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Transcription
Street,
629-9285

Proceeding Recorded by Mechanical Stenography,
Produced via Computer by Paul Zuckerman, 1929 Stout
P.O. Box 3563, Denver, Colorado, 80294, (303)

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1 APPEARANCES
2 PATRICK RYAN, United States Attorney for the
Western
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, BETH WILKINSON, GEOFFREY MEARNES,
and
8 JAMIE ORENSTEIN, Special Attorneys to the U.S. Attorney
9 General, 1961 Stout Street, Suite 1200, Denver,
Colorado,
10 80294, appearing for the plaintiff.
11 MICHAEL TIGAR and RONALD WOODS, Attorneys at
Law, 1120
12 Lincoln Street, Suite 1308, Denver, Colorado, 80203,
appearing

13 for Defendant Nichols.

14 * * * * *

15 PROCEEDINGS

16 (Reconvening at 1:15 p.m.)

17 THE COURT: Be seated, please. We'll resume
with No.

18 61.

19 (Juror No. 61 was recalled to the stand.)

20 THE COURT: All right. If you'll resume your
seat,

21 please.

22 Ms. Wilkinson, you may continue.

23 MS. WILKINSON: Thank you, your Honor.

24 VOIR DIRE EXAMINATION CONTINUED

25 BY MS. WILKINSON:

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1 Q. After our discussion, did you have a nice, relaxing
lunch,
2 thinking about the most important question you could be
asked?

3 A. Yes. And I -- and I should have thought about that
4 question more, and I -- I thought about it, but it was
just --
5 that's just a very difficult question. And I'm afraid
it would

would 6 haunt me if I had to decide for the death penalty. I
suppose 7 feel very uncomfortable making such a decision. I
don't want 8 anyone can make a decision like that, but I really
to make 9 to be haunted for the rest of my life if I were to have
time that I 10 a decision like that. I don't feel morally at this
11 could do that.

that's what 12 Q. You're making a face. Please -- we understand
truth. 13 we asked you to do was think about it and tell us the
any 14 There's no one who's looking askance at your answers in
thought and 15 way. We appreciate that you've given it so much
what you 16 you've couched it, I guess, in moral terms, which is
moral 17 heard the Judge say; that ultimately, it would be your
18 decision that you have to live with.

19 A. Right.
confronted 20 Q. Would it be fair to say then that if you were
and the 21 with the two alternatives which would be life in prison
22 death penalty, you would always choose life in prison?
23 A. Life in prison.
24 Q. And it really wouldn't matter what the facts and

25 circumstances were of the case; that's just morally
what you

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1 feel is appropriate? Or feel comfortable with?
I -- 2 A. That's what I feel comfortable with at this point.
and -- 3 I -- you know, I suppose it would depend on the trial
to 4 and what other facts -- you know, what facts would come
know 5 light or what -- whatever would -- you know, I don't
come up. 6 what's going to be said. I don't know what's going to
7 It would depend.
8 Q. Right. And no one does --
know. 9 A. Maybe I would feel differently then. I -- I don't
10 Q. But right now, as you sit here today --
11 A. Right now, yes.
12 Q. -- you couldn't give that fair consideration?
13 A. No.
that's 14 Q. As I told you -- or as we discussed before lunch,
it fair 15 obviously what we're looking for is that you would give
16 consideration. That's what we're asking, just like Mr.

Nichols

17 is asking for a fair trial. You had mentioned earlier
-- and I

18 don't want to --

19 A. Yes.

20 Q. -- you know, dwell on this too long, but I want to
make

21 sure I understand your answers -- that you had had
other views

22 prior to this and that this has been a very difficult
issue for

23 you, and it sounds like you've come to some conclusions
now but

24 you had different views or other views earlier. Were
you

25 anti-death penalty in a stronger way earlier in your
life or

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1 were you --

2 A. Well, I-- I believe that -- that I felt the death
penalty

3 was necessary earlier. And after thinking about
different

4 cases -- different views, I'm not so sure anymore.

5 Q. Well, let me ask you just one last question about
that --

6 A. Okay.

7 Q. -- that's pretty direct.

8 A. All right.

9 Q. Mr. Nichols is going to ask you, as he should and
as we
10 should, if you can look him in the eye and give him a
fair
11 trial, and you've said you could do that.

12 A. I do believe I could do that.

13 Q. We want to know, though, if you were on this case
or on a
14 case with the death penalty and you had to determine at
-- and
15 make that decision with other jurors, would you feel
just as
16 comfortable coming out and telling a defendant and
looking him
17 in the eye that you had sentenced him to death?

