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3 District of Oklahoma, and RANDAL SENDEL, Assistant U.S.
4 Attorney for the Western District of Oklahoma, 210 West
Park
5 Avenue, Suite 400, Oklahoma City, Oklahoma, 73102,
appearing
6 for the plaintiff.
7 LARRY MACKEY, SEAN CONNELLY, BETH WILKINSON,
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8 MEARNS, and JAMIE ORENSTEIN, Special Attorneys to the
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9 Attorney General, 1961 Stout Street, Suite 1200,
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11 MICHAEL TIGAR, RONALD WOODS, ADAM THURSCHELL,
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12 NEUREITER, and JANE TIGAR, Attorneys at Law, 1120

Lincoln

for 13 Street, Suite 1308, Denver, Colorado, 80203, appearing
14 Defendant Nichols.

15 * * * * *

16 PROCEEDINGS

17 (In open court at 8:30 a.m.)

18 THE COURT: Be seated, please.

19 Good morning.

20 MR. RYAN: Good morning, your Honor.

21 DISCUSSION RE CHALLENGES FOR CAUSE

a 22 THE COURT: We convened a little earlier than
23 announced at the recess yesterday afternoon because in
we 24 subsequent conference with counsel, it was agreed that
from 25 should hear now before proceeding further the proposal

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exercising what 1 defense counsel with respect to the method for

And as I 2 are called here in the motion "challenges for cause."

that the 3 understand it, there is no dispute with the proposal

jurors be 4 challenges for cause or motions to excuse potential

think 5 heard in open court and ruled on in open court. So I

6 that matter is not disputed, as I understand it.

7 Is that right, Mr. Mackey?

8 MR. MACKEY: Yes, your Honor.

9 THE COURT: All right. So we'll proceed.

is the 10 Now, what we should discuss here, I suppose,

since the 11 methodology and the timing of it. And I actually --

concerning 12 matter of the respective positions of the parties

of what 13 the scope of voir dire and the scope, I suppose, also

some sealed 14 are motions to excuse and the grounds for it are in

either. 15 papers, I don't have any objection to unsealing them,

Honor. 16 MR. TIGAR: We have no objection to that, your

17 MR. MACKEY: Nor do we.

were 18 THE COURT: All right. So the pleadings that

think, to 19 filed under seal -- and they were filed under seal, I

orders -- I 20 be careful that there wasn't any violation of the

seal. 21 mean, I don't suggest that Counsel wanted them under

mission 22 MR. TIGAR: That's correct, your Honor. Our

your 23 had been, as with the paper we filed this morning, that
to err, 24 Honor's order and your Honor personally have urged us
under seal 25 if at all, on the side of caution; so we filed them

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1 so they could be quickly made available to the public.
2 THE COURT: All right. So those pleadings
that were 3 filed relating to voir dire and the sealed brief of the
4 Government, the Nichols reply, also -- well, I think
the motion 5 to require the Government to show cause to excuse
jurors was in 6 the open anyway, but the sealed pleadings will now be
unsealed 7 in connection with this voir dire process.

8 MR. TIGAR: Thank you, your Honor.
9 THE COURT: Now, as to the timing, that's a
different 10 matter. Your proposal, Mr. Tigar, was that we do this
after 11 each juror -- potential juror leaves the courtroom.
12 MR. TIGAR: Yes, your Honor. That was our
suggestion.
13 Of course, we wanted to be sure that whenever the
challenges

left 14 for cause were made, they were made after the juror had
15 the courtroom.

16 THE COURT: Sure.

17 MR. TIGAR: Because -- which is the standard
practice;
18 that is, you don't make the challenge in the presence
of the
19 juror being challenged.

20 As far as the precise timing is concerned, our
--
21 obviously, the Court and the parties as well as the
intense
22 public interest would dictate that fairly soon after
the juror
23 has been heard from that the challenge should be
entertained,
24 if one is to be made. There is some advantage to
waiting until
25 the following day, because then we have the benefit of
the

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1 transcript and can simply cite page and line where we
have
2 concerns; but we're not wedded to any particular
proposal. It
3 is simply that we thought that the process, given how
4 Mr. Hartzler had described how important it was in his

5 post-verdict press conference in the McVeigh case and
other
6 reasons, should be open. But we're obviously at the
Court's
7 disposal.

8 THE COURT: Well, having the transcript is an
aid for
9 all of us. It's particularly an aid to me, because my
10 note-taking isn't that good when I do a lot of the
questioning;
11 so I do find that having the transcripts available is
an
12 advantage in reviewing these matters.

13 My suggestion is that we do it Friday
afternoon for
14 the week; and that way we can focus, I think, pretty
carefully
15 on the applicable law and we have the advantage of
having the
16 transcripts; and what I propose is to do it, say, 4:00.

17 MR. TIGAR: Your Honor, that procedure is
entirely
18 agreeable to us. There was one concern the Government
had
19 raised, suggesting that we make only one- or two-word
20 objections. Certainly, we do not intend to use the
challenge-
21 for-cause process to speechify, or whatever; but there
will be
22 times when we want to point to specific pages and lines
and
23 give some quite respectful detail about our challenges.

And we

24 trust we'll be able to be permitted to do that.

25
problem with

THE COURT: I think that, yes, I have no

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1
privacy

that. We do, I think, have to attempt to respect the

2
things

interests of some of these people, because some of the

3
matters

that may come up in the course of the discussion can be

4 that are on the questionnaire --

5 MR. TIGAR: Yes, your Honor.

6
these

7 THE COURT: -- and for which I have assured

8 folks that there would be privacy.

9 MR. TIGAR: Absolutely, your Honor.

10 THE COURT: We have to be cautious about that.

11
been in

12 MR. TIGAR: We will be cautious, as we have

13
tried to do

14 interrogating the jurors, your Honor. We've always

15
rule.

16 that; and, of course, we will continue to observe that

17
represents

18 It's simply -- and I would like to say this: This

19
earlier

20 something of a change of position on our part from the

15 trial. The reason we did it is that we were struck so
forcibly
16 by Mr. Hartzler's press conference; and also, in the
last few
17 days, there had been so much speculation, some of it in
local
18 papers, wildly inaccurate columns about what jury
selection is
19 about. We thought it's better to let the process be
open.
20 That way, everybody can judge it for themselves.

21 THE COURT: Well, I'm in agreement; and, of
course, as
22 I've said before, what was done in an earlier trial is
not
23 going to control what we do here. Each case is
separate.

24 MR. TIGAR: I understand that.

25 THE COURT: And the trials will be conducted
in

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1 accordance with the positions of the parties to some
extent and
2 also the needs of the case.

3 MR. TIGAR: Yes.

4 THE COURT: So we'll do that. And I think
that by --

5 in reflecting on this -- and my suggestion, which has

been

6 accepted by both sides, that we open these pleadings
under seal

7 will also give some background for these respective
positions

8 that may come up where there is controversy, so that it
isn't

9 going to be necessary for counsel to -- and for public
10 understanding of the process -- for counsel to repeat
the legal

11 arguments that are made in these papers.

12 MR. TIGAR: Exactly your Honor.

13 One further suggestion, your Honor, and that
is at

14 some point when the jurors are assembled, perhaps the
Court

15 could instruct that among other duties that lawyers
have, it is

16 to make challenges and the fact that these challenges
are made

17 doesn't reflect any personal animosity; it's a part of
what

18 lawyers are supposed to do.

19 THE COURT: Well, that's what I intend to do
once we

20 get down to whatever number we're going to have
reassembled

21 here -- and we haven't really decided on that process
--

22 because I think that, in part, my decision as to how we
will do

23 it and my suggestions to counsel on that will depend

upon what

24 happens here in the course of the voir dire. But at
some

25 point, when we have jurors assembled and when I ask
them about

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1 what's happened since they were here for voir dire, it
will be

2 a thing that I will caution them about, because there
is always

3 the risk that somebody will hear something about
arguments made

4 here in open court concerning what is an acceptable
juror and

5 what is not an acceptable juror.

6 We want to avoid any, as you point out in your
7 brief -- we want to avoid any adverse effect on the
jurors'

8 impartiality from that process.

9 MR. TIGAR: Yes, your Honor. We're conscious
of that.

10 THE COURT: Okay. Now, there were two that I
11 suggested that counsel consider for what I referred to
as

12 perhaps a compassionate excusal. I think you know the
ones

13 we're talking about. One is a person who was already
called

14 and the other is one not called, but I believe you
observed
15 this young man at Jefferson County and know that there
are some
16 special problems that he has.

17 MR. TIGAR: Yes, your Honor. We have
discussed the
18 first of those cases overnight. We are not able to
agree to an
19 excusal in that case, your Honor, after consulting with
20 Mr. Nichols.

21 With respect to the second one, I -- as to
that, your
22 Honor, as I mentioned to Clerk of Court Mr. Manspeaker,
there
23 is a balancing process here that we simply don't have
the facts
24 to engage in. In one sense, participating in this
process
25 here, even if not selected, is a badge of honor for a
person --

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1 that is to say, of their right, as Dr. Jacobus tenBroek
said in
2 that eloquent article about challenged people and their
right
3 to live in the world; and the other is that although we
4 observed them at a distance in Jefferson County
Fairgrounds, we

5 weren't privy to as closely as were the court
personnel. If

6 more details could be provided, that seems to us a case
in

7 which we would readily agree to an excusal if these
concerns

8 were met.

9 THE COURT: Perhaps we can discuss that one,
because,

10 I think, of the intensity of the privacy interest
affected by

11 it, because I didn't observe the things that the court
12 personnel reported, either. I observed the person.

13 MR. TIGAR: We have no objection to your Honor
14 receiving from court personnel such information as your
Honor

15 desires in that connection, regardless of what the
rules of

16 evidence say, and so forth and so on. We have no
objection to

17 that.

18 THE COURT: Well, we'll do that with counsel
present

19 and the accused, too, so that everybody understands.
We'll

20 discuss him at a later point, then.

21 MR. TIGAR: Yes, your Honor.

22 THE COURT: I think with this, we'll be ready
to

23 proceed at 9:00 with continuing voir dire of the person
who was

24 here when we recessed.

25 MR. TIGAR: May the record, reflect, your
Honor, that

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1 Mr. Kelley was here and he won; and I don't know
whether it's

2 in spite of not having said anything to your Honor or
because

3 of not having said anything to your Honor.

4 THE COURT: I'll let Mr. Kelley judge that.

5 MR. TIGAR: Thank you, your Honor.

6 THE COURT: We'll be in recess till 9.

7 (Recess at 8:42 a.m.)

8 (Reconvened at 9:00 a.m.)

9 THE COURT: Please be seated.

10 All right. We're ready to continue with No.
146.

11 (Juror No. 146 was recalled to the stand.)

12 THE COURT: Good morning.

13 JUROR: Good morning.

14 THE COURT: Please be seated. You recall, of
course,

15 that at the time that we recessed yesterday afternoon
and

16 excused you for the day, I indicated that in addition
to the

17 questions I had of you, we have an opportunity for the
lawyers
18 for each side to ask you some additional questions. So
we'll
19 proceed with that and Mr. Mackey for the Government.

20 MR. MACKEY: Thank you, your Honor.

21 VOIR DIRE EXAMINATION

22 BY MR. MACKEY:

23 Q. Good morning.

24 A. Good morning.

25 Q. Welcome back.

552

Juror No. 146 – Voir Dire

1 A. Thank you.

2 Q. My name is Larry Mackey and I'm one of the
prosecutors
3 whose job it will be in this case to call witnesses to
the
4 stand and present evidence against the defendant, Terry
5 Nichols. That's my job in this particular case. Your
job as a
6 potential juror is to listen to all of that evidence
presented
7 by either party and not make any decision until you had
to
8 listen to all of it, talked among the jurors about it
and

that? 9 entered that process with an open mind. Can you do

10 A. Yes.

11 Q. I understand you grew up in Denver.

12 A. Right.

13 Q. Then as a young woman, went to Valpo, Indiana?

14 A. For a short time, yes.

15 Q. Okay. And were you married at the time?

16 A. Yes, I was.

the 17 Q. Okay. And that's where you started your career in
18 respiratory therapy?

19 A. Correct.

20 Q. Went to school at the Valparaiso School of Nursing?

21 A. Right.

22 Q. Was your son born in Indiana, then?

23 A. Yes, he was.

24 Q. Porter County Hospital?

25 A. Yes.

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Juror No. 146 – Voir Dire

1 Q. Same place you were working?

2 A. Yes.

Colorado? 3 Q. All right. When was it that you moved back to

4 A. Oh, probably about 19 -- about '9 -- good lord.
'88. '89.

5 No. It was before that.

6 Q. This is too early to ask a question about dates?

7 A. Yeah, it was, really.

8 Q. I'm going to withdraw that question.

9 A. Probably '87 somewhere.

10 Q. Were you still married when you came back to
Colorado?

11 A. Yes.

12 Q. All right. When did you and your first husband
divorce?

13 A. We were divorced approximately nine years ago.

14 Q. All right. And what had your first husband done
for a

15 living?

16 A. He actually was a truck driver.

17 Q. Truck driver.

18 A. Yeah. He operated two semis that he owned and
operated.

19 THE COURT: I have a little trouble hearing
you when

20 you drop your voice.

21 JUROR: Okay. I'm sorry.

22 THE COURT: If you would keep that -- thank
you.

23 BY MR. MACKEY:

24 Q. Tell me a little bit about your work. You spent 29
years

those 25 in the medical field. Give me a few details about what

554

Juror No. 146 - Voir Dire

1 jobs have been like.

and we 2 A. I worked in the hospital in respiratory therapy,

respiratory 3 were involved with the code team and treatments for

that 4 patients. And then when I came back to Colorado, I at

credentials were 5 point did not go back into respiratory. The

back to 6 different from there to here, and I didn't want to go

to do 7 school at that time, so -- but I had enough credentials

8 what I'm doing now, so I remained in that.

support? 9 Q. So it's a combination of broader medical field

10 A. Yes.

11 Q. Not concentrated in respiratory?

12 A. Right.

member of 13 Q. All right. Your current husband is a long-time

14 the Denver Police Department?

15 A. Yes, he is.

16 Q. And he served in Vietnam, as well?

17 A. No. He did not.
18 Q. Did he serve during that time period?
19 A. He was in the military, but he did not go.
20 Q. And you told us that your father was also on the
police
21 force.
22 A. Yes.
23 Q. How long did he serve?
24 A. 25 years.
25 Q. And how long has he been retired?

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Juror No. 146 – Voir Dire

1 A. We lost my father six years ago.
2 Q. All right. I'm sorry to ask. Your brother, do you
see him
3 still?
4 A. Oh, yes.
5 Q. Frequently?
6 A. Yeah. I was 16 when he was born, so he's more like
a son
7 than a brother. So yeah, I see him often.
8 Q. You're more often giving him advice than the other
way
9 around?
10 A. You got that right.
11 Q. All right. You touched on the issue that we want

to talk

12 about in your questionnaire, and I appreciate you
raising it.

13 And let me spend just a couple of minutes talking about
it.

14 With your background and your family connections to law
15 enforcement, think about that in the context of this
case where

16 there may be witnesses who are from law enforcement
agencies

17 and with that background and that prospect. Can you be

18 open-minded and judge the credibility of those
witnesses in

19 precisely the same way as if you had never been married
to a

20 police officer?

21 A. Well, absolutely. That's been the -- frustrating,
you

22 know, throughout years. I have a mind. I can think.

23 Q. I understand.

24 A. I'm not influenced by him.

25 Q. All right. All right. It boils down, I guess in

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Juror No. 146 - Voir Dire

1 bottom-line fashion, that if you were a juror and you
listened

2 to all the evidence and, in your own mind, you were
satisfied

3 that the Government had failed to prove beyond a
reasonable
4 doubt the charges that we brought, would you hesitate
to
5 acquit?

6 A. Absolutely not.

7 Q. And conversely --

8 A. Sure.

9 Q. Conversely, if the Government had proved to you
beyond a
10 reasonable doubt the charges were sustained, would you
hesitate
11 to convict?

12 A. Not at all.

13 Q. Your questionnaire talked a little bit about the
rules of
14 law and let me talk a little bit further, if I can,
just a
15 moment. In this courtroom and in most courtrooms, the
standard
16 of beyond a reasonable doubt is a standard that the
Court will
17 apply to many of the questions that the jury has to
answer.

18 You understand that?

19 A. Yes.

20 Q. And even in a capital case, many of the questions
addressed
21 to a jury are -- are guided by that standard, beyond a
22 reasonable doubt. Understand that?

23 A. Yes.

24 Q. And his Honor will give a definition to the jury
about what

25 that standard means. As a juror, will you follow that
law and

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Juror No. 146 - Voir Dire

1 impose and apply just that standard, nothing higher and
nothing

2 less, but just the standard of beyond a reasonable
doubt?

3 A. Yes.

4 Q. All right. Turn, finally, ma'am, to page 28. I
want to

5 ask just a few questions about the death penalty. I
note in

6 your answers, there's a repeated reference to
"content." When

7 you use that word, what I understood your answer to be
is that

8 you're going to look at all the circumstances
surrounding both

9 the crime and the individual charged with that crime.

10 A. Correct.

11 Q. Is that correct?

12 A. Right.

13 Q. All right. In a capital case, a federal capital
case, it

14 would be your obligation as a juror in the penalty

phase if we

15 got that far, if we had satisfied the jury first that
the crime

16 had been committed, that you bring that same open mind
to the

17 penalty phase that you had brought to the guilt phase.
And can

18 you do that?

19 A. Yes.

20 Q. You understand it would be your obligation to
listen to all

21 the information presented by one or both sides in the
course of

22 that penalty hearing and not begin to make any decision
until

23 you had retired back to the jury room with your jurors
to talk

24 about that evidence. You understand that?

