25 debt to my eyeballs going through this divorce. I just
had

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Juror No. 795 - Voir Dire

1 cancer surgery a couple months ago, and I was out for
three 2 weeks or two-and-a-half weeks for that, and child
support, 3 everything I'm going through right now, is just
financially 4 killing me.
5 Q. I see.

I'll
out of the
fair for
that,
until you
that --
had
your
guess do
I do
only a
billable
night, so a

6 A. And I can't even make -- if I get pulled on this,
7 probably have trouble, you know -- I'll have to pull
8 business to make my house payment, which wouldn't be
9 my partner or, you know, the rest of my business.
10 Q. I see. I want you to tell me everything about
11 because I didn't have as much of a picture about it
12 told me right now. What else -- is there anything else
13 I know it seems like there couldn't possibly be. You
14 cancer surgery, you were out three weeks, you have all
15 payments, the problem, your marital problems; and I
16 you have loans to start up your business?
17 A. No, sir.
18 Q. No. So that -- but if you're not there, you're not
19 billing.
20 A. I'm not billing and I'm -- I do all the accounting.
21 sales, marketing, recruiting. I have a big part. It's
22 two-man shop. It's me and my partner, and he's also
23 full-time, too; and he teaches classes at Regis at

24 lot of it is left up to me to do.

of the 25 Q. Finally, just a few questions about this question

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for 1 death penalty. Can you imagine any crime in the world

mean 2 which the punishment of death would be appropriate? I

of 3 suppose that -- suppose after all these years the State

murderer in 4 Israel caught and tried someone who had been a mass

deliberately and 5 the Holocaust, proven to have been responsible

6 personally for the deaths of a hundred thousand people.

don't know 7 A. Even if someone raped and killed my daughter, I

8 if I could pull the trigger or push the button on them.

in a 9 Q. All right. So I want to pursue that. As a juror

know, 10 criminal case, if it ever got to that stage -- and, you

range of 11 we're saying it won't; but if it did, there would be a

believe that 12 options open to you. Are you telling us that you

might be 13 this is something innate in each human individual that

14 called the prospect of redemption?

15 A. The Lord works in mysterious ways.
works in 16 Q. And you've been -- tell me: When you say the Lord
17 mysterious ways, that's a religious-based belief. Is
it this 18 idea of redemption that undergirds your belief right
now? Just 19 tell me what it is as best you can.
20 A. I would believe that -- I mean, I think everyone
can turn 21 over a new leaf. The Lord could call you today to give
up 22 being a lawyer and go out and preach.
23 Q. It happened before, I believe, along with some
shoemakers 24 and others, yes. So that's the basis of what you
think, has to 25 do with your view of who humans are under God?

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1 A. Yes, sir.
2 MR. TIGAR: Thank you.
3 Will you excuse me just a moment, your Honor?
I'm 4 sorry.
5 THE COURT: Yes.
6 BY MR. TIGAR:

7 Q. I'm sorry, sir. One more.

8 Have you -- I don't know how it works back
there; but

9 in either riding in today or while waiting, have you
been

10 talking to other jurors about the prospect of jury
service?

11 A. Not that I can think of. I mean, just the general,
you

12 know, fears and, you know, what might be going on in
here.

13 Q. I see.

14 THE COURT: Sort of like at the dentist's
office?

15 JUROR: The dentist's office was brought up.

16 BY MR. TIGAR:

17 Q. Without any reflection on anybody, did you share
with them

18 any fears or concerns that you might have had about the
process

19 as you were anticipating it, or as it happened to you?

20 A. Not other than being like a dentist's office. I
said, "At

21 least a drill is not going."

22 MR. TIGAR: All right. Thank you, sir.

23 VOIR DIRE EXAMINATION

24 BY THE COURT:

25 Q. I wasn't aware of your health problem before. Did
you tell

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1 us about that in the questionnaire?