25 A. Yes.

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Juror No. 146 - Voir Dire

1 Q. Is that something you can do?

2 A. Yes, I can.

3 Q. All right. You understand that in federal law,
there's no

4 automatic death penalty regardless of how heinous a
crime might

5 be? The law does not dictate that a jury impose a
death

6 penalty. You understand that?

7 A. Yes.

8 Q. That choice is left to that body of twelve people
to decide

9 after listening to all the information whether death is
an

10 appropriate response, an appropriate penalty. Do you

11 understand that?

12 A. Yes.

13 Q. All right. Would you then honor those laws and
follow

14 those laws and listen, in a penalty phase in this case
if

15 called upon, to all of the evidence before you began to

16 consider what sentencing option was appropriate?

17 A. Yes.

18 MR. MACKEY: Thank you so much.

19 THE COURT: Mr. Woods.

20 MR. WOODS: Thank you, your Honor.

21 VOIR DIRE EXAMINATION

22 BY MR. WOODS:

23 Q. Good morning.

24 A. Good morning.

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

Juror No. 146 – Voir Dire

1 of the attorneys that's been asked to help represent
Terry
2 Nichols. We met on the 17th out at the Jeffco
Fairgrounds.
3 How did you meet your current husband?
4 A. My brother.
5 Q. Through your brother, who's a detective here on the
force?
6 A. Uh-huh. They worked in the same district at the
time.
7 Q. I wanted to talk to you a little bit, also, about
the death
8 penalty questions on page 28. And I wanted to address
with you
9 Question C and D. The first one, C, is, "In what kind
of case
10 is" -- "is it appropriate, if ever, to impose the
punishment of
11 life in prison without the possibility of ever being
released?"
12 And your answer is, "One with obvious
content."
13 Can you give me a little more what you're
thinking
14 there about what cases you think should result in a
punishment
15 of life without release?
16 A. Well, depending on what the case involved, what
would be
17 involved in the case and what the verdict was, what the
penalty

that's 18 would be. If it was life in prison, then that's --

19 fine.

20 Q. Depending on the case and the verdict.

21 A. Yeah.

22 Q. Can you give me certain types of cases that you
feel merit

23 the punishment of life in prison without release?

24 A. Well, when death is involved, I would think, would
be a

25 large -- one of the large factors would be death,
multiple

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Juror No. 146 - Voir Dire

1 deaths, probably.

2 Q. Pardon me?

3 A. Multiple deaths, I would think, with -- in bank
robberies

4 or in any situation where there were multiple people
killed, I

5 would think, that that would --

6 Q. All right. And you gave that example to the Court
7 yesterday on the death penalty. Obvious content of
bank

8 robbery where it was planned and carried out, there was
intent,

9 meant to kill people, death penalty would be no
problem. Now,

life 10 what is the distinction then that you're making between
11 with no release and then the death penalty?
that do 12 A. Well, I think people can be involved in situations
involved in a 13 not merit -- they were not the primary, they got
been the 14 situation that they lost control in and may not have
15 main perpetrator, so to speak.
someone 16 Q. So are you distinguishing then the death penalty,
were 17 who lost control but the death penalty is for those who
18 the main perpetrator? Is that what you're saying?
depends 19 A. I -- you know, it depends on the circumstances. It
in. It 20 on the evidence. It depends on what they were involved
21 depends on what was proven they did.
you're 22 Q. And are you saying then that life without release,
within 23 going to consider murder cases, multiple murder cases
24 that branch of cases?
perpetrator, 25 A. Yeah. If -- yeah. If they were not the main

1 I would think I would.

2 Q. All right. So then is it my understanding then
that you're

3 distinguishing -- it could be the same crime, but the
main

4 perpetrator you would consider the death penalty for,
and the

5 one who's not the main perpetrator, you would consider
life?

6 A. It would be a possibility.

7 Q. Okay. Can you give me an example of where you and
your

8 husband have ever disagreed on something important?

9 A. You probably ought to call him for that one. Just
about

10 everything that's -- you know, it's sort of turned
around to --

11 to him. This is about me. I'm here. I know what he
does. I

12 did not choose that as a living or I would have done
that, you

13 know, from my father and that type of thing.

14 Q. Right. And you grew up in a household --

15 A. Yeah.

16 Q. -- where your father was a policeman?

17 A. Exactly.

18 Q. And your brother -- through that influence, your
brother

19 became a policeman and you married a policeman.

20 A. Well, just as, you know, in any field where you

have a

21 certain -- an attorney or a doctor, you know, your
friends are

22 certain types of people and you --

23 Q. Associate with those people?

24 A. Through them.

25 Q. Take on their beliefs and their values?

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Juror No. 146 - Voir Dire

1 A. No. I take on my own beliefs and my own values.

2 Q. All right. Can you give me an example where you
and your

3 husband have disagreed on something major?

4 A. Related to the police department or related to
what?

5 Q. Related to something important, a decision in your
life.

6 A. Well, at the moment, we're disagreeing on finishing
the

7 sunroom in our house. Other than that -- we disagree
with the

8 residency ruling for the police department.

9 Q. What is the residence ruling for the police
department?

10 You have to live in the city in which you patrol?

11 A. Correct. Now, yes. When he went on, that was not
part of

12 it.

13 Q. Okay.

14 A. So . . . you know, we've disagreed on that. We
disagree

15 on -- we disagree on issues.

16 Q. All right. Have you and your husband talked about
your

17 jury service?

18 A. We have talked about it to the point where what it
would do

19 to our lives.

20 Q. And have you discussed anything at all other than
what it

21 would do to your life?

22 A. No. Actually, I've not -- when I received the
first

23 summons, I was mowing the lawn. The mailman gave it to
me and

24 I read it, and from that point, I said, you know, this
--

25 he's -- you do what you want to do. That was the end
of our

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Juror No. 146 - Voir Dire

1 discussion. We did not -- we have not discussed it.

2 Q. What about you and your brother?

3 A. No.

4 Q. Now, does your brother visit you in your home a lot
since

5 he's friends with your husband?
6 A. He visits maybe every other week. He has a 7-year-
old
7 daughter who is my niece and my bud, and we go out
together.
8 Q. Okay. Prior to receiving the jury summons, when
your
9 brother would visit or even when it was just you and
your
10 husband, did you have conversations about police work
in
11 general?
12 A. Do we have?
13 Q. Yes.
14 A. It's not a -- a major topic of conversation in our
home,
15 no. Nor has it ever been. When I grew up, it was not
a normal
16 conversation in our home. When something arose, yes,
we'd talk
17 about it.
18 Q. Your father never spoke to you about his job, about
what he
19 liked about it, the pride he took in the job, the
nature of the
20 job?
21 A. I always knew my father was proud of what he did,
but no,
22 he did not. He much less than -- than my brother or my
23 husband. They will talk, you know, periodically. They
will

24 discuss --

25 Q. What do your brother and husband say about the
nature of

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1 their job as policemen?

2 A. You know, they both -- if it's discussed, if it's
ever

3 brought up, which at times in different phases it has
been,

4 obviously, they are both proud of their career. My
husband's

5 is just about over. My brother's is halfway. So it --
it's a

6 good -- it's a good thing.

7 Q. Do they ever talk about the frustrations they deal
with in

8 their job?

9 A. More internal frustration than -- than other.

10 Q. Have you ever --

11 A. Just as with my boss and everybody's boss, they get
12 frustrated with --

13 Q. Sure. Have you ever heard them discuss frustration
in

14 dealing with the district attorney's office or the
prosecutors?

15 A. No. Actually, I don't -- I suppose somewhere along
the

16 line, I've heard a statement, but then I've also heard
a

17 statement from the doctor I work for so . . .

18 Q. When you say the doctor you work for, he is
frustrated with

19 the district attorney's office?

20 A. They have been frustrated with attorneys in
general.

21 Q. Okay. I'm talking about the district attorney's
office and

22 their dealings with the police department. Have you
ever heard

23 your brother or your husband talk about them?

24 A. With the district attorney's office?

25 Q. Right. For example, complaining about some young
lawyer

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1 who's still wet behind the ears who is not going to
file cases

2 for them. He tells them that they don't have probable
cause

3 to --

4 A. That's not something we've discussed, no.

5 Q. Have you ever heard them say that they arrested
somebody

6 and they went to court four or five times and finally,
the case

7 was plea bargained away? Have you ever heard them
express any

8 frustration along those lines?

9 A. Yes.

10 Q. And what was the nature of the frustration?

11 A. I -- I couldn't -- I couldn't tell you.

12 Q. Have you ever heard them state any frustration
about

13 somebody they arrested that was acquitted by a jury?

14 A. No. Actually not.

15 Q. Have you ever heard them state any frustration
about

16 somebody they arrested that was released on, quote, a
17 technicality?

18 A. No. Like I said, this is not a topic of our
conversation

19 in our home. We do have other things to discuss than
the

20 police department.

21 Q. Okay.

22 A. I have two dogs I would rather discuss and enjoy
than --

23 you know, that's just not a topic of conversation at
home. It

24 never has been.

25 Q. All right. You recall what the Court advised you
on the

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charges 1 17th, which was two weeks ago, about the nature of the

2 in this case?

3 A. Yes.

4 Q. Can you tell me what Mr. Nichols is charged with?

agents. 5 A. With conspiracy and with murder of the federal

accused 6 Q. Okay. Do you remember how many federal agents he's

7 of murdering?

8 A. 11 comes to mind. I -- I don't.

would get 9 Q. Okay. Can you tell me what kind of reaction you

lack of 10 at home if you sat on the jury; that because of the

verdict 11 evidence as to Mr. Nichols' guilt, that you returned a

you would 12 of not guilty? Can you tell me what kind of reaction

with a 13 receive at home from your husband if you returned home

14 verdict of that?

15 A. A respectful one. He respects my thought process.

16 Q. Okay. And what about from your brother?

17 A. The same. Absolutely the same.

on the 18 Q. Did anyone suggest to you that you put this answer

19 questionnaire before you came out there?

and -- 20 A. No. They did not. Because when I read the letter
entered 21 in the yard the day that I got it, the first thing that
a police 22 my mind was, oh, fat chance. You know, I'm married to
That 23 officer, I'm the daughter of one and the sister of one.
24 was my whole thought.
officers. 25 Q. And you grew up in a household with police
And

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1 so that's what prompted you to put this note on here?
2 A. Yes, it is.
3 Q. No one suggested that to you?
4 A. No, they did not.
5 Q. Okay. Concerning publicity, how often do you watch
the 6 news or read the news about --
7 A. I probably -- I attempt to watch the news daily. I
8 probably don't get a full news broadcast in a week
because I 9 have this big, comfy chair, and after ten-hour days and
dinner 10 and the dishes and what have you, I'm pretty pooped and
curl up 11 and that's about it.

12 Q. You said you were aware of the verdict when Mr.
McVeigh was

13 convicted and given the death penalty.

14 A. Yes.

15 Q. Do you recall any conversations you had with your
husband

16 concerning that verdict?

17 A. Just as probably any husband, wife, daughter,
sister would

18 do. Just in passing.

19 Q. And what was the extent of the conversation? What
was said

20 by whom?

21 A. That they basically must have proven beyond a
doubt.

22 Q. What about concerning the penalty of the death
penalty? As

23 you probably noticed, there was a great deal of
publicity

24 nationwide after the verdict of death concerning the
death

25 penalty. Any discussions between you and your husband

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1 concerning the death penalty and in particular, in this
case?

2 A. No.

3 MR. WOODS: All right. Thank you. Appreciate
your

4 answers, ma'am.

5 JUROR: Thank you.

6 THE COURT: Well, you're done for the day and
will be
7 excused. And of course, as I'm sure you understand and
I hope
8 appreciate, we're not making decisions here as we go
with
9 respect to who may serve and who won't serve. We will
be
10 talking to a good many people. And accordingly, as I
excuse
11 you now, just as I did on September the 17th, I must
ask you to
12 follow the cautions of continuing to do as you have
been doing,
13 avoiding discussion of your possible service on the
jury or
14 anything in connection with the case with anyone and
also,
15 being very careful now about watching television news
or any
16 programs on television, radio, things in newspapers,
any source
17 of communications so that you can come back in here, be
true to
18 your oath as a juror and decide the case under the
evidence and
19 the law. So please keep being careful.

20 You're excused -- I can't tell you when we
will be
21 contacting you about service on the case, so I'll ask

you to be

22 patient and bear with us and we'll be back to you.

23 JUROR: Thank you.

24 THE COURT: You're excused for now.

25 JUROR: Thank you. Can I look in here and see
when I

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1 moved back to Colorado?

2 THE COURT: Pardon me?

3 JUROR: Can I look in here and see when I
moved back

4 to Colorado?

5 THE COURT: Yes.

6 No. 90 -- 906.

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

8 the oath from the clerk.

9 (Juror No. 906 affirmed.)

10 THE COURTROOM DEPUTY: Thank you.

11 THE COURT: Please be seated there and make
yourself

12 comfortable, as comfortable as you can in a hard chair
like

13 that.

14 VOIR DIRE EXAMINATION

15 BY THE COURT:

16 Q. You, of course, I'm sure, are aware that you're
here now

17 because your name came up through a chance selection
process as

18 a possible juror for the trial of the case of United
States

19 against Terry Lynn Nichols.

20 A. Yes.

21 Q. And you and others came out to the Jefferson County

22 Fairgrounds on the 17th of this month and at that time,
I

23 introduced myself to you and the others and also
introduced to

24 you some other people who were with me, lawyers for
both sides,

25 and Mr. Nichols. So I want to do that again so you
know who's

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1 here with us this morning.

2 You'll recall here at the first table --
you'll recall

3 meeting Mr. Lawrence Mackey. And Ms. Beth Wilkinson.
They

4 were there. In addition to them now, we have Mr.
Patrick Ryan,

5 who was not with us before, and Mr. James Orenstein.

6 You'll recall also meeting at that time Mr.

Michael

Nichols. 7 Tigar and Mr. Ronald Woods, attorneys for Terry Lynn

8 Mr. Nichols is present.

9 You also at that time, of course, were given a very

10 lengthy questionnaire with a lot of questions, and you did us

11 the favor of answering those questions. And we're going to be

12 asking you, if you can believe it, some more questions, some of

13 which will relate to the things that you have written down

14 here. Some may be in addition to that. I want to assure you

15 of a couple of things before we proceed, though, with that and

16 one is that we recognize that in having a lot of these

17 questions put to you, some of which may have surprised you

18 quite a bit as to, first, that we asked it and, second, maybe

19 why did we ask it -- and I -- as I told you then, don't look

20 behind that. We are asking for information, but there's no

21 right or wrong answers to any of these questions. We just

22 wanted to hear from you some things about you.

23 You can change these answers. I mean, if there's

24 something that occurred to you since you wrote out your
answers

25 on the questionnaires and you want to explain it or
even change

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Juror No. 906 - Voir Dire

1 it, you're perfectly free to do it.

2 And if, in the course of this questioning,
something

3 that you answer may be different from what you answered
in

4 writing, that's fine, too. I'm sure we'll just
appreciate your

5 explanation for any changes. So please understand
that.

6 And the other thing is that some of these
questions

7 are quite invasive of personal privacy and we know
that.

8 That's why we're not using your name here. We're
protecting

9 your privacy. The document that you completed here is
not

10 public. This hearing, of course, this questioning is
public.

11 You're in a public courtroom. But again, we refer to
you by

12 number only. And the people who have these
questionnaires,

13 being the lawyers here, of course, are obliged not to
reveal

14 them to anyone else.

15 So given that, the first thing that I want to
ask of

16 you is -- I told you and the others when we left out
there that

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

18 therefore be careful about news or any other thing that
--

19 conversations, radio, television, newspapers, and the
like, and

20 even conversation, to avoid anything about the case.
That's

21 hard to do, especially when people find out, as family
members

22 and others do find out, that maybe you're going to be
on this

23 jury.

24 So please tell us if it has happened that
you've come

25 across something even inadvertently.

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1 A. Okay.

2 Q. Have you?

3 A. No. I have not.

4 Q. And have there been people talk with you about this
case?

5 A. No. I've told them that I can't discuss anything.

6 Q. Now, how about with your husband? You talked with
your
7 husband about -- and it's perfectly natural that you
would
8 about what's going to happen if you wind up on this
jury and
9 you're tied up, as it were, for several months of a
trial. And
10 unfortunately, I can't tell you how long that'll be
because
11 none of us here know. Have you talked about that?

12 A. No. He's pretty -- he just pretty much tells me I
13 shouldn't even tell my family, you know, anything about
it, and
14 he realizes I can't say anything to him, and he kind of
avoids
15 the whole thing.

16 Q. Well, how about -- you've got four school-age
children.

17 A. Uh-huh.

18 Q. And you work now.

19 A. Yes.

20 Q. And your arrangements for when they come home from
school,
21 I guess, one of them -- well, some of them are old
enough to
22 take care of themselves and maybe the others, too. Is
that how
23 it works now?

24 A. Yeah. Uh-huh.

that? 25 Q. You don't have any child care or somebody like

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of the 1 A. No. The oldest is old enough to kind of take care
2 rest of them when they get home.

sitter 3 Q. Sure. Okay. In fact, old enough to be a baby-
4 herself --

5 A. Correct.

6 Q. -- elsewhere?

7 A. Uh-huh.

with anyone 8 Q. Speaking about your employment, have you talked
9 there about the interruption of your employment by
being on the 10 jury?

so that 11 A. Not so far. Yesterday and today, I had the day off
12 doesn't really interrupt it, but I basically told the
girl that

be a 13 I work with that, you know, I have jury duty and it may
14 while. And she kind of figured it out, but I --

15 Q. Well, did she say, "And is it the Nichols case," or
16 something like that?

17 A. Yes.

18 Q. Okay. And you said yes?

19 A. I said --

20 Q. Nothing wrong with that. Don't -- don't worry that

--

21 A. Okay.

22 Q. -- we're going to say, Oh, you shouldn't have done
that.

23 All we want to know is what happened.

24 A. Right.

25 Q. And did -- did she make some suggestion to you
about, Well,

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1 you can get off of that, you know, this is what you
say, or

2 anything like that?