2 A. I think I did in the initial one. I'm not sure.

3 Q. Well, let me just without getting into all kinds of
4 details, are you under some post-surgical care now?

5 A. I have to go monthly for monthly checkups.

6 Q. And of course, that's a concern?

7 A. Yes, sir.

8 Q. Apart from financial and everything else?

9 A. It's an emotional drain, too.

10 THE COURT: I understand.

11 Well, we're not making decisions as to who
will serve

12 and not serve as we go along in terms of the selection
process;

13 but you do present some hardship questions here which
I'm going

14 to discuss with the lawyers to see if there is any
agreement

15 with respect to that. Because of the -- you know, we
are not

16 ignoring what you said in the original questionnaire,
and we're

17 certainly not going to ignore what you've said here
concerning

18 your personal difficulties in setting aside the time
necessary

19 to serve on the jury.

20
guarantee it.

So we may get back to you, but I can't

21 You understand what I'm saying?

22 JUROR: Yes.

23 THE COURT: I've got to talk with them. There
are

24 other factors to be considered. We're not deciding as
we go.

25 As you leave here now, we'll ask you not to
discuss

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1 the case or lock into the Internet on CNN with respect
to what

2 it might be saying about the case or any other
publicity and

3 hope you understand the reason for that.

4 So you are now excused for the day. Thank
you.

5 146.

6 Oh, excuse me. Will you raise your right hand
and

7 take the oath from the clerk.

8 (Juror No. 146 affirmed.)

9 THE COURT: Please be seated.

10 VOIR DIRE EXAMINATION

11 BY THE COURT:

for 12 Q. Well, we kept you waiting all day, and we're sorry
5:00, so 13 that. And I can't guarantee you that we'll be done by
make those 14 you may have to come back tomorrow. I hope you can
15 arrangements. Can you?

16 A. Yes, I can.

17 Q. All right. You know, of course, that you have been
summons, for 18 summoned here and got a summons earlier, a jury
States 19 possible service on the jury of the trial of United
pursuant 20 against Terry Lynn Nichols and that you did, indeed,
to the 21 to that fill out a short questionnaire, then came out
and there 22 Jefferson County Fairgrounds on the 17th of September
you did 23 got confronted with a much longer questionnaire, which
there in 24 also fill out and complete. And you should have it
25 front of you now. Do you?

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1 A. Yes, I do.

you 2 Q. And at that time, you took an oath like this before

about 3 answered the questions; but also I explained something
who were 4 the case to you and the other members of the jury pool
attorneys 5 there and introduced people who were there with me,
and 6 for both sides and Mr. Nichols. So let me review again
7 Mr. Lawrence Mackey, who is here at the front table,
attorneys for 8 Ms. Beth Wilkinson. You recall meeting them as
who is 9 the Government. In addition, we have Mr. Patrick Ryan,
seated 10 seated next to Ms. Wilkinson, and Mr. James Orenstein,
11 next to Mr. Ryan.

12 You recall, too, meeting Mr. Michael Tigar and
13 Mr. Ronald Woods, attorneys for Terry Lynn Nichols.
And here 14 is Mr. Nichols.

15 There are other people here, but we're not
going to 16 take the time to introduce everybody. They are also
here to 17 assist the lawyers in the case and the Court.

18 Now, I want you to first of all understand
that with 19 respect to these questions, there are no right or wrong
20 answers. There are just your answers, and we want to
explore 21 them a little bit with you. We're not going to go
through the

22 whole questionnaire and ask you these questions all
over again.

23 A lot of these questions do relate to very private and
personal
24 things.

25 We respect that, and that's why your name is
not going

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1 to be used. You'll be referred to as a number; and we
try to

2 keep your identity out of it for purposes of your own
privacy.

3 That's even why we bring you to and from the courthouse
the way

4 we do, so they can't be taking pictures of you and that
sort of

5 thing.

6 And we know that we asked of you at the court
-- at

7 the auditorium building to be careful about publicity,
staying

8 away from anything, radio, television, or whatever,
newspapers,

9 relating to the case so that you would not be
influenced by

10 that, not a thing that's easily done where there is a
lot of

11 publicity. We know that, too.

12 Were you able to do that?

13 A. Yes.

14 Q. And we know, too, that jury service like this has
an impact

15 on a family and on work and so forth and that
necessarily some

16 discussion takes place when a person faces the prospect
of

17 being on a jury in a criminal case for an extended
period of

18 time; so I would expect that maybe you did have some
discussion

19 with family members, your husband.

20 A. Correct.

21 Q. And in the course of that, did you talk with him
about, you

22 know, this case?

23 A. No.

24 Q. Did he give you any suggestions about your approach
to

25 this, or give you any hints that, well, there is a way
to get

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1 out of this?

2 A. No.

3 Q. Okay. And you -- your husband works for the
police?

4 A. That's correct.

5 Q. In Denver?

6 A. Yes, he does.

7 Q. And you also have a brother on the police force?

8 A. Yes, I do.

9 Q. In Denver?

10 A. Yes.

11 Q. Brother is a detective. Your husband is a
technician?

12 A. Correct.

13 Q. Does he work in a lab?

14 A. No. He works in juvenile intake.

15 Q. Oh, that's right. You told us that. Sure. And
does that

16 mean -- well, tell me, if you know, what he does in
that role.

17 A. Any arrest that takes place with a juvenile, they
have to

18 be processed first, whether it be to go to one of the
detention

19 centers or to jail.

20 Q. And he does that according to their records and --

21 A. Their ages.

22 Q. And certain criteria that are used?

23 A. Right.

24 Q. Now, has he done other work with the Denver police?

25 A. Yes.

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1 Q. Has he been a patrol officer?

2 A. Yes. He was a patrol officer for about 22 years.

3 Q. Okay.

4 A. He was a technician at the range.

5 Q. At the firing range?

6 A. Yes.

7 Q. So he's had, I take it, a broad range of experience
as a
8 police officer?

9 A. Certainly.

10 Q. Your brother has been on the police force how long?

11 A. 15 years.

12 Q. And now is a detective?

13 A. Correct.

14 Q. Is he assigned to any particular type unit, like
homicide
15 or --

16 A. Burglary.

17 Q. Pardon me?

18 A. Burglary.

19 Q. Burglary. Has either your husband or your brother
been on
20 a homicide assignment?

21 A. My brother has been. When he first went into the

detective

22 bureau, they assigned him to different areas in the
beginning.

23 Q. Both of them, I assume, have had experience being
in court,

24 testifying as witnesses?

25 A. Yes.

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1 Q. And you've shown some concern in your questionnaire
that

2 we're going to say we don't want you because your
husband and

3 brother are police officers so we can't trust you as a
juror.

4 A. Correct.

5 Q. Has that happened to you before? Have you been
called --

6 A. No, actually, it's not. It has not. I have never
been

7 called for a jury before.

8 Q. This is the first time?

9 A. This is my first time.

10 Q. But you don't want to be knocked out of the box, so
to

11 speak, just because you're associated with police
officers.

12 A. That's correct.

13 Q. Wouldn't be fair.

14 A. No. My father was also one.

15 Q. Oh, he was? Was that in Denver?

16 A. Yes, it was.

17 Q. Because you were born and raised in Denver.

18 A. Yes, I was.

19 Q. How long was your father on the Denver police
force?

20 A. 25 years.

21 Q. Serving also in a wide range of duties?

22 A. As a detective.

23 Q. And --

24 A. Pinned my brother's badge on, so --

25 Q. Sure. It's a family tradition?

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1 A. A family thing, I guess.

2 Q. Okay. And was your mother ever called up for jury
duty and

3 rejected because of your father?

4 A. Yes. Yes.

5 Q. So that's what you have in mind?

6 A. Yeah.

7 Q. Okay. That's a good guess on my part, I guess.
It's the

8 first one today.