3 A. Not really. She just pretty much -- she's pregnant
and

4 she's kind of worried. It's just the two of us, and
we're

5 supposed to be getting a new boss today. So she was
just a

6 little worried about, you know, when it was going to
take

7 place.

8 Q. So she'll be going off on maternity leave sometime?

9 A. Uh-huh.

10 Q. How soon?
11 A. In November.
12 Q. In December?
13 A. November.
14 Q. Oh, excuse me. November. Early or --
15 A. Pardon me?
16 Q. Early November?
17 A. Probably later November.
18 Q. Okay. Now, you've been working for this company --
well,
19 I've forgotten. How long is it?
20 A. It's been since June.
21 Q. So it's a pretty new job?
22 A. Yes.
23 Q. And as I understand it, it's a supplier?
24 A. Correct.
25 Q. For these personal care salons and so forth?

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1 A. Yes.
2 Q. With a wide variety of products?
3 A. Uh-huh.
4 Q. All kinds of things they both use and sell in --
5 A. Correct.

6 Q. -- beauty salons?

7 A. Hair and makeup and equipment for salons.

8 Q. So is this like a warehouse or --

9 A. No. We have a warehouse, but this is just one of those

10 stores that licensed cosmetologists or manicurists can buy the

11 stuff from.

12 Q. So are you taking orders and supervising shipments, or what

13 do you do?

14 A. It's pretty much just a retail store. So we just have

15 customers when they come in. Every now and then, we'll get a

16 phone order that somebody will need to come in and pick up.

17 But we get shipments on Friday that we have to stock the store

18 and --

19 Q. I see.

20 A. -- place orders.

21 Q. I didn't understand it as retail. I was thinking that

22 you're supplying the hairstylists and people like that.

23 A. Correct. That -- they will come in and purchase stuff that

24 they need for their salons.

25 Q. Okay.

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their
in
be in
use it?
dealership?
here in
husband?

1 A. If the warehouse -- they don't have it shipped to
2 salon.
3 Q. Well, does a person who's not in that business come
4 there and buy, too?
5 A. No. No.
6 Q. Okay.
7 A. We're strictly for licensed people only.
8 Q. All right. Because otherwise, your business would
9 competition with the people you're selling to, I guess?
10 A. Right.
11 Q. Because they, in turn, sell it to the people who
12 A. Uh-huh.
13 Q. Okay. And your husband works for an auto
14 A. Yes.
15 Q. In refinishing vehicles?
16 A. Uh-huh.
17 Q. It looks like the -- well, you were born and raised
18 Denver and -- did you go to high school with your

19 A. Yes, I did.

20 Q. And knew him then and --

21 A. Uh-huh.

22 Q. -- so you've been together even since high school
or --

23 A. For 18 years.

24 Q. Also, as I understand it from what you have told us
here,

25 you have been called for jury duty several times, but
never

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1 served on a jury?

2 A. Correct.

3 Q. And I don't want to put you at a -- any
disadvantage here.

4 I want to tell you the answers that I'm looking at.
Page 23 at

5 Question 103 is where I got that. And then I believe
you

6 answered over here later that you were called in for
traffic

7 court --

8 A. Correct.

9 Q. -- in Denver. Is that what you're talking about
here?

10 A. No. The -- just pretty much all of the ones that
I've had

11 to be called on for.
12 Q. Well, tell us a little bit about that. It says you
were
13 called for duty three times. Two times, you were
dismissed,
14 and the other, you were never called on. Taking the
last that
15 you were never called on --
16 A. Right.
17 Q. -- you got a summons and they said, We may call on
you, but
18 they never did; is that correct?
19 A. Correct. I went and my number was never called, so
they
20 dismissed me.
21 Q. All right. And this is in Denver?
22 A. Yes.
23 Q. And then the other two times that you did go, was
that to
24 the traffic court?
25 A. No. They were for jury duty, and I was picked both
times

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-- my
1 for being a juror number in a seat. And the first time
2 kids were pretty small then and I didn't have a baby-
sitter,

3 and I was excused from that one.

4 Q. Did you ask to be?

5 A. Yes.

6 Q. Okay. Now, what's the second one?

7 A. And the second one, I was also called, but then I
had too

8 many similarities -- it was for a traffic -- I guess
accident.

9 And they -- I had too many things that happened, I
guess, to

10 the person and they didn't want me to be on there.

11 Q. So you answered questions like we're doing here?

12 A. Right.

13 Q. From the lawyers or the judge or both?

14 A. Uh-huh.

15 Q. And so is that what you're referring to then on --
I

16 believe it's page 26.

17 A. Yes.

18 Q. That's the time you're referring to as traffic
court?

19 A. Uh-huh.

20 Q. Okay. And did you -- you say traffic violation and
the

21 church kidnapped something?

22 A. That was the first one.

23 Q. Someone --

24 A. That was the first one.

25 Q. Oh, I see.

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1 A. The one where I think it was a church member
kidnapped a

2 lady.

3 Q. That's when you had the baby-sitter --

4 A. Right.

5 Q. -- problem?

6 A. Uh-huh.

7 Q. Thank you. That explains it for us.

8 A. Sorry.

9 Q. When you were questioned in the traffic case and
the

10 similarities came out and then you were excused --

11 A. Uh-huh.

12 Q. -- do you know which side of the case excused you?

13 A. I don't remember because I was questioned by both
sides,

14 and then after they were done, they dismissed people
that they

15 didn't want on there.

16 Q. Right. And did you -- did you have any reaction to
that?

17 Did that make you unhappy or think that somebody was
saying

18 you're not a fair-minded person? Any reaction like

that?

19 A. I don't -- I don't recall feeling that way, no.

20 Q. Or was your reaction, gee, I'm glad I don't have to
be on

21 the jury?

22 A. Probably a little bit, but it didn't really --

23 Q. Okay. How long ago was that that --

24 A. How long ago? It was probably about a year and a
half.

25 Q. Year and a half?

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1 A. Uh-huh.

2 Q. That you went through the questionnaire and were
excused.

3 Okay. And also, we have it from your answers that you
watch

4 Channel 9 News program?

5 A. Uh-huh.

6 Q. And what time of day do you normally watch?

7 A. Usually at 10:00.

8 Q. In the evening?

9 A. Uh-huh. In the evening.

10 Q. That's pretty much a routine in your household?

11 A. Yes. Uh-huh.

12 Q. Husband watch it, too?

13 A. Uh-huh.

14 Q. What have you been doing since you were summoned
here for

15 jury service --

16 A. Laundry.

17 Q. -- with respect to that?

18 A. Just household chores in the evening.

19 Q. Well, when the 10:00 news comes on, what do you do?

20 A. Clean up. Just -- and then I kind of wait until
like the

21 first few stories are over, like the headline ones, and
then

22 I'll go in and watch it. But if it -- if something
comes up, I

23 just leave the room.

24 Q. Okay. So you kind of assume that it's -- if
there's going

25 to be anything about this matter, it would be early.
But has

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1 it happened that your assumption was wrong and came on
then

2 while you were watching?

3 A. Not so far, no.

4 Q. But your approach to that is going to be to click
it off or

5 leave the room, I guess you said.

6 A. Right.

7 Q. Okay. Quick step out of there?

8 A. Yes.

9 Q. But your husband goes ahead and watches, I assume.

10 A. Yeah. I guess.

11 Q. You're going to keep from talking to him about what
he sees

12 and hears?

13 A. He's -- he's -- he's a perfectionist and he
believes, you

14 know, everything has to be the way, you know, it is and
he just

15 avoids the whole issue. He doesn't ask anything or --

16 Q. Or talk about it?

17 A. He doesn't talk about it, no.

18 Q. Do you also regularly -- regularly read any
newspapers

19 or --

20 A. I --

21 Q. -- magazines?

22 A. I used to when we got it delivered, but I haven't.
We got

23 it Sunday.

24 Q. Which paper is that?

25 A. The Rocky Mountain News.

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1 Q. Okay.

2 A. And he -- actually, he went and picked it up for
the TV

3 guide, and he told me I was not allowed to read the
newspaper,

4 read it and threw it away. So I take it there was
something in

5 there.

6 Q. Okay. You mentioned that -- and I'm looking at
page 104 --

7 page 23, Question 104. Your sister-in-law works for
the FBI?

8 A. Yes.

9 Q. And where is she -- where does she work? What
city?

10 A. Actually, she works next door.

11 Q. Here in Denver?

12 A. Uh-huh.

13 Q. How long has she been with the FBI, if you know?

14 A. It's been a while. Maybe eight years or more.

15 Q. And is she an agent?

16 A. No.

17 Q. What -- as far as you know, what is her role with
the FBI?

18 A. I believe she only gathers information for the
agents that

19 they need for cases. I believe that's what it is.

20 Q. And do you know how? I mean, whether it's through
21 interviews with people or documents or what?

22 A. I think it's basically more paperwork, computer
stuff.

23 Q. And I think you mentioned in here that she got some
24 assignment in connection with the explosion in Oklahoma
City.

25 A. Yeah. I think what it was -- because I'm not
really sure

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1 what it was, but she was called out there just to work
in the

2 FBI building for the people who -- who weren't there in
the

3 office. So she basically had to do her work that she
does here

4 over there in that office.

5 Q. In Oklahoma City?

6 A. Yes.

7 Q. How long was she over there?

8 A. Probably maybe a month or two. I'm --

9 Q. Do you recall what month?

10 A. I don't.

11 Q. The explosion was on April the 19th of 1995. Does
that

12 help you in identifying what month she may have been
over there

13 in Oklahoma?

14 A. I don't remember. When that happened, we were on
vacation

15 in California. I think when we came back, she was
still there.

16 So it must have been --

17 Q. And when did you come back?

18 A. Let's see. We were only gone for a week, so --

19 Q. You came back in late April?

20 A. Yes. Uh-huh. Jeez, I don't -- it had to probably
have

21 been maybe the first of May.

22 Q. When -- and when she came back, did you talk with
her about

23 it?

24 A. Not really because it wasn't -- I don't know if she
was

25 doing a whole lot with the -- you know, as far as the
bombing,

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1 itself, or just doing her work out there.

2 Q. Yeah, but did she do things like tell you what
she'd seen

3 down there, what the building looked like, any of those
things?

4 It would be natural if she did. That's why I ask, so
--

often, 5 A. Well -- and I don't really go over to her house too
with 6 but she might have. But I can't remember, to be honest
7 you.

FBI? I 8 Q. Do you know any of the people she works with at the
also 9 mean, does she have friends that you've met who are
10 working with the FBI?

11 A. Probably one other person.

12 Q. And is that an agent or --

13 A. She's probably -- I think she does the same thing
she does.

14 Q. Okay. And you know her? I mean, you've been
introduced to

15 this friend of hers.

16 A. Yes. Uh-huh.

17 Q. Talked with her?

18 A. Just on occasion when she might have taken her to a
family

19 barbecue. I mean --

20 Q. Yeah.

21 A. -- I've maybe seen her twice in a year or so,
but . . .

22 Q. Well, let me be perfectly blunt about the question.
The

23 reason for these questions is, as I'm sure you already
know,

24 this is a case of -- that was -- the charges in this

case are a

25 result of an investigation conducted by people from the
FBI.

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1 A. Uh-huh.

In this 2 Q. With other agencies, too, but principally the FBI.

the FBI, 3 trial, there will be testimony from many people from

4 agents and others.

5 A. Yes.

you 6 Q. Because your sister-in-law is there, you know, are

evidence? 7 going to be influenced by that in considering this

mind 8 A. No. I -- I don't think so. Because I really don't

interesting. 9 being on the jury. I think it would be pretty

know, I 10 And besides, when it happened, I pretty much -- you

then, I 11 watched the TV or read it in the paper. And since

12 really haven't kept up with it a whole lot.

as an 13 Q. Well, have you some view or opinion about the FBI

14 organization?

15 A. No. Not really. I had -- I mean, I've been on a

tour to

16 her job once. You know, other than that, I just --
it's -- to

17 me, it's kind of scary.

18 Q. These people who will be testifying, of course, are
going

19 to be challenged on their testimony. That's what
trials are

20 all about. And there will be questions raised about
whether

21 their testimony is true, accurate. There has been --
well, are

22 you aware of any recent publicity about the Federal
Bureau of

23 Investigation and the laboratory, the crime laboratory
of the

24 FBI?

25 A. No.

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Juror No. 906 - Voir Dire

1 Q. Have you read anything about that or had any
discussion

2 about that with your sister-in-law?

3 A. No.

4 Q. Well, are you going -- you know, I -- we want you
to answer

5 this just as honestly as you can. And only you know
this.

6 Only you know the answer. I think the thing that is

troubling

7 is whether, if there's a direct conflict between what
the FBI

8 says and somebody -- FBI agents or employees and
somebody else

9 says, are you going to favor what the FBI people say
because

10 it's the FBI?

11 A. No.

12 Q. What the law says -- what the law says now is
you've got to

13 judge people on the basis of what happens in the
courtroom,

14 including the witnesses. One of the things that jurors
have to

15 do is judge the -- what we call the credibility, the

16 believability of the person and what he or she says
without

17 regard to who they are or who they work for but based
on things

18 like their -- the way in which they come in here and
sit on

19 this witness stand right over here by me. And they
answer

20 questions put by the lawyers. I'm sure you know that.

21 A. Uh-huh.

22 Q. And you have to judge what they say by how it
matches or

23 doesn't match the testimony of others, other
information that's

24 provided to you in evidence, documents, photos, all
those

25 things. There are going to be a lot of witnesses in
the trial.

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Juror No. 906 - Voir Dire

1 But you're going to have to say -- when there's a
dispute, a
2 conflict between what witnesses say, well, I think I'll
believe
3 this person and not that one or this testimony and not
that
4 without regard to FBI, law enforcement, a friend of Mr.
Nichols
5 or anybody else. Now, are you going to tell us that
you can do
6 that?

7 A. Uh-huh.

8 Q. Okay. You also have, you pointed out, a sister
working
9 for -- or sister-in-law working for Social Security?

10 A. Uh-huh.

11 Q. And what does she do?

12 A. I'm not really sure. I think she just helps -- I
had to
13 get a replacement card for my Social Security card.
She gave
14 me an application. I know she takes phone calls for
people who
15 need other things dealing with them.

16 Q. She work here in Denver?

17 A. Yes.

18 Q. How long has she been in Social Security; do you know?

19 A. For a very long time.

20 Q. And you've known her a long time; right?

21 A. Uh-huh.

22 Q. Because we're talking about your husband's sister?

23 A. Uh-huh.

24 Q. And that's true of the woman with the FBI, too?

25 A. Correct.

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Juror No. 906 - Voir Dire

1 Q. So you probably have known them since you've known him

2 or --

3 A. Yes.

4 Q. Okay. The one who works for the Social Security, has she

5 talked with you about Oklahoma City and the effect on the

6 Social Security office down there of the explosion of the

7 building there?

8 A. Not too much. I don't see her very much at all.

9 Q. Are you aware of whether there was a Social Security office

10 in the building when it blew up?

11 A. I do.

12 Q. You know that there was?

13 A. Uh-huh. That it was.

14 Q. And the people from the Social Security
Administration were

15 in the building?

16 A. Uh-huh.

17 Q. Now, I want you to tell us again as honestly as you
can

18 whether -- as you think about it now, thinking back to
April of

19 1995 and since, whether your sister-in-law at the
Social

20 Security Administration has talked to you at all about
how she

21 feels or what she thinks about that fact that people
from

22 Social Security were killed and injured.

23 A. Just probably that -- that she -- you know, pretty
glad she

24 was here; that it -- you know, she didn't say a whole
lot.

25 Just that, you know, pretty much the way everybody felt
about

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Juror No. 906 - Voir Dire

1 it.

-- 2 Q. Did she tell you whether she knew any of the people

3 A. No.

4 Q. -- in the office in Oklahoma City?

5 A. No.

6 Q. Did she tell you anything about whether the local office

7 here in Denver did some support for those people by way of

8 sending money down or giving leave time up or something like

9 that? Has she talked about any of those things?

10 A. No.

11 Q. Well, here again, of course, the -- the real question is if

12 you sit on this jury and you hear testimony about what happened

13 to the Social Security office in the building in Oklahoma City

14 on April the 19th of 1995 and you hear testimony from people

15 who can describe that, are you going to be influenced by that

16 in deciding this case?

17 A. No.

18 Q. So what you're telling us is we -- as I understand it, is

19 you can separate out your -- both sister-in-laws and their work

20 and how all of this may have impacted on them from your

21 responsibility to decide the case?

22 A. Correct.

23 Q. Well, let's talk a little about what is involved
there so

24 that it's clear. You remember at Jefferson County, I
described

25 for you and the others the history of the case, how it
started

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1 with an indictment in Oklahoma City, how it got
transferred

2 here to Colorado, why we have separate trials. You'll
recall

3 that I described in a very general way the charges in
that

4 indictment that charged Mr. Nichols, along with a man
named

5 Timothy James McVeigh, and then referred to other
persons not

6 named in the indictment with a conspiracy to bomb the
building

7 and to kill and injure the people in it and also
charges that

8 this was done to murder some law enforcement agents
working

9 there and that Mr. Nichols entered his pleas of not
guilty to

10 each of those charges, thereby disputing, putting into
dispute

You 11 all of the things that the Government says about him.
12 understand that generally?
13 A. Right.
to have 14 Q. Now, of course, what that means is then we're going
charged. 15 a trial and see if the Government can prove what it's
16 And fundamental to our constitutional liberties is the
what 17 principle that anybody charged with a crime, no matter
be not 18 that crime is or who the defendant is, is presumed to
persons come 19 guilty of that charge. And that means that those
and it's 20 into a courtroom, appear in front of a judge and jury,
your own 21 up to the judge and jury to look at them and say in
continue until 22 minds not guilty. And that frame of mind has to
does. Do 23 evidence shows guilt beyond a reasonable doubt, if it
24 you follow me on this?
25 A. Yes.

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1 Q. And it isn't up to the person charged to prove
themselves to

disprove 2 be not guilty or, indeed, to prove anything -- or
criminal 3 anything. It's not required of any defendant in a
witness 4 case to call any witnesses of any kind or to take the
it's 5 stand and be a witness himself. The law says -- and
any 6 constitutional law -- that the defendant need not give
in which 7 testimony or any explanation. And indeed, in a trial
or, 8 that is the case, that the defendant does not testify
jury's 9 indeed, offer any evidence if that's also true, the
that. You 10 instructed regularly that, well, you can't consider
deciding 11 can't even talk about it in deliberating -- that is,
that. 12 the case -- because our principle would be violated by

13 You understand that?

14 A. Yes.

morning 15 Q. So just so that it's very clear, here with us this
these 16 sits Terry Lynn Nichols, presumed to be innocent of
17 charges. Are you ready to accept that?

18 A. Yes.

bring in 19 Q. And then it isn't just that the Government has to

20 evidence, but they have to bring in the evidence,
witnesses,
21 and exhibits and whatever they are relying on as
evidence to
22 satisfy the jurors that there isn't any reasonable
doubt that
23 the evidence proves this charge. And what happens is
that at
24 the end of the trial, the court, judge, gives
instructions to
25 the jury about the things that have to be shown beyond
a

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Juror No. 906 - Voir Dire

1 reasonable doubt to be factually correct before there
can be a
2 conviction.

3 And the jury then must decide whether the
evidence
4 meets that standard. If not, the jury has a plain
5 responsibility to find the defendant not guilty. Do
you
6 understand that?

7 A. Yes.

8 Q. And it isn't just a matter of, you know, well,
probably
9 guilty, but I'm not so sure. The standard of the law
is beyond
10 a reasonable doubt. And that means that if, after
considering

case -- 11 everything they have heard and seen as evidence of the

jurors or 12 in the case and following the law, the juror -- the

takes a 13 any one juror has a reasonable doubt -- you know, it

you have 14 unanimous verdict. So if there's a reasonable doubt,

find him 15 to give the defendant the benefit of that doubt and

16 not guilty. Do you accept all those things?

17 A. Yes.

principles 18 Q. Okay. Now -- and you're ready to follow those

19 in this case if you're called upon as a juror, are you?

20 A. Yes.

case, 21 Q. Now, we have an extra matter to talk about in this

charged. 22 and that's penalty because of the nature of the crimes

statute 23 And that is because these particular offenses by

in 24 provide that there can be a penalty of death or of life

other 25 prison without ever being released on parole or in any

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1 way, or some lesser sentence, and it really is up to

the jury

minute 2 to decide that. And I'll talk with you about that in a

to turn 3 as to what is the procedure, but before I do so, I want

little 4 to page 28 of the questionnaire and talk with you a

general 5 about the answers that you gave us there to some

life in 6 questions about punishment and about the punishment of

punishment of 7 prison without the possibility of release and the

8 death. So take a moment to review what you wrote.

9 Have you done so?

10 A. Yes.

11 Q. You remember this part of the questionnaire?

12 A. I do.

ever gave 13 Q. And let me ask first, is this the first time you

punishment in 14 really serious thought to what you believed about

15 a criminal case?

16 A. Yes.

criminal 17 Q. Had you ever talked about death as a penalty in

18 courts to anybody before this?

19 A. No.

-- can 20 Q. And as you look over the answers here, would it be

21 we say that this is your view now?

22 A. Yes.

23 Q. I notice on Item B here that you had some
strikeouts like

24 you wrote something and then decided, well, that isn't
what you

25 mean and struck it out. Do you remember what you wrote
in

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Juror No. 906 - Voir Dire

1 there before you struck those things out?

2 A. I don't.

3 Q. That's all right.

4 A. I just probably wrote it wrong.

5 Q. Okay. I just wondered whether you were putting
something

6 down and then changed your mind.

7 A. No.

8 Q. That's fine if you don't remember.

9 You also on page 29 -- going over to the next
page --

10 you say that -- where we asked you essentially, "Do you
have

11 any religious, moral, or personal beliefs that would
affect

12 your ability to decide this question of punishment,"
you said,

13 "I wouldn't have a problem, but I must believe very

strongly

14 one way or the other."

15 Tell us a little about what you mean by that
sentence,

16 "very strongly one way or the other."

17 A. Well, I just think what I meant to put is just I
have to

18 be -- I'm sorry. I'm just kind of nervous.

19 Q. We understand you're nervous. Take your time.

20 A. I just have to feel inside that it was either --
you know,

21 I feel like, you know -- I guess I was putting it that
he's

22 guilty or not guilty. I wouldn't listen to anybody
else, you

23 know. It would have to come from me.

24 Q. Now, you understand this is a separate question
from

25 whether the defendant -- whoever the defendant is on
trial --

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1 is found guilty or not guilty. That's the first
question.

2 A. Okay.

3 Q. And of course, if that question is not answered
guilty,

4 there isn't any punishment. And let me just put it to
you

5 in -- sort of in the context of how trials proceed. In
cases
6 that don't involve jury issues on punishment, which is
most
7 cases, cases that don't involve capital crimes -- that
is,
8 those for which death is provided as a penalty -- in
those
9 cases, the case is tried, the jury decides is the
evidence
10 sufficient to prove the crime beyond a reasonable
doubt. If
11 so, yes, guilty. If not, not guilty. And then with
that
12 decision, the jury's role is done. They have done
their job.
13 But if the verdict is guilty, then there's
still
14 something else to be done, and that is what is the
punishment
15 deserved for this particular crime and applicable to
this
16 particular person, the defendant. Now, that's done by
the
17 judge. And before judges make sentencing decisions,
they
18 require more information to be provided to them by the
parties
19 and other sources. They get information in addition to
what
20 happened at the trial and evidence about the crime and
about
21 the defendant and particularly about the defendant and

the

22 circumstances of his or her life. Like family history,
23 employment history, all of the things that affect us in
life
24 and that make each one of us individual and different
from
25 others. And that information is provided to the
sentencing

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1 judge. Arguments are submitted by both sides, the
prosecution,
2 defense; and the judge decides this particular sentence
is
3 proper for this particular person for this particular
crime.

4 Now, it is different in federal court. And
there are
5 differences among the states; but in federal court,
where we
6 are, it is different when there is the possibility of
7 punishment by death or life in prison and that choice
of life

8 or death is made by a jury. You understand?

9 A. Yes.

10 Q. Now, before a jury can make that decision, there
has been
11 more information provided than what was given at the
trial,

12 because the trial is just about evidence as to whether
the
13 charges are proved. Now, the case, if there's a guilty
14 verdict, moves to what is a just sentence. And it's
really a
15 life-or-death question. And both sides in the case
provide
16 information to the jury to assist in making that
decision. And
17 that's information -- more information about the
offense, more
18 information about the defendant. The very kinds of
things,
19 again, that I've already talked about that judges
consider.
20 And we call these aggravating factors and mitigating
factors;
21 aggravating in the sense that the prosecution relies on
them to
22 suggest that death is deserved punishment and
mitigating
23 factors relied on by the defense to suggest to the jury
that
24 death is not a deserved or just punishment in the case
for the
25 particular defendant. Understand?

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1 A. Yes.

2 Q. Then what the jury has to do -- and each juror has

to do

3 this individually, make your own moral judgment,
really, as a
4 representative of the conscience of the community as to
5 whether, considering all of the circumstances, the
penalty
6 should be death or life in prison without ever being
released.
7 That's the kind of question that is not -- it's not
"the kind
8 of question" -- that really is the question that is
asked when
9 there is a guilty verdict in such a case. Our question
to you
10 is, will you be prepared to do that if you sit on this
jury and
11 if there is a guilty verdict?

12 A. Yes.

13 THE COURT: Okay. Now the lawyers have some
14 additional questions to ask of you, and it's only fair
that
15 they get a chance to ask questions, too; so please
listen to
16 their questions and answer them as you have me. Mr.
Ryan.

17 MR. RYAN: Thank you, your Honor.

18 VOIR DIRE EXAMINATION

19 BY MR. RYAN:

20 Q. Good morning.

21 A. Good morning.

22 Q. Are you doing okay?

23 A. Yes.

24 Q. Do you ever have the feeling that the state of
Colorado

25 with 3 million people in it has a very short list of
jurors?

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1 A. Yes.

2 Q. And that your name is on that short list?

3 A. Yes.

4 Q. You've been called now four times?

5 A. Uh-huh.

6 Q. Are you nervous?

7 A. A little bit.

8 Q. Okay. Let me tell you who I am and why we're here.
My

9 name is Pat Ryan. I'm the United States Attorney in
Oklahoma

10 City. With me are prosecutors that will present the
evidence

11 in this case that we believe we have against Mr.
Nichols. Our

12 job is to fairly present that evidence. We need people
as

13 jurors who are willing to fairly receive that evidence
and

14 consider it before reaching a verdict. Do you think

you can do

15 that?

16 A. Yes.

17 Q. Now, you're married?

18 A. Correct.

19 Q. You have, what, four kids?

20 A. Four.

21 Q. And I -- I would guess that most of your time is
spent with

22 your kids?

23 A. Yes.

24 Q. What are some of the things that you enjoy doing
with your

25 family?

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1 A. We like going skiing, on vacation trips, road
trips. I

2 like taking them to their sports, when they are in
football or

3 tennis or volleyball.

4 Q. I saw where you had an interest in volleyball.

5 A. Yes.

6 Q. Did one -- one or more of your children play
volleyball?

7 A. They -- the oldest one does. She's in high school,
but we

and
8 had them in parochial school; so most of the activities
9 sports were taught by parents or volunteers of the
school.

10 Q. And you and your husband volunteered?

11 A. Right.

12 Q. And how many years did you coach the volleyball
team?

13 A. Probably -- let's see. At least five or six years.

14 Q. Did you, yourself, play volleyball --

15 A. No.

16 Q. -- when you were a youngster?

17 A. No.

18 Q. Now, I understand that you have an interest in
possibly

19 becoming involved in computers in the future?

20 A. I would like to do that, yes.

21 Q. Is it -- do you think that you'll require some
additional

22 education to do that?

23 A. Uh-huh.

24 Q. What -- what are you thinking about in terms of
future

25 plans?

seems to
that we
think
one, and
sounds

1 A. I just think about it because of everything just
2 revolve around computers now, and I have one at work
3 have to enter everybody in and the stuff they buy. And
4 sometimes I feel just a little clumsy on it, but I just
5 it would be interesting. I hear my sister-in-law has
6 she gets on the Internet and stuff like that. It just
7 educational.

8 Q. You also spent some time with charities?

9 A. Yes.

10 Q. What type of work do you do with -- in that area?

helping
Not

11 A. Basically, it's just through the church and through
12 with the kids' school and by -- things of that nature.
13 really any organization.

14 Q. Now, you were born and raised a Catholic?

15 A. Yes.

position on

16 Q. Do you know whether the Catholic Church has a
17 the death penalty?

18 A. I don't.

I'm not
that

19 Q. If you were to find out that the church did -- and
20 saying it does -- if you were to find out it did, would

21 affect how you decided a particular case as a juror?

22 A. No.

23 Q. And you could act independently of whatever church
doctrine

24 might be?

25 A. Yes.

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1 Q. Now, I understand you have a sister-in-law who is
an

2 employee of the Federal Bureau of Investigation.

3 A. Correct.

4 Q. Are you close to that sister-in-law?

5 A. I probably wasn't as close with her until a couple
months

6 ago, when my other sister-in-law got married. We both
had to

7 do planning of her -- her bridal shower and stuff of
that

8 nature. So, you know, probably just got a little
closer

9 because of that.

10 Q. You came together out of necessity to prepare for
this

11 wedding?

12 A. Correct.

13 Q. But as a routine matter, do you all spend time in
each

14 other's homes?
15 A. Not too often. Every now and then, we -- we'll go
over for
16 a football game, or she'll come over or -- I mean, you
know, as
17 far as family goes, we're close; but, you know, we just
kind
18 of -- you don't spend too too much time together.
19 Q. Setting aside family activities when you'll get
together
20 for an occasional football game or for a holiday of
some kind,
21 do you all talk to each other on the phone at night and
22 socialize together during the day?
23 A. Not unless we need something or -- you know, I -- I
invite
24 her to my son's football game or something like that.
25 Q. Did she tell you anything specific she had done in
Oklahoma

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Juror No. 906 - Voir Dire

1 City following the bombing?
2 A. No.
3 Q. Any particular work she did?
4 A. I didn't really even ask her, to be honest with
you.
5 Q. Did she tell you that she had done anything at all
in

6 connection with the investigation of this particular
case, the

7 Oklahoma City bombing case?

8 A. No.

9 Q. You don't -- as you sit here today, you don't know?

10 A. No.

11 Q. And if you are selected as a juror in this case --
strike

12 that.

13 From this moment forward, till this case is
resolved,

14 if you are a juror, can you agree not to talk to your
15 sister-in-law about anything she did in Oklahoma City
or about

16 this case at all?

17 A. Yes.

18 Q. Do you have any knowledge that she ever went down
to the

19 bombing site in Oklahoma City?

20 A. I don't know for sure if she did or not.

21 Q. She certainly -- she told you? You've either
forgotten, or

22 she hasn't told you at all?

23 A. Correct.

24 Q. Now, with respect to your sister-in-law who worked
for

25 Social Security, are you close to her?

Juror No. 906 – Voir Dire

1 A. Not really.

2 Q. Other than family events, do you see her during the
day?

3 A. No.

4 Q. Or talk to her on the telephone?

5 A. No.

6 Q. Has she talked to you about what happened to the
Social

7 Security office in Oklahoma City?

8 A. No.

9 Q. Do you know if people in that office were killed?

10 A. That she knew?

11 Q. No. Do you know as you sit here today whether
people in

12 Social Security in Oklahoma City were killed?

13 A. Yes.

14 Q. Do you know how many?

15 A. No.

16 Q. Do you know if there were visitors at Social
Security that

17 were killed?

18 A. I would assume so.

19 Q. You may assume it, but do you know it? Has anyone
told you

20 that?

there 21 A. I might remember hearing about it on the TV; that

22 were.

23 Q. Did you ever talk to your sister-in-law about that?

24 A. No.

25 Q. You, yourself, knew of no one --

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Juror No. 906 - Voir Dire

1 A. No.

2 Q. -- who was killed in Oklahoma City?

3 A. I do not.

know 4 Q. And as far as you know, your sister-in-law did not

5 anyone who was killed?

6 A. No.

7 Q. How about injured?

8 A. No.

City 9 Q. Now, you've seen some publicity about the Oklahoma

10 bombing.

11 A. Yes.

12 Q. It's pretty hard to avoid.

13 A. Uh-huh.

publicity on the 14 Q. And you answered some questions about that

15 questionnaire. Do you recall doing that?

16 A. I think so, yes.

a
17 Q. Well, let me draw your attention to page 33. Take

Question
18 moment, if you would, to turn to that. Do you see

19 145?

20 A. Uh-huh.

about
21 Q. You characterize the amount of coverage you've seen

22 the bombing as "not too much."

23 A. Correct.

24 Q. Is that accurate?

25 A. Yes.

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Juror No. 906 - Voir Dire

this case
1 Q. And have you stayed away from any publicity about

2 since filling out the questionnaire?

3 A. Yes.

Question
4 Q. Now, turning over to page 37, if you'll look at

Terry
5 159. It asks you, you know, what have you heard about

there,
6 Nichols, or what have you read or seen. And you put

7 "Just that he had helped make the bomb."

8 A. Yes.

9 Q. Now, is that all you've heard in terms of his role?
10 A. Pretty much. Just -- and I -- when we did this, I
felt
11 like I was in a hurry to do it. I tried to think of
12 everything, but -- that he helped make the bomb and
probably
13 planned it a little bit. But that's about it.
14 Q. All right. Now, earlier in the questionnaire, you
answered
15 a question about how much stock you put in what you
read in the
16 newspaper.
17 A. Uh-huh.
18 Q. Do you remember that question?
19 A. Yes.
20 Q. And you put "not very much."
21 A. Uh-huh.
22 Q. So I guess my question to you is, you know, there's
a
23 difference in what you read in the paper and what you
hear on
24 television about what someone did regarding a crime --
25 A. Correct.

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Juror No. 906 - Voir Dire

1 Q. -- and what the evidence will be in a courtroom.
Do you

2 see that distinction?

3 A. Yes.

4 Q. And what I'm wanting to find out from you is will
you be

5 able to set aside that publicity and what you heard on

6 television about Mr. Nichols and give him the benefit
of the

7 presumption of innocence --

8 A. Yes.

9 Q. -- when this case starts? You have no evidence at
all that

10 he planned the bomb or that he built the bomb. You
have to

11 wait until evidence of that nature comes in, if it does
come

12 in. Do you understand that?

13 A. Yes.

14 Q. Can you set aside all that publicity?

15 A. Yes.

16 Q. You say that you were on vacation in California, I
believe

17 was your testimony, at the time of the Oklahoma City
bombing.

18 A. Correct.

19 Q. Do you recall where you were in California?

20 A. Right in Anaheim, I believe. We were across the
street

21 from Disneyland.