9 A. Yes, sir.

10 Q. Now, you have -- you were married before.

11 A. Correct.

12 Q. And you spent some time in Indiana, as I gathered
it.

13 A. Yes.

14 Q. Was that in -- because of the earlier marriage?

15 A. Correct.

16 Q. Where did you live in Indiana?

17 A. Valparaiso, about 60 miles out of Chicago.

18 Q. Okay. Thank you. You have worked in respiratory
therapy

19 work?

20 A. Correct.

21 Q. Were you doing that there as well?

22 A. Yes, I was.

23 Q. So you've had a pretty long career in that type of
health

24 care?

25 A. In the medical field, yes.

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1 Q. Have you done other kinds of work in the medical
field?

2 A. Yes. I'm a medical assistant now.

with

3 Q. Does it deal with -- or do you deal with people

4 respiratory problems in particular?

5 A. Not in particular. It's a family practice.

6 Q. It's a family practice now?

7 A. Yes.

8 Q. All kinds of things and a range of ages?

9 A. Correct.

10 Q. Do you like that better than the respiratory work?

11 A. Equally.

12 Q. Helping people is something that appeals to you?

13 A. It's been a good career, yes.

14 Q. I want to turn to a couple of your answers, if I

may. And

15 is that your sister -- I'm on page 6. I'm sorry. We

asked

16 about farm, and you say here your sister and her

family, is it,

17 own a farm?

18 A. Yes.

19 Q. In Valparaiso?

20 A. Well, her husband's farm, his family.

21 Q. What kind of a farm is it?

22 A. Produce. Corn, wheat . . .

23 Q. Crops?

24 A. Crops, yes.

25 Q. And you say that's been in her husband's family?

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1 A. It was in her husband's family for many years.

2 Q. Do they also have livestock?

3 A. No longer.

4 Q. Have you visited the farm?

5 A. Oh, yes. I lived not too far from there when I was

--

you

6 Q. Well, sure. You lived nearby for those years. Did

7 ever work on that farm?

8 A. No.

9 Q. Ever do any farm work yourself?

not any

10 A. Oh, horsed around with her out in the fields. No,

11 work, no.

fertilizers,

12 Q. Ever work with fertilizers, application of

13 that kind of thing?

14 A. No.

15 Q. Know anything about it?

16 A. No. Big trucks come there and do it. I don't know

17 anything about the process.

tell us

18 Q. Okay. In the questionnaire, also, you on page 16

19 that you pretty regularly watch Channel 4 News.

Channel 4 20 A. Yes. If I make it through the news, I watch
21 News, yes.
22 Q. Does that mean you might doze off?
to bed, 23 A. That's usually what -- my husband wakes me up to go
24 yes.
25 Q. 10:00 news?

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1 A. Uh-huh.
2 Q. Then you've got "Chicago Hope." What is that?
entertainment 3 A. It's a hospital show. It's one -- just an
4 show.
5 Q. Oh, okay. I'm sorry. I was thinking news still.
6 A. No.
7 Q. And you subscribe to the Rocky Mountain News?
8 A. Yes.
9 Q. Read it every day?
10 A. No. I have to be at work at 7:00, and our route
carrier is
to head 11 not the best in the world; so about the time I'm ready
12 out the door, it's coming. By the time I get home,
it's too

13 late. I don't care any longer. Too tired.

14 Q. Stale news by that time?

15 A. That's right. I'm too tired.

16 Q. Okay. Now, on page 18, we have some questions
about books

17 and organizations. And I noticed on Question 83, you
read a

18 book called The Turner Diaries. Is that right?

19 A. No, actually, which question is it?

20 Q. 83.

21 A. No, I have not. I don't know --

22 Q. Do you own it?

23 A. No.

24 Q. You've heard of it?

25 A. Yes, I have.

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1 Q. So you were interpreting this question more have
you heard
2 of it?

3 A. I don't know, to be honest with you, why I would
have put

4 yes. I have not read it.

5 Q. And what have you heard about it?

6 A. Not a great deal.

7 Q. Do you remember anything that you heard about it,

other

8 than the name?

9 A. The context of it, no. I really don't.

10 Q. And do you recall where you heard about it, in
association

11 with what?

12 A. Probably in a conversation. It had to have stuck
in my

13 mind. I don't know, being I don't know what the
context is of

14 it at this point. I honestly don't know.

15 Q. Okay. You also under organizations list a number
here.

16 Some of them are, I guess, pretty obvious; but the
American

17 Agriculture Movement. Is that because of your sister
and her

18 family?

19 A. Yeah. I think when I was in Indiana, you know, in
their

20 local town things, they have a lot of agriculture
meetings and

21 that type of thing, and I've probably --

22 Q. Does this name itself mean anything to you?

23 A. No. Honest -- it does not. No, it does not.

24 Q. As you sit here now, could you tell us what the
program of

25 that organization is, what it seeks to do?

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1 A. No. I would not be able to.

2 Q. And what about the Coalition for Human Dignity? Is
that an

3 organization --

4 A. I have probably seen it at a fair-type thing or a
trade

5 show of something. I don't.

6 Q. Again, that's a name that you've heard of, but you
don't

7 know what it really signifies?

8 A. Exactly. Exactly.

9 Q. And are you -- with respect to the other
organizations

10 identified here, are you a member of any?

11 A. Am I?

12 Q. Yes.

13 A. No.

14 Q. How about your husband?

15 A. Yes.

16 Q. Which ones?

17 A. The NRA, the Fraternal Order of Police.

18 Q. Okay. Now, you've never been on a jury, as you
already

19 indicated.

20 A. That's correct.

21 Q. Have you ever observed a trial? Did you ever sit

through a

22 trial or a part of one?

23 A. No.

24 Q. There are some basics about criminal justice. I'm
sure you

25 know something about this, but I'd like to review it
with you

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1 for a few minutes. One of the basics, of course, is
the

2 presumption of innocence. You'll recall that when I
explained

3 about this case, when we met together before and you
completed

4 the questionnaire, I explained something about that. I

5 described what the charges are in the case, including
the

6 conspiracy charge and murder counts and talked about
separate

7 trials for Timothy McVeigh and Terry Nichols and some
reasons

8 why.

9 And of course, you know that Timothy McVeigh
has

10 already been tried, don't you?

11 A. Correct.

12 Q. And what the outcome of that trial was?

13 A. Correct.

14 Q. And that that has to be set aside. That doesn't
control us

15 here or influence us here. You understand that, do
you?

16 A. Yes.

17 Q. Now, the plea of not guilty that a defendant makes
in a

18 criminal case disputes all the facts that are alleged
by the

19 authorities in the indictment, or whatever the nature
of the

20 charge is and causes them to have to prove it to a
jury. You

21 understand that process?

22 A. Yes.

23 Q. And of course, that's what we're here doing is
selecting

24 the jury that will then hear the evidence in this case.
And no

25 person who is accused of a crime, no matter what the
crime is

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1 or who the person is, can be considered guilty just
because

2 there is any charge made against him or her. It's the

3 opposite: They're assumed not guilty. And they don't
have any

4 burden or duty of proving anything. They don't have to
prove
5 themselves not guilty. They don't have to explain
anything.
6 They don't have to call any witnesses, and they don't
have to
7 be a witness themselves. You understand what that
means?

8 A. Yes.

9 Q. So what we say in this constitutional system of
ours is
10 that before anybody can be found guilty over a not
guilty plea
11 on any criminal charge, it has to be proved. And the
12 Government then, making the charge, has to come in with
the
13 witnesses and the exhibits and the rest of the
evidence,
14 whatever it is, and within the rules of evidence, which
15 excludes some things and control what the jury can hear
and
16 consider, is presented -- the case is presented to the
jury.

17 And in the event at such a trial the defendant
does
18 not testify or offer any evidence, the court, the
judge,
19 instructs the jury, you can't talk about that, you
can't
20 consider that because there is no requirement to do so.
Do you
21 follow that?