22 Q. I was going to say it sounds like you and your kids

were at

23 Disneyland.

24 A. Yes.

25 Q. Do you recall how you heard about the Oklahoma City

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1 bombing?

2 A. Yes.

3 Q. How did you hear?

4 A. Actually, it was still in the morning. And we just

5 happened to turn on the TV to help wake everybody up;
and I

6 remember seeing on the news about -- and it just
flashed on --

7 it must have been on for a while and it went off. And
I

8 thought, Oh, my God, there is an earthquake and, I
thought,

9 here we're in California. So we waited until after and
then

10 found out what had happened.

11 Q. Do you have an image of the bombing from that
morning in

12 your mind?

13 A. No. Just that it was pretty disturbing.

14 Q. Is there any -- one particular aspect of what
occurred

15 there that sticks in your mind?
16 A. No. I just think it was just about -- you know,
17 overwhelming. Just the whole thing that I seen on the
TV.
18 Q. Now, you indicated to his Honor that you had been
on at
19 least one jury where you'd been challenged off of the
jury by
20 one of the parties.
21 A. Correct.
22 Q. Do you know which party challenged you?
23 A. I don't remember.
24 Q. Now, let me, if I might, talk to you a little bit
about the
25 death penalty, and I'll be through. In your answers on
the

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Juror No. 906 - Voir Dire

1 questionnaire, you were asked what your views were if
you could
2 make the law. Did you understand that distinction?
3 A. No.
4 Q. Okay. Well, here, we're not -- as a juror, you're
not
5 talking about making the law. You're being asked to
apply the
6 law that Judge Matsch will give you on the death
penalty. But

7 in the questionnaire, people were trying to learn --
the Court
8 was trying to learn are there some things in your mind
about
9 the death penalty, your views on the death penalty,
that you
10 could express to us. And I -- I guess I would just
want you
11 to -- excuse me -- if you would, to -- to tell me, you
know,
12 what you really think about the death penalty. Just
talk to me
13 for a few minutes.

14 A. I don't like it. I just get upset when I hear
about it or,
15 you know, stuff like that's going on TV. And I
remember
16 hearing something not too long ago about there was
somebody
17 that was put to death in Texas, and I just kind of try
and
18 ignore it because it -- it really bothers me.

19 Q. Has there ever been a case here in Colorado, a
criminal
20 case, in which the information you had -- granted, you
wouldn't
21 have had all the information, but based on what you
had, you
22 felt the death penalty was appropriate?

23 A. I -- I just try and stay away from that issue, but
it
24 usually -- if -- you know, sometimes I'll hear things
and I

the right 25 think, Well, maybe it was okay, or, you know, it was

609

Juror No. 906 - Voir Dire

stuff, 1 decision; but I just -- not knowing all the facts and

2 it's hard to, you know, agree strongly on that.

friends or 3 Q. Did you talk about the death penalty among your

4 your teachers when you were in school?

5 A. When I was in school, no, not really.

speech 6 Q. Ever have any debates in -- in high school, in

7 class?

8 A. No.

pros and 9 Q. Or other classes you took in which you debated the

10 cons of the death penalty?

11 A. No.

years? 12 Q. Have you talked to your husband about it over the

13 A. Not really, no.

14 Q. Do you know how he feels?

15 A. No.

16 Q. Your parents live here in the -- Colorado?

17 A. Yes.

18 Q. They live here in Denver?

19 A. Uh-huh.

20 Q. Have you ever spoken to them about the death
penalty?

21 A. No.

22 Q. Do you know how they feel about it?

23 A. I know my mom tried talking about it, and I just
kind of --

24 like I say, I just try not to listen to what other
people feel.

25 Q. What was your mom trying to say?

610

Juror No. 906 - Voir Dire

1 A. She just kind of, you know -- I -- I don't remember
what

2 the -- what it was about. And she just kind of said --
well,

3 you know, she lives by herself; and I think a lot of
times,

4 she's scared and, you know, they -- just things come
out of her

5 mouth. She just --

6 Q. Prior to filling out the questionnaire, had you
ever

7 thought about your view on the death penalty?

8 A. Not really, no. I guess I was probably getting
nervous

9 about it because I figured it was going to be asked.

10 Q. All right. After you got the initial summons --

11 A. Uh-huh.

12 Q. -- you started thinking about I bet they are going
to ask
13 me about how I feel about the death penalty?

14 A. Correct.

15 Q. And did you give it some thought, then, in between
the time
16 of the summons and the time that you filled out the
17 questionnaire?

18 A. Yes.

19 Q. What do you think?

20 A. I still feel the same way. I just -- it bugs me.

21 Q. Do you think we shouldn't -- we should not have a
death
22 penalty in America?

23 A. In a way, yes. But I feel, I guess, there's
probably some
24 way that they have -- you know -- have to take care of
things,
25 if it's -- if that's what it comes down to.

611

Juror No. 906 - Voir Dire

1 Q. Well, can you think of any good reason to have a
death
2 penalty?

3 A. No.

4 Q. Do you think -- and here, I really want you to
think about
5 your answer to my question before you give it because
this is
6 very important to us. Do you think that if you were on
a jury,
7 that you would be able to make a decision to end
another
8 person's life?

9 A. I think it would be hard; but if -- if I felt like
it
10 needed to be that way, yes.

11 Q. And you understand it's never required. I mean,
that's
12 what we have a jury for. We don't have an automatic
death
13 penalty where somebody commits a crime and they
automatically
14 get the death penalty.

15 A. Correct.

16 Q. Jurors are required to listen to evidence and make
up their
17 mind about it. And what I'm wanting to find out from
you is
18 after you'd heard all of the evidence and the
information about
19 the defendant and about the crime, itself, do you think
-- can
20 you conceive of any situation in which you would be
willing to
21 give the death penalty?

22 A. What were you saying? How was that again?

23 Q. Yes. Can you think in your mind of any set of
24 circumstances that would permit you to give the death
penalty?

25 A. I guess I still don't understand that.

612

Juror No. 906 - Voir Dire

1 Q. Okay. Can you think of any kind of crime, any type
of case
2 in which you could bring yourself to vote in favor of
the death
3 penalty?

4 A. The only thing I can think of is just taking
another
5 person's life.

6 Q. And if that were the case, you'd be able to
consider both
7 the life imprisonment and the death sentence?

8 A. Yes.

9 Q. And talk -- would you agree to -- one thing you
said in
10 response to the Judge's question -- and I wanted to
find my

11 note on it, so I may misquote you a little bit, but it
was like

12 I would make my own decision; I wouldn't listen to
other

13 people.

recall 14 I may have got that a little wrong. Do you
15 that?
16 A. Well, I mean, if it came down to, you know,
deliberating 17 and stuff, if I felt strongly one way or another,
unless they 18 can really, you know, get me to believe another way, if
I felt 19 that way, I -- if I was the only one saying no, I
don't, or 20 yes, I do, I'd have to stick with it.
21 Q. Right. And you're never required to give up your
22 conscience; but what I'm wanting to find out is if
you'd be 23 willing to discuss it with your fellow jurors.
24 A. Yes.
25 Q. Listen to their arguments?

613

Juror No. 906 - Voir Dire

1 A. Yes.
2 Q. And if they made sound, persuasive arguments that
changed 3 your mind, would you be able -- would you be -- if they
made 4 sound arguments that convinced you otherwise, would you
be able 5 to change your mind?

6 A. If I believed it, yes.

7 MR. RYAN: All right. Thank you for answering
my
8 questions.

9 THE WITNESS: Uh-huh.

10 THE COURT: Mr. Tigar.

11 VOIR DIRE EXAMINATION

12 BY MR. TIGAR:

13 Q. Good morning.

14 A. Good morning.

15 Q. It seems like it's going on a long time, doesn't
it?

16 My name is Michael Tigar, and I just want to
ask a few
17 questions. I'm one of the lawyers asked by the Court
to help
18 Terry Nichols.

19 When you first got your summons, you knew that
-- that
20 had to do with the case of Terry Nichols; right?

21 A. Yes.

22 Q. And when did you first start thinking that
questions about

23 the death penalty might come up?

24 A. Probably right away.

25 Q. Why did you think that?

Juror No. 906 - Voir Dire

1 A. Probably because of what happened in the other
trial.

2 Q. And you read about what happened in the other
trial; right?

3 A. Briefly, yeah.

4 Q. And what -- did you talk about the result in the
McVeigh

5 trial with any members of your family?

6 A. No.

7 Q. Did you talk about it at home?

8 A. Not too much, no.

9 Q. What -- what did you think about that result?

10 A. I guess not too much. Just, you know, pretty much
they had

11 to decide, the jury that was in that case.

12 Q. I understand. I know these are really tough
questions, and

13 I'm asking you to look as deep inside yourself as you
ever did.

14 This is about the most important part of this whole
process

15 for -- for Mr. Nichols. Did you think that that was
base --

16 based on what you'd seen on the news, that that was a
just

17 result?

18 A. I guess so.

19 Q. Did -- you said you thought it would be interesting
to be

20 on this jury. Why?

21 A. Probably because I don't know too much about it.

22 Q. Well, did you see the television coverage of the
jurors in

23 the McVeigh case?

24 A. No.

25 Q. Didn't see them interviewed?

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1 A. (Juror shakes head.)

2 Q. What parts of it do you think would be the most
3 interesting?

4 A. Probably because I just think it would be
interesting to be

5 on a jury. The other two times, when I got dismissed,
I kind

6 of wished I would have had the opportunity of staying
on. Just

7 to have that experience of listening and --

8 Q. All right. Well, let's -- let's talk a little bit
about

9 your sister-in-law. Now, the sister-in-law that uses
10 computers, is that the sister-in-law that works for the
Social

11 Security or the one that works for the FBI?

12 A. Well, they probably both do it. They probably both
use the

13 computers.

14 Q. But you mentioned that one -- I thought I heard you
say

15 that one sister-in-law was one that had encouraged you
or from

16 whose example you had been encouraged to get into
computers.

17 A. No. I wasn't encouraged. No.

18 Q. I see. Which one uses the Internet, I guess --

19 A. Oh, my -- oh, that's the youngest one.

20 Q. And is that -- does she work for the Social
Security or the

21 FBI?

22 A. No. She doesn't work -- she works at Rocky Flats.

23 Q. Oh, I see. So -- all right.

24 A. She works --

25 Q. We have an extra sister-in-law?

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Juror No. 906 - Voir Dire

1 A. Yes. There's three of them.

2 Q. We have a sister-in-law who works for the FBI;
right?

3 A. Yes.

4 Q. And then a sister-in-law who works for Social
Security?

5 A. Correct.

6 Q. And a sister-in-law that works at Rocky Flats?

7 A. Right.

8 Q. Okay. What does the sister-in-law that works at
Rocky
9 Flats do for a living?

10 A. She's, I think, a design engineer. She helps put
things
11 together, designs things for companies.

12 Q. Okay. And does she work for the federal government
at
13 Rocky Flats or for a private contractor?

14 A. I think it's for a private contractor.

15 Q. Do you know the name of the contractor?

16 A. I don't.

17 Q. Have you read the publicity about the Rocky Flats
situation
18 or any situation at Rocky Flats?

19 A. I hear it off and on, but I don't -- I don't read
the
20 newspaper too much.

21 Q. Have you talked to that Rocky Flats sister-in-law
about
22 that publicity?

23 A. No.

24 Q. Okay. Have you heard any mention of Judge Matsch
in
25 connection with any publicity about Rocky Flats?

Juror No. 906 - Voir Dire

1 A. No.

2 Q. Well, let's then turn to the sister-in-law that
works for

3 the Social Security Administration. Did you talk to
her about

4 the -- what had happened at Oklahoma City, what you'd
seen on

5 the news?

6 A. No.

7 Q. Didn't come up at family gatherings at all?

8 A. No. We don't see her too much. She got a divorce
and kind

9 of has been off in her own little world.

10 Q. In her own world. All right.

11 A. Sometimes she doesn't show up and --

12 Q. I'm sorry to hear that. But now, is that -- which
13 sister-in-law got married recently?

14 A. The youngest one. The one --

15 Q. The one that works at Rocky Flats?

16 A. Rocky Flats.

17 Q. So we have a married sister-in-law that works for
Rocky

18 Flats, we have a sister-in-law who works for Social
Security

19 that doesn't show up much, and then we have the FBI

20 sister-in-law?

21 A. Yes.

22 Q. Now, I'd like to talk with you, if I could, about
the

23 sister-in-law who works for the FBI.

24 A. Okay.

25 Q. When you saw the television coverage of the
building in

618

Juror No. 906 - Voir Dire

1 Oklahoma City there in Anaheim, you -- you were -- you
stayed

2 in California after that until about the first of May?

3 A. Right.

4 Q. Now, by the time you got back here the first of
May, your

5 FBI sister-in-law had gone to Oklahoma City; correct?

6 A. I think it was probably that weekend after or week
after.

7 Q. Okay.

8 A. She was still there.

9 Q. Right. And do you remember when she came back?

10 A. Vaguely, yes.

11 Q. Okay. Well, I understand it's a long time ago.
What's

12 your best memory of that?

13 A. Not too much.

14 Q. Well, about when did she come back?

15 A. I would say maybe about a month.

16 Q. About a month. Okay. And up here, when -- she
works next

17 door in that -- that tall building here; is that right?

18 A. Yes.

19 Q. Okay. There, she helps the FBI agents; correct?

20 A. Correct.

21 Q. And she helps them find information they're looking
for?

22 A. I believe so, yes.

23 Q. And some of that involves using computers?

24 A. Yes.

25 Q. So is -- I'm not trying to put words in your mouth.
She

619

Juror No. 906 - Voir Dire

1 helps them with their evidence that they are gathering
in

2 cases?

3 A. Correct.

4 Q. And now -- and what's your impression based on --
you know,

5 her having been a member of your family, what was she
doing in

6 Oklahoma City?

7 A. The only thing I -- I think that she was doing her
-- her

probably 8 work -- the normal work there. I don't think it was

9 related to the bombing.

10 Q. You don't know one way or another?

11 A. I -- I don't think it was, no.

there? 12 Q. Okay. And what did she tell you she had done down

maybe they 13 A. It was just her normal work. So I take it that

working on 14 had other cases there that the agents needed to keep

15 and she did that.

works for 16 Q. Okay. Now, are you proud of the fact your sister

17 the FBI?

18 A. I'm proud that she works there, yes.

19 Q. And do you think she does a good job?

20 A. Yes.

FBI does a 21 Q. And from talking to her, do you believe that the

22 good job?

23 A. I guess so. I guess I didn't think about that.

FBI did a 24 Q. Well, would you find it hard to believe that the

25 sloppy, lousy, dishonest job in a case?

1 A. I believe that could be done.

2 Q. You believe that -- would you find that hard to
believe

3 that that happened?

4 A. No.

5 Q. I'm asking you to look inside yourself. I mean,
suppose --

6 and we have to kind of suppose here because we don't
know what

7 your sister (sic) did down there. But suppose that you
were a

8 juror and suppose there were a number of witnesses who
said

9 that the investigation, the collection of evidence that
was

10 done in Oklahoma City, was sloppy, inadequate, and bad.
And

11 then suppose there were other witnesses who said no, it
was

12 good and they did the right thing and so on. A real
conflict

13 of testimony. Okay.

14 A. Uh-huh.

15 Q. How would you go about resolving that conflict as a
juror?

16 A. How would I decide one way --

17 Q. Yeah. How -- what sorts -- I'm not asking you how
to

18 decide, because, obviously, we don't have any evidence.

19 A. Right.

20 Q. I'm just asking you about a process. How would you
-- how
21 would you look at that?
22 A. Probably at the evidence that I would hear on each
side,
23 which one sounds better, which one gathered more
information.
24 Q. And if your verdict in the case was not guilty,
based in
25 part on your having decided that there was a reasonable
doubt

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Juror No. 906 - Voir Dire

1 about how the FBI did it, what would you feel about
telling
2 that to your sister-in-law the next time you invited
her over
3 for a football game?
4 A. I guess I wouldn't feel too good telling her that.
5 Q. Pardon me?
6 A. I guess I wouldn't feel too good telling her that.
7 Q. It would be tough?
8 A. Yes.
9 Q. Well, let's -- let's talk about that a bit. Why
would it
10 be tough?
11 A. Probably because she does part of that. She would
-- I

she 12 mean, not directly with this case, but probably because

13 helps gather information for the agents.

that 14 Q. I want to ask you about this -- a little more about

15 sister-in-law. You -- does she -- now -- the FBI

16 sister-in-law. Now, is she married?

17 A. No.

games, 18 Q. Oh, she's not. Okay. So when you go to football

19 that's your kids' football games; right?

20 A. Correct.

21 Q. About how often do you see her?

married, 22 A. Like I said, recently, my sister-in-law got

23 September 13.

24 Q. Right.

two times 25 A. So I've seen her at least maybe -- maybe every --

622

Juror No. 906 - Voir Dire

1 a week maybe.

where 2 Q. Two times a week. Well, other than these events

would you 3 you're planning for somebody's celebration, how often

4 see her?

5 A. Maybe once a month.

6 Q. Once a month. And that would be at football games
and

7 things like that?

8 A. Yes. And on occasion, I still cut hair. Family.

9 Q. For instance -- your oldest daughter is now 15 and
a half;

10 right?

11 A. Correct.

12 Q. Did she have a very special celebration when she
turned 15?

13 A. No.

14 Q. You didn't do that?

15 A. Just a birthday party.

16 Q. Just a birthday party. Okay. When you were
planning for

17 her birthday party when she was 15, did your sister-in-
law come

18 to that?

19 A. Yes. She would show up.

20 Q. So that's the sort of thing -- and you'd talk about
each

21 other's lives and work and what you were doing; right?