22 A. Yes.
23 Q. And then the jury is told that they may not find
the
24 defendant guilty unless all persons on that jury, only
25 considering the evidence that was presented at the
trial,

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1 setting aside anything that they may have heard or read
outside
2 of the court and the trial, decides that the evidence
shows
3 guilt and shows it beyond a reasonable doubt. All
jurors have
4 to agree on that before there can be a guilty verdict.
Do you
5 understand that?

6 A. Yes.
7 Q. And what the burden of proof and reasonable doubt
really
8 mean is that at the end of it all, if there is any
doubt, any
9 reasonable doubt left in the minds of the jury, they
must
10 acquit, find the defendant not guilty. You understand
that?

11 A. Correct.

12 Q. Do you agree with that?

13 A. Yes, I do.

14 Q. And are you prepared to follow that judgment
principle in
15 this case?
16 A. Yes, I am.
17 Q. Now, we have to talk a little about your attitude
and views
18 and beliefs about punishment, too, because in this
case, these
19 are offenses, capital offenses, for which the law
provides the
20 possibility for a sentence to death. It's because of
that that
21 we asked you the questions that appear on page 28 of
your
22 questionnaire. I want you to turn to your answers.
And take a
23 moment, please, to refresh your recollection of these
answers.
24 All right. Now, this isn't the first time
you've
25 expressed an opinion about the death penalty, is it?

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1 A. No, it's not.
2 Q. You've thought about it before. Now, I'll -- it's
probably
3 a good guess that you've talked about it with your
husband and
4 others.

5 A. Yes.

6 Q. And have you talked about it in terms of whether
the death

7 penalty is justified in particular cases that have
happened?

8 A. Yes.

9 Q. That have been publicized?

10 A. Yes.

11 Q. And have you expressed the opinion that it is a
just

12 sentence, or was in certain recent cases in Colorado?

13 A. Yes.

14 Q. Which ones?

15 A. Davis case.

16 Q. That comes to mind immediately for you because
that's being

17 talked about a lot right now.

18 A. Right.

19 Q. Any others in the last several years?

20 A. Not offhand.

21 Q. Okay. And you talk in here or say in here that
life in

22 prison without the possibility of release would depend
on the

23 crime, the content. And then you say with respect to
the death

24 penalty you don't have any problem with it but you'd
have to be

25 a hundred percent sure. A hundred percent sure of

what?

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1 A. Of guilt and motive and --

2 Q. I'm just asking you to expand on that a little, you
know.

3 I'm not trying to challenge you.

4 A. I realize that. You know, I would have to -- in my
own

5 thought, I would have to be a hundred percent sure that
he was

6 the one involved, or she, whichever.

7 Q. And extent of the involvement?

8 A. Yeah. Yeah. I would have to -- it would just have
to be

9 something that I was completely comfortable with; that
I

10 believed that the involvement and the crime was done by
that

11 individual or individuals.

12 Q. Now, you go on in the next two questions to give us
really

13 the same answer in both questions.

14 A. Yeah.

15 Q. One with obvious content. And tell us a little --
expand

16 on that a little for us, please, what you mean.

17 A. Well, I think, you know, in any situation, bank

robbery or

18 something for whatever it would be, if somebody sat and planned

19 it a lengthy time and carried out the crime, then I think

20 becomes a much more involved issue.

21 Q. So are you saying the content, then, meaning the
22 this or circumstances of the particular case, as opposed to

23 that type of crime?

24 to go A. Yeah. I mean, if they, you know, absolutely meant

25 would and murder people, then yes, I think the death penalty

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Juror No. 146 - Voir Dire

1 not be a problem for me, if that's the issue that --
2 something Q. Yeah. And when you say "not be a problem," it's

3 you could decide, you could do?