22 A. A little bit, yes.

23 Q. All right. Just sharing your experiences; correct?

24 A. Uh-huh.

25 Q. And the sister-in-law that works for the Social
Security

Juror No. 906 - Voir Dire

1 Administration, she's proud of what she does; correct?

2 A. Yes.

3 Q. Is -- is there some -- something about -- in your
family,

4 do either of your parents work for the United States

5 Government?

6 A. No.

7 Q. Do you know what it is that led two of -- of your
-- I

8 guess those are your husband's sisters -- into
employment?

9 A. My mother-in-law used to work for the Federal
Center, so --

10 she was there for a long time, but now she works at the
license

11 bureau. So I think that she was just trying to help
her

12 daughters get a good job.

13 Q. And other than your mother-in-law and the two
sisters-in-

14 law, any other federal employees in the family?

15 A. No.

16 Q. Well, let me talk a little bit about this -- the
publicity.

17 You get your news from television; right?

18 A. Pretty much.

19 Q. And you said in your questionnaire that you -- the
first
20 time you hear it -- well, don't let me put words in
your mouth.
21 Let's turn and see here. Excuse me. Here it is. Page
33, if
22 you could look. Let's start there. Do you have that?
23 A. Uh-huh.
24 Q. Good. You said that you -- you checked off on
Question
25 144, "TV news, newspaper and heard other people
discussing the

624

Juror No. 906 - Voir Dire

1 case"; right?
2 A. Uh-huh.
3 Q. Well, I want to talk about TV in a minute. But
what
4 newspaper do you look at?
5 A. The Rocky Mountain News.
6 Q. The News?
7 A. Uh-huh.
8 Q. And then said, "Heard other people discussing the
case."
9 Can we -- we've got all the time in the world here. I
know
10 that that -- that thought doesn't -- you know, may make
your

11 day, but we're -- what other people did you hear
discussing the

12 case?

13 A. Probably just family members.

14 Q. Family members?

15 A. And it's probably just right after it happened.

16 Q. Right.

17 A. And then, you know, I had to tell my husband I was
for jury

18 duty and they were like, oh, you know, just asking
questions if

19 I thought I'd -- they probably thought I'd be picked
or, you

20 know, being sequestered and --

21 Q. Right. Now, who was that?

22 A. Huh?

23 Q. I'm sorry. Who was that?

24 A. Family members.

25 Q. Family members?

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Juror No. 906 - Voir Dire

1 A. Yes.

2 Q. Okay. Let's start. Which family members can you
remember

3 saying anything at all about your jury service after
you got

4 the summons?

5 A. Probably my mom.

6 Q. Okay.

7 A. My sister-in-law. My husband.

8 Q. Okay. Now -- I'm sorry. I've got to ask. We have
the

9 Rocky Flats sister-in-law, the Social Security --

10 A. FBI sister-in-law.

11 Q. The FBI sister-in-law. Okay. And do you remember
what she

12 said?

13 A. Actually, I kind of asked her -- she told me that
it would

14 probably be at this courthouse, which I was kind of
thinking it

15 was just going to be the other one.

16 Q. And what else did she tell you or say to you?

17 A. Not much. Just was kind of surprised that I was
picked.

18 She -- she tried -- she knows that she probably
shouldn't ask

19 me questions or talk about it.

20 Q. I'm sure that's so. So you've told us everything
you can

21 remember that she said?

22 A. Yes.

23 Q. Okay. Any other family members?

24 A. Not really. I mean, my mom, I call her "Rocky
Mountain

25 News" because she'll tell my brother and sister I got

picked

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Juror No. 906 - Voir Dire

expressed 1 for jury duty. But other than that, no. They just

2 they heard it and that's about it.

Mountain News 3 Q. Okay. Now, when I asked about -- the Rocky

4 newspaper, that's the real Rocky Mountain News?

5 A. Right.

News? 6 Q. Your mother also goes by the name Rocky Mountain

7 A. I call her that.

County 8 Q. Okay. You do know that the Judge said at Jefferson

jury? 9 Fairgrounds that there are no plans to sequester this

10 A. Yes.

11 Q. So you knew about that?

12 A. Right.

But you 13 Q. Okay. Now, you said that you read not too much.

you need 14 also mentioned that -- let me get my note here -- that

credence, 15 to hear something twice in order to give it any

16 something like that, give it any force.

17 A. Yeah. I remember when I answered that question

here, I

18 remembered hearing on the news that morning that there
was a
19 kid kidnapped or a couple kids kidnapped from a school
and just
20 thinking how, you know, that was pretty upsetting. And
then
21 later on that evening, I heard that the -- that that
wasn't
22 true; that the kids gave wrong information. So, you
know, that
23 the first time you hear it, you -- you can't put, you
know --
24 you can't believe too much of it.
25 Q. Okay. But of course, in this case, you've heard a
fair

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1 amount; right? It's kind of hard to miss?
2 A. Right.
3 Q. Well, at Jefferson County Fairgrounds, you said you
were --
4 you felt kind of rushed in trying to get through the
5 questionnaire; correct?
6 A. A little bit.
7 Q. So could we look at these publicity questions,
starting
8 here on page 37. And look at Question 159. You said
--

9 "Summarize what you've seen, heard, and read about
Terry
10 Nichols." You say, "Just that he helped with the
bomb." And
11 then in questioning by one of these prosecutors, you
said that
12 you also remember something about planning. Well,
here's --
13 here's your chance. You heard something about he
allegedly
14 helped; right?
15 A. Correct.
16 Q. Okay. What did you hear about that?
17 A. Where did I hear?
18 Q. No. What -- what did you hear, if you can
remember?
19 A. Just that he helped plan a little bit of what they
were
20 going to do and -- and how to make the bomb. That's
about it.
21 It's -- it's kind of hard to remember that part because
we were
22 in Disneyland. We were just starting our vacation,
trying to
23 get over something that could be upsetting and still
make a
24 nice time out of the vacation for the kids.
25 Q. Sure.

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1 A. So --

2 Q. Do you remember seeing pictures of Terry Nichols on
3 television?

4 A. Back then or recently?

5 Q. Anytime.

6 A. Yes.

7 Q. And what -- what did he look like? How was he
dressed?

8 A. They were escorting him somewhere just with the
bulletproof
9 vest on.

10 Q. Did you see any chains or shackles on him?

11 A. No.

12 Q. Okay. Did you -- when you saw the bulletproof
vest,

13 what -- what did that make you think when you saw that?

14 A. I just thought they were trying to protect him.

15 Q. Okay. And what did it make you think about him?

16 A. I can't recall feeling -- or thinking about it.
Just that

17 they were -- you know, I remember when we were at the
Jefferson

18 County building, how he just seemed different because I
was

19 used to every time, I seen him, it was with that thing
on.

20 Q. Yeah. That's the only picture that they had, I
guess.

21 A. Uh-huh.
22 Q. Well, looking at him now, what opinion do you have
based on
23 everything you've heard and read? What opinion do you
have
24 about the person called Terry Lynn Nichols who is
sitting right
25 there?

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1 A. Nothing.
2 Q. Well, now let me talk and then we'll be done. I
want to
3 talk some about this penalty issue. Does counsel --
one of the
4 Government prosecutors asked you if you have any
knowledge or
5 views about what the Catholic Church feels about the
death
6 penalty. Do you have any knowledge or views about what
the
7 Catholic Church teaches -- and I understand these are
personal
8 questions. I hope you don't mind us asking.
9 A. No. That's fine.
10 Q. Okay -- about life or the reverence for life?
11 A. I -- I was born Catholic, but I don't go to church
too much

I 12 so, you know, the views about abortion and -- you know,
13 just -- I don't go to -- I don't know too much.
about 14 Q. Okay. Have you heard any discussion in the church
Vitae? 15 a -- an encyclical by the Pope called Evangelical
16 A. No.
term? 17 Q. Okay. You have not discussed that or remember that
18 A. No.
the 19 Q. Now, you mentioned that your mother does talk about
20 death penalty.
21 A. Not a whole lot. She just -- you know --
therefore, 22 Q. You're shielded here from the press and so -- so
about 23 I hope from your mom. But you said that your mom talks
24 the death penalty, things come out of her mouth.
25 A. Right.

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Juror No. 906 - Voir Dire

1 Q. Could you share with me --
2 A. Yes.
3 Q. No disrespect meant.
4 A. No. That's fine.

5 Q. -- what her views are?

6 A. I don't really know how she feels, you know, about
it
7 personally or -- but I know when -- she just kind of
said when
8 I was picked -- oh, she wanted to talk about it, and I
just
9 walked out of the room.

10 Q. What did she start to say? What was she --

11 A. She just said, "Well, and the way I feel about it,"
and I
12 just walked out. I said, "I don't want to hear about
it."

13 Q. Did you have a sense -- I mean, you know, I -- I
will not
14 confess I have walked out of the room when my mother is
15 speaking to me, but there were times when I felt I knew
what
16 the next five words were going to be. Was it like
that? Did
17 you know -- did you have an idea what she was going to
say?
18 A. No. Because I just kind of said, "I'm not supposed
to talk
19 about anything about that."

20 Q. Okay. All right. Well, you did mention in talking
that
21 you thought that the death penalty would be an option
if
22 someone were convicted of murder.

23 A. Uh-huh.

24 Q. So now I'm going to ask you to imagine, there you
are on a
25 jury, twelve people. Now, you have your own views and
you're

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Juror No. 906 - Voir Dire

1 entitled to those, absolutely, and you found somebody
guilty of
2 willful, premeditated, meant to do it, murder, eight
murders.
3 Now, under those circumstances, would you feel that you
ought
4 to impose the death penalty; that you ought to vote for
it?

5 A. If I felt that he did it purposely and -- yes.

6 Q. And that -- what would you take into account in
deciding
7 that you needed to vote for the death penalty for
somebody that
8 you concluded purposely committed eight murders?

9 A. How would I decide that?

10 Q. Yeah. How would you decide that? Can you tell me
your
11 reasoning about that?

12 A. Probably that he was sane, that he knew what he was
doing,
13 and if they had enough evidence against that person.

14 Q. You think that that's the -- what I hear you
telling me is

15 that the most important thing for you in deciding about
the
16 issue of punishment is what crime did that person
commit, does
17 that crime merit the death penalty.
18 A. No.
19 Q. Okay. Then tell -- tell me how -- I don't mean to
put
20 words in your mouth. Tell me I'm wrong or tell me --
tell me
21 the way it is.
22 A. Well, I didn't -- you know, I've never been asked
that, so
23 it's just a hard question.
24 Q. I understand that. I understand that. Take your
time
25 because -- let me back up a little bit and ask you what
-- why

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Juror No. 906 - Voir Dire

1 I'm asking these. We're going to pick twelve jurors
here, and
2 I don't imagine that you would want to go to a
volleyball game
3 in which you thought the ref started out, you know,
leaning one
4 way or another; right? You want all those calls made
straight
5 up and down.

6 A. Uh-huh.

7 Q. Even if you're a spectator and you didn't like
either team;

8 right?

9 A. Okay.

10 Q. It's not person -- is that the way you feel about
-- you

11 want that referee to be straight up and down?

12 A. Right. Uh-huh.

13 Q. It's the same here. With that in mind, tell me how
-- how

14 would you make that decision then in a case that -- the

15 hypothetical case, the imaginary case that I put?

16 A. I just think it's -- it would be hard having -- to
have to

17 listen to everything that was said.

18 Q. Okay.

19 A. And the crime that was committed and probably how
brutal it

20 was and if the person, like I said, knew what he was
doing.

21 Q. Those are the things that you think are -- are the
-- the

22 important ones?

23 A. Well, probably -- I'm sure there's probably more.
I just

24 can't think of them.

25 Q. Okay. All right. Just a moment, please.

Juror No. 906 - Voir Dire

1 Is it -- is it fair to say -- I'm just trying

to

2 understand this -- that you would not think a
punishment of

3 life imprisonment is appropriate for somebody who
deliberately

4 with premeditation killed eight people?

5 A. I think he needs --

6 Q. Do you think -- is it fair to say -- would it be
right to

7 say that you do not think that a punishment of life

8 imprisonment is appropriate, is the right thing for
somebody

9 who deliberately, intentionally killed eight people?

10 A. So I -- what you're saying is do I think it's fair
that he

11 would be -- a person would be --

12 Q. Sentenced to death?

13 A. -- sentenced to death?

14 Q. Do you think that's the only appropriate punishment
for

15 somebody that did that?

16 A. No.

17 Q. What crimes other than murder would you think of as
18 appropriate for thinking about whether to impose a

death

19 penalty?

20 A. I think that's probably the most -- one that I
would think

21 would be.

22 Q. Okay. As you sit there today, can you look Terry
Nichols

23 in the eye and say, I can give you a fair trial?

24 A. Yes.

25 MR. TIGAR: Thank you.

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Juror No. 906 - Voir Dire

1 THE COURT: Complete? All right.

2 VOIR DIRE EXAMINATION

3 BY THE COURT:

4 Q. Because you don't know exactly what your FBI
employee

5 sister-in-law did, I'm going to ask you to write her
name.

6 We're not going to ask you her name, but if you'll
write it on

7 this pad. I'd like to provide it to the lawyers
because since

8 you don't know and I don't know, it may be -- the
possibility

9 may be that she had some work in connection with this
case that

10 lawyers on either side might know. So I'd just like
you to

11 give me that and then I will give it to them so that

they will

12 have it. Is that okay?

13 A. That's fine.

14 THE COURT: Okay. Thank you very much. Now,
you're

15 done with this questioning, and we appreciate your
assistance.

16 And we don't know who's going to be serving on this
jury and we

17 won't know for quite some time, so we'll ask you to
bear with

18 us, please. And we'd like to be able to tell you today
yes or

19 no that you're going to be on the jury. Can't do it.
Can't

20 tell you when we'll be able to tell you. So -- or when
the

21 trial will start because we don't know how long this
process

22 will take us.

23 JUROR: Okay.

24 THE COURT: And so go from here now, believing
that

25 you will have the responsibility of doing what you said
you can

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1 do here and provide a fair trial and a fair judgment in
the

2 case.

3 JUROR: Okay.

4 THE COURT: Be careful about talking with
family,
and all
free
5 friends, watching television, reading the newspapers
6 that so you can come back to us as you are here now and
7 from the influence of publicity.

8 JUROR: Okay.

9 THE COURT: All right. You're excused for
now.
10 I just -- just show this to the lawyers so we
have it,
11 and it will be a matter of record that I exhibited this
name to
12 counsel now. You of course can copy it down.

13 MR. WOODS: Your Honor, could we get an
explanation
14 from the Government as to what her role is? They will
know.

15 THE COURT: Well, yeah, you can -- I'll ask
the
16 Government to let counsel for the defense know if you
have
17 information that this person had any role to play.

18 MR. WOODS: Thank you.

19 MR. MACKEY: Judge, this name is unknown to me
now,
20 but I'll check it out.

21 THE COURT: Well, you'll have to check

databases

22 maybe.

23 We'll recess 20 minutes.

24 (Recess at 10:54 a.m.)

25 (Reconvened at 11:13 a.m.)

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1 THE COURT: Mr. Tigar?

2 MR. TIGAR: Yes, your Honor. We had filed a
motion

3 this morning, but I wanted to express a concern. I
know that

4 your Honor is endeavoring to get really candid answers
from the

5 jurors and if anything has changed since the
questionnaire to

6 bring that out, but one of the themes of our case when
we get

7 to the merits is going to be that a lot of these
witnesses have

8 changed their stories after giving one version under
oath. And

9 we wanted to suggest to your Honor that in talking to
these

10 jurors that you not say things that would suggest that
it's

11 okay, having taken an oath, to answer the questionnaire
and

12 having then signed under penalty of perjury that, hey,

it's a

13 free ball and you can do whatever you want because --
and I'm

14 not -- I understand I'm exaggerating what the actual
questions

15 your Honor is putting, but it is of concern to us
because when

16 we get to this trial, we're going to want to be arguing
that,

17 you know, the story these people first told and then
with the

18 way it changes is important.

19 THE COURT: I understand the sensitivity.
I've tried

20 to -- at least in thinking about it, to suggest to them
that

21 because of the time pressure and the nature of the
questions,

22 they may upon reflection have some different view to
express.

23 That's what I've attempted to do, but I'll eliminate
that part

24 of the question, if that's what you want.

25 MR. TIGAR: Yes, your Honor. Thank you.

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1 MR. MACKEY: Your Honor, one matter. I've
been trying

2 to track in the last two and a half days how close
we're

3 getting to the line about asking death penalty
questions
4 premised on facts in this case, and I think the last
juror's
5 examination was one example, most recent, of having
crossed
6 that line. We simply want to raise that matter to the
Court
7 and pose this objection.

8 THE COURT: I think the eight murders is
suggestive of
9 this particular case.

10 MR. TIGAR: I will amend the questions on that
11 subject.

12 THE COURT: I think Mr. Woods has used
"multiple" and
13 let the juror define "multiple," and so forth, but --
and also,
14 of course, it does sort of put them in a quandary where
there
15 isn't anything else in the hypothetical, like the
difference
16 that may be in the roles. But I'll let you ask your
own
17 questions.

18 MR. TIGAR: I understand that. Your Honor, I
19 understand the Court's position on that. The number
eight is
20 removed. I think that both sides with respect to
what's in
21 their hypotheticals, depending on the juror, ask open-

ended

22 questions and sometimes ask close-ended questions.

23 THE COURT: Open are better.

24 MR. TIGAR: What?

25 THE COURT: The open ones are better, as we
all think,

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1 I think.

2 MR. TIGAR: I've heard a lot of close-ended
questions

3 on both sides of the courtroom, your Honor; and I think
we all

4 know exactly what the lawyers involved are doing when
they do

5 that.

6 THE COURT: Or trying to do.

7 MR. TIGAR: Yes, your Honor.

8 THE COURT: All right. We'll bring in -- I
have to

9 recess about noon today because I have another
obligation to

10 be -- maybe five after. But even if I'm right in the
middle or

11 you're right in the middle of something, we'll have to
recess.

12 I like to try to get through them, but we have to meet
other

13 obligations, too; so I just want to let you know that
ahead of 14 time.

15 I believe No. 61 is next.

16 Yes. If you'll just raise your right hand and
take 17 the oath from the clerk, please.

18 (Juror No. 61 affirmed.)

19 THE COURTROOM DEPUTY: Thank you.

20 THE COURT: Please be seated there and make
yourself 21 as comfortable as you can. Under the circumstances,
that may 22 not seem too comfortable to you.

23 VOIR DIRE EXAMINATION

24 BY THE COURT:

25 Q. You took an oath like that earlier, you'll recall.
And I'm

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Juror No. 61 - Voir Dire

1 going to be asking you some questions here; and your
answers

2 will have to be out loud so the reporter can get them.
And

3 that was on September 17, when you and other persons
summoned

4 for possible jury service in the case of United States
against

5 Terry Lynn Nichols were gathered together.

6 A. Yes.

7 Q. You recall the day, I'm sure.

8 A. I recall the day. I wasn't completely sure of the
date. I

9 seem to have forgotten the date.

10 Q. But you remember the occasion?

11 A. Yes.

12 Q. All right.

13 A. I was there.

14 Q. And on that occasion, I met with you and the other
persons

15 there on the jury panel and explained some things about
the

16 case and also introduced some people who will be
participating

17 in the case. And I want to remind you of them, and a
couple

18 additional people are here today.

19 Here at this table directly in front of you
are

20 Mr. Lawrence Mackey and Ms. Beth Wilkinson. You met
them. And

21 we have in addition Mr. Patrick Ryan, Mr. James
Orenstein.

22 These are attorneys for the Government in this case.

23 You also recall meeting Mr. Michael Tigar and

24 Mr. Ronald Woods, attorneys for Mr. Terry Nichols; and

25 Mr. Nichols also is here, as he was there.

Juror No. 61 - Voir Dire

1 A. Okay.

2 Q. And I'm just going to review a couple of these
things just

3 to put them on the record here, but I'm not suggesting
that you

4 don't remember what happened. But I just would refresh
your

5 mind that at that time, I explained something about the
6 procedural background of this matter, including that
there is

7 an indictment that was filed in Oklahoma City; and then
the

8 case was transferred here to Denver. Also that in this
9 indictment, there are some charges. I told you and the
others

10 generally what those charges are; that the Government
has

11 charged Mr. Nichols along with a man named Timothy
McVeigh and

12 then says in the indictment "and other persons not
named" with

13 a conspiracy to bomb a federal office building in
Oklahoma City

14 and to kill and injure people in it; that also of
participation

15 in such a bombing and the murder of eight law
enforcement

16 agents.

17 Do you remember --

18 A. Yes, I do.

19 Q. -- those -- that summary?

20 Also, I advised that there were separate
trials and

21 that the trial of Timothy McVeigh has been held and
what the

22 outcome was and said that can't be considered as far as

23 Mr. Nichols is concerned. And, of course, that is the
fact.

24 And here we are now, picking a jury for the trial of
Terry

25 Nichols, who is presumed to be innocent of these
charges. And

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Juror No. 61 - Voir Dire

1 you understand that?

2 A. Yes, I do.

3 Q. Now, as a part of getting the information necessary
for us

4 to consider persons for service on this jury, we did
ask you to

5 complete a questionnaire, and you did that. And I take
it you

6 have that completed questionnaire there in front of
you?

7 A. Yes, I do.

8 Q. And you, of course, gave us these answers after we

gave you

ability; 9 an oath to tell us your answers to the best of your

10 and I take it you did that.

pretty 11 A. Yes, I sure tried. Some of those questions were

12 hard to think about, yes.

had 13 Q. Yes, and some of them raised issues maybe that you

14 never thought about before?

15 A. That's right.

for us to 16 Q. So we understand that; and this is an opportunity

17 ask you some questions about your answers.

18 A. Okay.

in 19 Q. Asking you to explain; and if you want to explain

we're 20 addition to something that we asked you, you may. But

just as we 21 relying on what you've told us here; and of course,

22 rely on what you tell us now.

things 23 We know that these questions also ask you for

privacy. And 24 that are private in nature. Most of us value our

answering. 25 we understand that, and we're appreciative of your

Juror No. 61 – Voir Dire

things, 1 And we're somewhat apologetic of having to ask these
2 but I think you understand the need to do so.

3 A. Yes.

do all 4 Q. And of course, it's for these reasons that we also
of your 5 that we can to protect your privacy, avoiding the use
see you 6 name and even avoiding the opportunity for anybody to
part of 7 coming in and going out of the courthouse. That's all
8 attempting to protect privacy interests.

and 9 Now, I would like to turn to the questionnaire
10 some of the things that you've told us about and a few
questions, the 11 additional things; and then when I'm done with
12 lawyers will have an additional opportunity, each side,
to ask 13 you some more things.

14 A. Okay.

15 Q. You were born here in Colorado?

16 A. Yes, I was.

told us, 17 Q. And you were born actually in Longmont, as you've
18 and live now in the Englewood area?

19 A. Right.

guess you 20 Q. You did spend some time outside of Colorado. I
21 wintered some years in Arizona.
22 A. Yes.
to 23 Q. And then you also went to -- let's see. You went
24 Arizona State?
25 A. I went to Arizona State for a year.

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Juror No. 61 - Voir Dire

1 Q. Uh-huh.
out of 2 A. And I went to a couple of junior colleges. Right
3 high school, I went to a junior college there.
4 Q. In Arizona?
I went 5 A. In Arizona, in Phoenix; and then I got a job after
went back 6 to Arizona State, and then I came back to Arizona and
7 to school.
8 Q. You lived several years in Albuquerque?
9 A. And I lived in Albuquerque, yes.
10 Q. Now, that was after you completed your schooling?
11 A. Yes. Let me see here. What's the --
12 Q. Pardon me?
probably 13 A. I'm just trying to remember my -- the years, and I

14 should refer.

15 Q. Well, yeah. Page 6.

16 A. Page 6?

17 Q. Yeah.

18 A. I'm a little nervous.

19 Q. You're perfectly free to look at these, and I
should have

20 mentioned that page. Page 6, Question 28.

21 A. I graduated from high school in '65, and then I
went to the

22 junior college; and then I went to Arizona State. And
then I

23 got a job traveling as a child photographer, and I
lived in

24 California; and I travelled as far east as Ohio and as
far

25 north as Wisconsin, and I was in Texas and Kansas and I
did a

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Juror No. 61 - Voir Dire

-- 1 little bit of traveling to different states. And then

2 Q. Excuse me for interrupting, but was that all in the
pursuit

3 of this child photography work?

4 A. Yes. That was with the child photography company.
We went

5 to different J C Penney's and to take pictures for J C

6 Penney's.

7 Q. Bring your kids in and get a picture?

8 A. Right. After three years, I went back to Arizona
and went

9 back to school and became a medical laboratory
technician.

10 Q. Okay. So that's when you pursued this endeavor;
and that's

11 the work you do now.

12 A. Right.

13 Q. And your husband as well?

14 A. Yes.

15 Q. Since we're to that, let me just add, as I
understand it,

16 you work with blood and -- blood samples. Any other
body--

17 fluid-type samples?

18 A. Urine, joint fluids, spinal fluids -- just about
anything.

19 School specimens.

20 Q. Does your work involve the laboratory --

21 A. Yes.

22 Q. -- part of that, using analytical methods to
determine the

23 presence or absence of things that are of interest to
the

24 treating physicians?

25 A. Right.

Juror No. 61 - Voir Dire

1 Q. And in the course of your training for that
responsibility,

2 you had some chemistry --

3 A. Yes.

4 Q. -- I trust. How much chemistry have you had?

5 A. I had to take a couple years of chemistry that
directly

6 related to laboratory science.

7 Q. Is this essentially organic chemistry, or -- and
8 qualitative analysis?

9 A. I suppose we would call it organic. I'm not really
sure

10 what -- I had a basic six-month -- this was so long
ago. Basic

11 six-month in chemistry, like one course in just regular

12 chemistry, and then we went right into testing and the
theory

13 behind it, and so forth.

14 Q. Now, I don't know, you know, anything about what
happens in

15 those labs after we give up some blood and urine or
whatever.

16 Are there some machines that are used analyzing these
samples?

17 A. Yes. And the clinic I work in right now, we mainly
draw

18 blood; and we ship the blood to our main lab where my

husband

19 works and uses the big machines.

20 We have a CBC machine which counts cells and
sizes

21 them, and so forth.

22 Q. Do you know what CBC means?

23 A. A complete blood count. We count white cells and
red cells

24 and make sure the person is not anemic or doesn't have

25 leukemia.

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Juror No. 61 - Voir Dire

1 Q. The machine does the counting?

2 A. The machine does the counting. We can look at the
stained

3 slide if it needs to; but we don't have the big
machines at our

4 laboratory. I have worked with them in other
laboratories

5 and --

6 Q. What kind of -- excuse me. I didn't mean to talk
over you.

7 A. That's all right.

8 Q. What kind of chemical lab machines have you worked
with?

9 A. I've worked with analyzers that do glucoses and
blood urea

10 nitrogens and electrolytes and lithiums; and I've

worked with

11 some pretty big machines.

12 Q. Have you done infrared spectrometry?

13 A. No, I haven't done a spec -- I haven't.

14 Q. Okay.

15 A. No.

16 Q. Or any other types of machines that are hooked up
with -- I

17 suppose this count machine does it with a computer
process --

18 hooked up to it?

19 A. What it does is it let's the blood pass through an

20 electronically charged -- there is a little electric
beam that

21 goes through this little aperture. As the blood passes
through

22 here -- the blood is diluted -- as the blood passes
through, it

23 counts the electrical interruptions and is able to size
the

24 cells and count the cells in that manner.

25 Q. And gives you a readout?

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Juror No. 61 - Voir Dire

1 A. Right.

2 Q. Well, I don't know that it has anything to do with

3 anything, but it's interesting.

4 Now, your husband: Is he in the same lab?

5 A. No. He works at our central lab, which is over by
Aurora

6 Mall.

7 Q. So that's where they have more sophisticated
equipment?

8 A. Yes. It's more of the -- they have the bigger
machines,

9 the more expensive machines, and they're able to take
the time.

10 They get blood samples from the whole area, and they --

11 Q. And do you know what his background is in
chemistry?

12 A. He has had -- he's had more chemistry. He's had
organic

13 and I'm sure -- I'm sure he's had inorganic. He's had
both.

14 Q. He works with these more sophisticated machines --
I mean,

15 does he now?

16 A. Yes, he does now. He works in chemistry.

17 Q. Okay. While we're on the subject of employment,
I'd like

18 you to look at page 11, where we asked of you to
identify

19 whether you or anybody in your immediate family has
worked in

20 any of these particular fields. And you marked
security guard.

21 A. Oh. I was a security guard when I was going to
college in

women 22 a Western Electric plant. I was just supposed to keep
23 out of the smoking -- keep them from smoking in the
bathrooms.
24 It was one of those little jobs you do, you know, and
you can
25 still study.

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Juror No. 61 - Voir Dire

1 Q. Okay. And so you did that how long?
2 A. I think about a year.
3 Q. Were you working for some security company?
4 A. Yes. And --
5 Q. Don't remember the name?
6 A. I think it was Burns, but I don't remember for
sure.
7 Q. Well, okay. You were married before?
8 A. Yes, I was.
9 Q. And did that marriage end in a divorce?
10 A. Yes, it did.
11 Q. The children you have shown on page 3: Which
marriage?
12 A. My second marriage. There were no children with my
first
13 marriage.
14 Q. Okay. And what -- what was your then husband
doing? What

15 kind of work?
16 A. He was going to school. And actually, he was a
security
17 guard with the same company. That's where I met him.
My
18 mistake.
19 Q. You were going to school, too?
20 A. Yes, we were both going to school. He was in -- I
guess
21 when I left, he was trying to be a policeman. He was
going to
22 a community college and --
23 Q. Okay. Now, I want to be careful how I ask and ask
you to
24 be careful how you answer this next line of inquiry.
And it
25 could be a tender subject. Page 5.

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Juror No. 61 - Voir Dire

1 A. Okay.
2 Q. And Question 20.
3 A. Oh, okay.
4 Q. Now, first of all with respect to the reference to
one of
5 your children, I take it that's the middle one in age?
6 A. Yes.
7 Q. And is he in school?

8 A. Yes, he is.

9 Q. In any special program?

10 A. He is. He's got some learning disabilities.
Actually, I

11 don't think they have him -- this sounds kind of
ignorant. I

12 really haven't talked to his teachers yet this year,
because he

13 just started; but he's -- I think they're just watching
him

14 this year. He's kind of -- he's mainstreamed, and I
think

15 they're just kind of keeping their eye on him. He's
not -- you

16 know, he's doing all right. He just needs to be kind
of

17 monitored.

18 Q. Not -- I think they use words like "profound" or --

19 A. Right. Right. He's kind of mild.

20 Q. Mild or something?

21 A. I would say mild.

22 Q. Mild?

23 A. Uh-huh.

24 Q. But nonetheless, it's caused some concern. And
with

25 respect to the "yes" part of this, are you in a program
like

Juror No. 61 – Voir Dire

1 that now?

2 A. No. We're -- he's much better, and it did help us
in

3 coping with him. And I just backed off, and he's doing
much

4 better. I think I was trying too hard. Trying too
hard and

5 so --

6 Q. When was it that you sought this supportive
assistance?

7 A. I think it was about -- he was in about fourth
grade, so it

8 would be three years ago, three or four years ago.

9 Q. And it lasted about how long?

10 A. Three months.

11 Q. Everybody getting involved, your husband, other
children?

12 A. Yes, my husband was there. We just talked to the
kids, but

13 we took Ryan. And -- yeah.

14 Q. Okay. Well, I think you've answered as much as we
need to

15 know about that.

16 A. Okay.

17 Q. With respect to news and your routine habits with
respect

18 to news, how you get the news of the day, I think you
refer to

19 being a subscriber to The Denver Post.

20 A. Yes. You know, my life has just gotten so busy. I
used to
21 read it every morning; but my life in the last six
months just
22 seems to be so busy that we're just -- we're taking it
on the
23 weekends. And they do throw it to our driveway a
couple times
24 a week, and I usually do go through the news pretty
quickly.
25 But I'm not up as much -- as much up on it as I was.

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1 Q. What about television, radio news? Do you have a
regular
2 habit there?

3 A. I don't have any regular habits. I turn it on
sometimes,
4 but I don't watch anything regularly. I don't watch
any comedy
5 shows regularly, I don't watch any news regularly, and
I don't
6 have any dramas that I watch regularly.

7 Q. Well, some people, you know, driving into work
listen to a
8 news-type radio station where it's all news and
advertising.

9 A. Yeah. I live five minutes from work.

10 Q. Oh. You don't have to --

but I 11 A. So I don't have much time ---I might turn it on,
12 don't hear a whole lot.
you've got 13 Q. Well, the busyness in your life: Is it because
active 14 not only the work responsibility but children that are
15 in a lot of things?
youngest 16 A. My children, yeah. My children. And we have my
sometimes, 17 child in a core knowledge school where I volunteer
put in 18 and I don't always go to the school; but I do have to
19 some time, so I do a little bit of that.
20 Q. What type of school did you say?
knowledge 21 A. Core knowledge. A charter school. It's a core
22 school.
where the 23 Q. Do they have one of these progressive programs
of doing? 24 child advances according to what he or she is capable
25 A. No. They actually --

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1 Q. More structured?
2 A. Right.

and you 3 Q. Okay. The -- you got a jury summons in this case
got 4 responded to that. And I suppose at that time when you
possibility of 5 that summons, you mentioned to your family the
6 your being on jury service. Right?

7 A. Yes.

mean? 8 Q. And has there been a discussion about what it would

considerable 9 I take it that you understand that there may be
10 time commitment involved here.

11 A. Yes.

12 Q. We can't tell you how long.

13 A. Yes.

14 Q. It would be nice if we could.

15 A. Yes.

things 16 Q. But we can't. But certainly, it's going to disrupt
17 for a while.

have to 18 A. Yes, it will disrupt things, but you do what you
19 do.

20 Q. Okay.

morning, 21 A. I've been taking my kids to school, too, in the

22 and that takes up some time and I --

23 Q. You got that covered?

24 A. At school, I sometimes have to pick them up, and my
25 daughter is in driving ed., so I have to shuffle her
around

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1 with her friends. And there would have to be some
adjustments

2 made as far as my family goes.

3 Q. Are you prepared to do that?

4 A. If have I to.

5 Q. Well, of course, I'm sure you understand it isn't
easy for

6 most people. In fact, probably most everybody --

7 A. I know.

8 Q. -- has to make some adjustments with a
responsibility of

9 this type.

10 A. That's true.

11 Q. You -- after you left from completing the
questionnaire, I

12 particularly cautioned you to be careful about news and
about

13 conversation and not talk about the questionnaire and
other

14 things related to the case. And, of course, we
recognize

15 that's not easy. And always, there can be slip-ups or

16 inadvertent things, or people try to, once they learn

that you

17 may be on a jury, talk to you about it. Has anything
like that

18 happened?

19 A. For the most part, no. I think most people have
been very

20 considerate. There have been -- you know, there has
been a

21 couple people that will say things like, Oh, well, you
probably

22 don't want to do that. You probably, you know -- there
has got

23 to be some way you can get off, or something like that.
But

24 for the most part, most people have been pretty good.
They

25 know that I'm not supposed to talk about it and they
don't ask

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1 me questions like that. They may say, Well, were there
very

2 many people for the first -- I've had people ask me
that. Were

3 there very many people when you went that first time?
But that

4 was on the news, you know, so things like that, I don't
-- I

5 don't suppose, you know, are really --

6 Q. Well, the people who suggested to you you don't

want to do

7 it: Are you talking about people at work or in your
family,

8 friends, what?