4 it's A. Yes. I mean -- yes, it would be a deep thought and

5 be able not something that I don't think anybody would easily

6 do it. to do under any circumstances, but I would be able to

7 to talk Q. Sure. Now, I want to make clear to you and I want

8 a little about the procedure that's actually involved

here. I

9 wanted first to get some opinions from you without
talking
10 about that; but when we say life without any -- life in
prison
11 without the possibility of ever being released, we mean
just
12 that. Under federal law for this type of sentence,
there is no
13 parole. There is no release. And there are
differences
14 between state and federal law here. And you may know
something
15 about the state of Colorado's laws, but we're not
talking about
16 that now. We're talking about federal law. And under
federal
17 law, life means life in the context we're talking about
here.

18 Let me tell you, you know, getting back to the
19 criminal justice process again, in cases that don't
involve the
20 possibility of a sentence to death, what happens is
that there
21 is a trial, we go through what we just talked about.
The jury
22 decides the defendant's not been proved guilty beyond a
23 reasonable doubt. That's the end of it. There is a
not guilty
24 verdict and the case is over.

25 If the jury decides that the particular crime
has been

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1 proved by the evidence beyond a reasonable doubt, then
the
2 question of punishment in a case like that goes to the
jury and
3 a judge -- and you're probably familiar with this from
what
4 you've heard and read about cases. Where there is no
death
5 penalty possible, the judge gets further information
presented,
6 comes from the defense and from the prosecution, things
that
7 didn't come out in the trial, and with respect to the
8 defendant, a lot of things about that defendant's
background:
9 His life history, things about his work history, family
10 relationships, those things that make up that person as
a
11 unique being.

12 And then the judge hears from both sides and
decides
13 what is an appropriate punishment not only for the
crime but
14 for the defendant. I'm sure you're aware of that. Are
you?

15 A. Yes.

16 Q. Now, here, where it's life or death that is the
question,

17 we don't give that to a judge under federal law. That
goes to
18 the jury. And we ask the jury to make that decision;
but
19 before making the decision, the jury has to hear more
20 information, just as I've described about a judge
getting it.
21 But here, the information is provided in the form of
what is
22 really a second trial, and that is a time -- you know,
this
23 only happens if there is a guilty verdict, of course.
And the
24 reason that we're talking about it is even though there
is a
25 presumption of innocence, we can only talk about this
once; so

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1 we have to look forward to the possibility that jurors
would be
2 faced with punishment as a decision.
3 Now, we have at the second trial the
Government
4 lawyers offering information in the form of witnesses
and
5 exhibits that are called -- generally called
aggravating
6 factors, things that they believe would support a
finding that

7 the just sentence is death.

8 The defense has the opportunity to present
information

9 of the type that I've described, things about the
defendant as

10 an individual human being and also circumstances about
the

11 offense that may not have come out at the trial. And
those --

12 that type of information we call generally "mitigating

13 factors."

14 And before a jury can make this sentencing
decision,

15 each juror must consider everything that's been
presented to

16 the jury, including all of these things from the
sentencing

17 phase, the aggravating, mitigating factors, and in an

18 open-minded way discuss the matter; and then each juror
has to

19 make a decision: Should the defendant be put to death,
or be

20 put in prison for the rest of his life? And the court
gives

21 some instructions about that, about aggravating,
mitigating

22 factors and approaching the decision; but there is no
formula

23 for it. It is in the end a moral question, a moral
decision

24 for a juror to make; and each juror has to make that
decision.

25 My question to you is can you do that?

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1 A. Yes, I could.

2 Q. And in doing so consider everything that was
presented to
3 you?

4 A. Yes, I would.

5 THE COURT: Okay. It's almost 5:00. I've
questioned
6 you as much as I'm going to question you, but we want
to
7 present the lawyers with an opportunity to ask some
additional
8 questions. That's only fair; so we'll ask you to come
back
9 tomorrow morning.

10 Can you be here again under the same schedule
as this
11 morning?

12 JUROR: Yes.

13 THE COURT: And we'll complete this
questioning at
14 that time. And of course, we ask of you that you not
discuss
15 this now or any of the questions with other jurors with
whom
16 you've been riding or anybody else, remembering that

we're not

17 going to be making decisions as we go here as to who is
going

18 to serve on the jury and who isn't. And we'll be
talking to a

19 lot of other people, so we have to have you in the
frame of

20 mind that you're going to have the responsibility that
I've

21 been talking with you about and that you'll have to
meet that

22 responsibility in court and avoiding things out of
court that

23 could influence the decisions that you'll be having to
make.