9 A. Oh, acquaintances. Yeah.

10 Q. How about the people where you work? Do you work
in a

11 group?

12 A. I work -- yeah, I do work in a group. My boss just
said,

13 "I hope you don't get on it," but she didn't tell me
how to get

14 out of it. I mean, it's the same, you know. It's just

15 inconvenient for people. They would rather that -- but
they

16 understand and they know it's part of this country.

17 Q. Okay. Well, let me tell you some things and review
with

18 you some things that are sort of fundamental about jury

19 service. And you have never been on a jury, have you?

20 A. No.

21 Q. Or even through this process before, apparently.

22 A. No, this is the first.

23 Q. And, you know, we see things in the television and
all that

24 about trials -- but a lot of people do not have a basic

25 understanding of what the process is all about -- and
it may

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but I 1 not be true. You may understand it all perfectly well,
isn't any 2 would like to review it just to be sure that there
3 question about it in your mind.

talked 4 To begin with, as I indicated out there when I

reviewing 5 with the whole jury panel, to go back again, after

Nichols 6 what the charges are and my explanation that Mr.

facts 7 pleaded not guilty, and that puts in dispute all of the

trial 8 charged, everything the Government says, and requires a

9 and then calls upon the Government to come forward with

that? 10 evidence to support those charges. You understand

11 A. Yes.

12 Q. And that's what we're going to do in this trial.

a 13 And of course, I also mentioned that there is

14 presumption of innocence or presumption of not guilty.

15 A. Yes.

charged, no 16 Q. And that is true with respect to every person

That 17 matter who he or she may be or what the charges may be.

18 is because it's under the Constitution.

19 A. Right.

Nichols 20 Q. And the -- what it means is, first of all, that Mr.

things 21 sits here with us today presumed to be innocent of the

charges. 22 that have been alleged he did and result in these
You

23 understand that?

24 A. Yes.

explain 25 Q. And then it is not up to him to prove anything or

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having 1 anything in connection with this case. The Government,

proof; that 2 made the charges, it has what we call the burden of

prosecutors 3 is to say, to bring in the evidence upon which the

the 4 rely. And that's the witnesses, the exhibits, whatever

evidence 5 evidence may be. And there are rules that limit what

rules. 6 can be brought in, and those are essentially fairness

be, has 7 But the defendant, whoever the defendant may

witness 8 no duty to be a witness. He does not have to take the

9 stand and be a witness; and indeed, he doesn't have to
call any
10 witnesses or introduce any evidence.

11 And what the burden of proof is, also, in
terms of its
12 weight is that the evidence must be sufficient to
satisfy a
13 jury of the truth of the charges beyond a reasonable
doubt.

14 A. Right.

15 Q. And you've heard of all these things before, I
trust.

16 A. Yes.

17 Q. And what it means in real terms is that when there
is a
18 trial of a criminal case and if it is the case at that
trial
19 that a defendant does not testify, the court instructs
the jury

20 they can't consider that at all. They can't draw any
21 inferences from it or any assumptions about why didn't
he

22 testify. And in fact, the instruction goes, "You may
not even
23 discuss it in your deliberations about the evidence."

24 Understand?

25 A. Okay. Yes.

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1 Q. I don't know what will happen in this trial, and I
don't
2 know what the evidence will be in this trial; and I
want to
3 emphasize that, too. The fact that there has been
another
4 trial here does not mean what the evidence in this case
will
5 be. I'm speaking of the trial of Mr. McVeigh.

6 Now, then, the jury is told at the end of the
trial
7 after they have considered all of the evidence and
discussed
8 the case, if there remains a reasonable doubt as to
whether the
9 evidence shows guilt, then they have to give the
defendant the
10 benefit of that doubt and find him not guilty. You
understand
11 that?

12 A. Yes.

13 Q. And that would be your responsibility in this case.
You
14 understand that?

15 A. Yes.

16 Q. And are you willing to accept those principles and
follow
17 them if you were on this jury?

18 A. To the best of my ability, yes.

19 Q. Well, you know, that's what we're looking at here,

is what

20 is your ability to do that.

21 A. Yes.

22 Q. So you don't see, I take it, anything that would
make you

23 unable to do that. Is that what you're saying?

24 A. I don't think there would be anything that would
make me

25 unable to be -- to do that.

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1 Q. Okay. Now, we have asked you some questions on
page 28 of

2 this questionnaire that ask for your views about
punishment and

3 particularly the punishment of life in prison without
any

4 possibility of ever being released and the punishment
of death.

5 Please -- go ahead and take time to read your answers
here. I

6 don't . . .

7 Okay. Now, these are questions asked of you
without

8 regard for any law that you may know or not know. This
is sort

9 of basic to your beliefs, your personal beliefs. And,
you

10 know, there isn't any right and wrong test here. This

is just

11 information about you and what you think and to some
extent

12 feel about these very important questions.

13 It would appear from what you've answered with
respect

14 to religion and from what you've answered here and an
earlier

15 question about whether you have a religious or moral
view that

16 would affect this that you've gone through some
changes,

17 perhaps, in your thinking. Is that -- am I reading you

18 correctly there?

19 A. Yes. I'm probably more undecided about the death
penalty

20 than I might have been previously.

21 Q. Are you also undecided about religious convictions?

22 A. Oh, well, that's probably changed, too. I was
pretty

23 religious when I was young.

24 Q. Uh-huh. And now you have --

25 A. I'm more agnostic.

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1 Q. Yeah. Uncertainty.

2 A. Right.

3 Q. And at any rate, at this time, you're not a
follower of any

4 particular doctrinal faith?

5 A. No.

6 Q. And that is the reading that I get from your
answers on 28.

7 You're undecided --

8 A. Yes.

9 Q. -- about punishment.

10 A. Yes.

11 Q. And is this a subject that you have thought a good
deal

12 about, talked about with others before you came out and
got

13 confronted with these questions in Jefferson County?

14 A. That is something that I have thought about from
time to

15 time.

16 Q. Have you thought about it in concrete terms with
respect to

17 any particular cases in courts that you've read about
or heard

18 about?

19 A. Well, you know, the news, maybe in the papers or
magazines

20 about, oh, child molesters or people who have been
especially

21 cruel to other people without any conscience, without
any -- I

22 suppose those are the most horrendous. I mean, those
are the

can't 23 ones you think about the most. Maybe -- because I
forces 24 understand. I can't understand so much of this that it
25 you to think about these things.

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don't 1 Q. The complexity of life and what human beings do or
2 do.

3 A. Right.

about with 4 Q. Is it a subject that you've talked with others
5 any -- in any depth, real depth?

subjects that 6 A. Probably not real depth. It's one of those
7 is hard to make a commitment on for me.

8 Q. You're not being asked about commitment now.

with it 9 A. But, you know, a real -- until you're confronted
10 for sure on some level that you have to make a
decision, there

a 11 are just some things that a lot of times I do not make
12 decision on unless I have to. And this has been one of
them.

don't 13 I think about it. I skirt it. I do discuss it. I

this 14 really get into in-depth discussions with people about
15 type of subject.
16 Q. There are some times where as a result of a motion
17 picture --
18 A. Right.
19 Q. -- or a book or something that really --
20 A. Yes.
21 Q. -- focuses on this --
22 A. Yes.
23 Q. -- people talk about it. Have you seen any such
movies or
24 read such books?
25 A. Grisham's book about -- what was it called? -- A
Time to

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1 Die (sic)? Was that it? A Time to Die?
2 Q. I don't know.
3 A. About the little girl that was raped. I believe
that's the
4 name of the book. And some of the newspaper stories
like Polly
5 Klaus and the murder trial -- the man that is supposed
to be
6 executed here in Colorado soon. Things like that.
Yeah. That

7 makes you think about it.

8 Q. All right. Now, the reason that we're asking you
to think

9 about it now and tell us about it is, as this
questionnaire

10 explains --

11 A. Okay.

12 Q. You remember we gave you some explanation here in
writing

13 as to why these questions must be asked, and I want to
expand

14 on that a little now. It's because of the offenses
charged and

15 the law that says that if there is guilt of offenses,
then

16 under certain circumstances described by the law, there
can be

17 the death penalty considered.

18 A. Yes.

19 Q. Now, sentencing is ordinarily a matter for judges.

20 A. Right.

21 Q. And in the cases not involving this question, you
know,

22 what happens is a jury gets selected like this, the
jury hears

23 and decides the case. Obviously, if the decision is
not proved

24 or not guilty, that's the end of it; but if the jury
does

25 decide unanimously that the crime has been proved
beyond a

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1 reasonable doubt, then that's it. The matter goes back
to the
2 judge and the judge has to decide what sentence is just
and
3 appropriate for the particular person and the
particular crime.
4 And that is a decision that gets made as a result of a
separate
5 hearing --
6 A. Right.
7 Q. -- separate from the trial and involves the
collection of
8 information about the defendant as well as information
about
9 the offense, some additional information beyond that
which may
10 have been presented at the trial. And then the
information
11 gathered about the defendant includes all of those
things that
12 are unique to him or her, things about his family
history,
13 where and how he was born and raised, employment
history,
14 family relationships, married or not, children, a lot
of
15 things. And then there is, you know, statements made
on behalf

16 of the prosecution and the defense. And the judge says
this
17 sentence is right for this person.

18 Now, when the issue is life or death, we don't
leave
19 that to judges. That's up to the jury. It's up to the
jury
20 because our federal law says this is an issue that has
to be
21 decided by the community because it's an issue of
conscience.

22 And there is another hearing for additional information
to be
23 given to that jury, sort of like what I've just talked
about
24 goes to a sentencing judge.

25 So there is a separate trial, a second trial,
a

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1 penalty phase hearing, as we sometimes refer to it.
And in the
2 course of that, information of this type is provided,
including
3 information about the individual human being who is
being
4 judged. And that's done through the adversary process,
too,
5 because we have the Government lawyers offering what is
6 referred to generally as aggravating factors, things

that they

7 urge the jury to consider and in considering whether
death is 8 justified.

9 The defense offers what are called mitigating
factors, 10 information that suggests that regardless of the crime,
the 11 sentence of death is not justified.

12 And the real choice here is whether there
should be a 13 death sentence or life in prison with no possibility of
ever 14 being released. That's the fundamental choice for the
jury.

15 You follow me on this?

16 A. Yes, I do.

17 Q. And what the court does, then, is instruct the jury
about 18 these aggravating and mitigating factors and suggest a
sort of 19 method to analyze; but it's not arithmetic and it's not
like 20 counting blood cells and all, you know. What it comes
down to 21 is judgment, the judgment of the people on that jury.

22 that kind of judgment is is a moral judgment,
And what considering all

23 of the facts and circumstances presented. And the
question is:

24 Are you one who can make such a judgment?

25 A. That's a tough question. I would hope so.

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approach 1 Q. Nobody can say with certainty how they're going to
2 an issue as serious as that. We understand.

3 A. That's a very serious issue. It's very serious.

know, what 4 Q. And it is serious to everybody here. But, you
5 we can ask for and ask about is whether you can
approach it

6 with an open mind and consider both types of sentence.

7 A. I believe I could consider both types of sentences.

to have 8 THE COURT: All right. The lawyers are going
9 an opportunity to ask you some questions, too. We're
10 approaching the noon hour, and I'm going to have to
recess
11 pretty soon.

with you 12 I don't know, Ms. Wilkinson. Is it all right
13 to start?

be fine. 14 MS. WILKINSON: Sure, your Honor. That would
15 I'll start with just a few preliminary questions.

Wilkinson if 16 THE COURT: All right. So we'll ask Ms.

the 17 she has questions of you on behalf of the counsel for
18 Government.

19 MS. WILKINSON: Thank you, your Honor.

20 VOIR DIRE EXAMINATION

21 BY MS. WILKINSON:

were a 22 Q. Good morning. I heard you tell the Judge that you
23 little nervous.

24 A. Yes.

understand. 25 Q. You know that's understandable here. We all

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about 1 I got a little nervous when I heard you talk
since 2 what you do. And you probably get that reaction a lot
if -- 3 you take people's blood; and I just wanted to ask you
you 4 since you've been doing this for quite a few years, are
5 good at getting that blood the first time?

though, 6 A. I'm good. I'm good. I miss every once in a while,
7 but I am good.

8 Q. All right. I feel better.

9 I was reading through your questionnaire and

trying to

10 figure out if there was something you told us that
would kind

11 of summarize how are -- what your responsibilities are;
and I

12 laughed when I read what kind of car you drive. And
you

13 described it as a van that's a "kidmobile." Do you
recall

14 that?

15 A. Yeah.

16 Q. Would that basically sum up the kind -- the
17 responsibilities that you have in your life currently?

18 A. Yes. I'm just really busy with children at the
moment.

19 Q. Would you say that your children are your priority
right

20 now?

21 A. Yes.

22 Q. Is your daughter -- I see that she's 15 years old.

23 A. Yes.

24 Q. Is she an official teenager?

25 A. She is, but she's really a good kid.

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1 Q. So far, so good?

2 A. She's so far, so good. She's easy.

3 Q. You told the Judge a little bit about some of the
4 difficulties that your son has faced, and it sounds
like he's
5 doing much better and the family is doing much better.
Is that
6 right?

7 A. Oh, yeah. He's really a sweet boy, and he doesn't
have a
8 lot of the things that a lot of ADD kids have. He's
got lots
9 of friends, and he mainly has trouble in school; so we
just
10 have to stay on top of that and -- I don't know. He'll
do
11 fine.

12 Q. How has it affected your other children?

13 A. Oh, well, ADD kids always require more attention
than
14 anyone else, so they've been ignored; and they've
probably
15 grown up a little faster than usual, but they're doing
okay.

16 Q. Do you find that they're more understanding about
children,
17 and kind of kids -- you know how mean kids can be to
each
18 other; that kids may have difficulties?

19 A. My oldest is probably more understanding. My
youngest
20 probably resents the fact that he gets most of the
attention,

21 but that's okay. Just have to work with that.
22 Q. I notice that you also said in your questionnaire
something
23 about the Judge had asked you whether you agreed with
following
24 his instructions. And you said you thought that was
very
25 important because both sides deserve a fair trial and
you knew

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Juror No. 61 - Voir Dire

1 how serious the charges were. And I take it that you
still
2 feel that way?

3 A. I think this is -- it's really important that he
get a fair
4 trial. I think it's very important for everybody.
It's very
5 important for me that he get a fair trial.

6 Q. And because of that, you understand that's why
we're asking
7 you some of these questions about the death penalty and
your
8 views and why it's so important to us, to all the
parties, to
9 have you honestly answer the questions to the best of
your
10 ability.

11 A. Yes. Yes. It's -- I do. And I guess that's why
I'm

12 hesitant, because it -- it is such a hard question. I
have
13 trouble just -- just answering it without -- without
qualifying
14 my statements, maybe, without stating that I also feel
15 uncomfortable with it and have doubts, too.
16 Q. Well, you understand we don't -- you don't have to
qualify
17 any of your statements here. There is no right or
wrong
18 answers.
19 A. Yeah.
20 Q. You know, I know you may feel like you're on trial
right
21 now, but you're really not.
22 A. Well, I just -- I hate being kind of -- hate being
23 doubtful -- I mean it's probably important for you to
know
24 exactly where people stand and it's -- that death
penalty stuff
25 is kind of tough for me. I, you know -- life in prison
is

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1 different than -- yeah.
2 Q. It's tough for everyone, I think.
3 Because it is almost noon and I think the
Judge is

hour to 4 going to have us break soon, I'd ask you over the lunch
we need 5 think about your views. You said you understand that
And 6 to know your views and as clearly as you can tell us.
time we 7 that's important because, of course, this is the only
sit 8 get to ask you any questions if you're selected. You
we'll 9 there, we're not allowed to communicate with you, and
you'll make 10 present the evidence; and at the end of the trial,
11 your decisions.

12 A. Right.

13 Q. And if you determine with your fellow jurors that
the 14 defendant is guilty; that we've proved that to you
beyond a 15 reasonable doubt, you will face this penalty question.

16 A. Yes.

17 Q. And we can't come back and say, Well, now, you
know, are 18 you really sure that you can do it, or do you feel like
it's 19 just something you don't -- you know, you don't want to
do,
that no one 20 because no one can force you. You understand that;
21 can force you to do that?

a 22 A. And I understand that. And I would be able to make
23 decision with guidelines, I'm sure.

24 MS. WILKINSON: All right.

and 25 Well, Judge, if it's okay to take a break now

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1 we'll talk about that when we come back.

2 THE COURT: Okay. We're going to take a noon
recess.

3 We'll try to make it 1:15. There is the possibility
that I

4 might be a little tardy, but -- because I've got
something else

5 I've got to do during this time; but this is the most
important

6 thing, of course.

7 So during this time, you will be provided
lunch and

8 you'll be with other people under the same
circumstances here

9 who have been called in and not yet called into court
and, of

10 course -- we ask you not to discuss it with them in any
respect

11 or with anybody else. So we'll try to be back at 1:15
and

12 resume at that time. We'll recess.

13 You may step out now.

14 (Juror out at 12:02 p.m.)

15 THE COURT: And we'll recess till, I hope,
1:15.

16 (Recess at 12:02 p.m.)

17 * * * * *

18

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24

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16 * * * * *

17 REPORTERS' CERTIFICATE

18 We certify that the foregoing is a correct
transcript from

Dated 19 the record of proceedings in the above-entitled matter.

20 at Denver, Colorado, this 1st day of October, 1997.

21

22

23

Paul Zuckerman

24

Carpenter

Bonnie

25