24 So continue -- excuse me -- to do as you have
been,

25 avoiding publicity and discussion of the case with
anyone.

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1 We'll resume with you and counsel's questions
at

2 9 a.m. tomorrow morning.

3 JUROR: Okay.

4 THE COURT: Thank you. You're excused for the
day.

5 JUROR: Thank you.

6 (Juror out at 4:54 p.m.)

7 THE COURT: Now, Mr. Tigar, you wish to make a
record

8 with respect to the Court's conduct?

9 DEFENDANT'S OBJECTION RE JUROR NO. 795

10 MR. TIGAR: Yes, your Honor.

11 It was our view that the juror -- let me get
my notes

12 here -- the gentleman from Castle Rock --

13 THE COURT: The computer man.

14 MR. TIGAR: Yes, your Honor; that he had
expressed a

15 view based upon his review of what was in the media.
The

16 constitutional requirement of jury service, your Honor,
is

17 "indifferent as he stands unsworn." And I think if we
look

18 back over the transcript that we would find -- and I
say this

19 most respectfully, your Honor -- that after the juror
announced

20 that he was not indifferent and that it would take
evidence to

21 convince him, your Honor raised his voice, put him on
the spot,

22 and suggested to him that he didn't understand that he
was

23 supposed to take an oath to be something other than
what he

24 was.

25 And most respectfully, your Honor, we think
that in a

1 case where there has been so much publicity and in
which jurors
2 may be reluctant to admit that they're biased, which I
think
3 human nature and the case law tells us that people are,
that it
4 would be better to reward him for his honesty, rather
than
5 putting him on the spot. And that was a perception
that I
6 talked over with the other lawyers and with Mr.
Nichols, and I

7 wanted to bring it to the Court's attention.
8 We also had some questions with respect to the
9 interrogation of the M.B.A. this morning; and rather
than do
10 that now, I'd ask leave of the Court to look over the
11 transcript overnight and to present our concerns to the
Court
12 in writing.

13 THE COURT: All right. With respect to this
gentleman
14 this afternoon, I'll be candid in saying that I took a
recess
15 because I was getting somewhat annoyed with him; but it
didn't
16 have anything to do with the publicity. It had to do

with his

17 notion that computers could do this human process
better than

18 human beings. And I guess I just take some -- I guess
because

19 of who I am -- I just take some umbrage at the notion
that what

20 is being done by jurors in this very human process of
trial is

21 something that a computer could do better.

22 MR. TIGAR: Yes. Well, I wasn't trying --

23 THE COURT: That was what I was --

24 MR. TIGAR: I wasn't trying to insult your
Honor about

25 it.

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1 THE COURT: No, I'm taking no offense.

2 MR. TIGAR: This juror has gone through a
great deal

3 of life experience who approaches this thing, and I
thought his

4 answers were from the heart and well-considered.

5 THE COURT: Okay. Well, I told you that we
were going

6 to take up this matter of the procedure, but there are
a couple

7 of things that have occurred here that I would like to
talk

8 with counsel about. And Mr. Nichols is welcome. But I
believe
9 that in the interest of the privacy of the people
involved, the
10 jurors, it should be in chambers; so that's what we're
going to
11 do. And I'll expect to meet with counsel and Mr.
Nichols in
12 chambers as soon as it can be arranged.

13 We'll -- in court -- be in recess till 9:00.

14 (Recess at 4:58 p.m.)

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15 * * * * *
16 REPORTERS' CERTIFICATE
17 We certify that the foregoing is a correct
transcript from
Dated 18 the record of proceedings in the above-entitled matter.
19 at Denver, Colorado, this 30th day of September, 1997.
20
21

22

23

Carpenter

24

25

Paul Zuckerman

Bonnie