18 THE COURT: I'm not sure the word is
"comfortable."

19 MS. WILKINSON: Okay. I can rephrase it, your
Honor.

20 THE COURT: You know, that engenders a thought
that
21 may -- I'm not sure we're -- how many people would be
22 comfortable with it. So I don't think the test -- it
isn't a
23 test. I don't think the word is "comfortable." I
don't mean
24 to criticize, Counsel, but it's more a question of
whether this
25 is something you could not do, make a decision between
life and

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1 death and weighing both and considering all the
circumstances.

2 JUROR: I am sure that I could -- you know, I
-- I

3 imagine I could do it. I don't want to do it.

4 BY MS. WILKINSON:

5 Q. Well, I -- I sense already a kind of -- a
difference in

6 your answers. When you first came back, you said you
didn't

7 think that you could really do it fairly. Obviously,
anyone

8 can consider it and say, In theory, yes, I understand
the death

9 penalty is an option, I understand life in prison is.
And then

10 you told me that you would choose life in prison every
time.

11 A. Yes.

12 Q. So I think what I was trying to get at rather

13 inarticulately with the idea were you comfortable, not
would

14 you be comfortable, could you actually make that
decision that

15 it was the morally correct decision if the facts
warrant it.

16 We're obviously assuming the facts warrant it. You're
not

17 going to get there if the facts don't warrant it. But
even
18 then, are you going to feel like it's a morally correct
19 decision?
20 A. I don't think I could make -- I don't think I could
-- I
21 don't believe it would be morally correct to put
someone to
22 death.
23 Q. Okay. Thank you, very much.
24 A. That statement.
25 Q. That's clear.

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1 A. That's clear.
2 Q. I appreciate it. Thank you.
3 A. I'm sorry. It takes a while to make it clear.
4 Q. No, please, don't apologize.
5 A. It takes a while to make it clear, I guess.
6 Q. As the Judge told you, we all understand that these
are,
7 you know, difficult issues, and I again appreciate you
being
8 honest.
9 THE COURT: Mr. Woods.
10 MR. WOODS: Thank you, your Honor.

VOIR DIRE EXAMINATION

11

12 BY MR. WOODS:

13 Q. Good afternoon.

14 A. Good afternoon.

as the

15 Q. We met two weeks ago out at the Jeffco Fairgrounds

the

16 Judge introduced me. My name is Ron Woods. I'm one of

Terry

17 attorneys that was asked by the Court to help represent

18 Nichols.

have

19 We have to go last so most of the questions

just a

20 already been asked before we get to go, so I will have

21 few questions for you.

22 You're currently reading a book by Dee Brown.

23 A. Uh-huh.

Wounded

24 Q. Creek Mary's Blood. Had you read Bury my Heart at

25 Knee?

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1 A. About 20 years ago, maybe even longer, though.

interested in

2 Q. It was in the early 70's. Do you -- are you

3 books by Dee Brown and in particular Native American

history?

4 A. Oh, I think history is very interesting, and I -- I
do like

5 Indian history. I kind of run cycles.

6 Q. All right. Are you familiar with the incident that
7 happened at Wounded Knee in the 70's involving the FBI
and the

8 Indian movement?

9 A. I vaguely remember it, but I couldn't give you any
details.

10 Q. I want to ask you just a little bit about your
employment

11 at Kaiser. Have you talked with any of the doctors
there about

12 this case?

13 A. No.

14 Q. Okay. Can you give me a little bit of information
about

15 how you analyze the samples that you take. You wrote
on your

16 questionnaire that you take the blood samples and then
you

17 analyze them.

18 A. Uh-huh.

19 Q. Can you give me a little detail about how you do
that.

20 A. Well, after I draw the blood and you mix it well
and when

21 we count the blood cells, we -- I explained to the
Judge how

22 that works, how you count cells. That's our main

machine. We
23 do have a glucose analyzer where we spin -- we can --
use a
24 heparinized tube and analyze it and see how much
glucose is in
25 the specimen. We used to do protons. Don't do those
anymore.

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1 Urinalysis, we run through a machine. We test for all
the
2 chemical components in urine, and then we do
microscopics to
3 see if there's a -- any bacteria or --
4 Q. Okay.
5 A. -- yeast or anything like that. And for spinal
fluid and
6 so forth, we do gram stains to check for bacteria. And
we do
7 cell counts and so forth. And then otherwise, we just
process
8 the blood. We separate it. Spin it down, separate it
and send
9 it off.
10 Q. Okay. Would you agree that it's essential, before
the
11 sample gets to the machine, that all precautions are
taken as
12 to the cleanliness and the lack of contaminants
entering into

13 it?
14 A. Oh, well, yes. It's a closed system, so for the
most
15 part --
16 Q. What steps are taken in your lab that assures that
that
17 happens before it gets to the machine for analyzation?
18 A. Well, the way we -- we spin it down and it's all
closed.
19 It's in a closed tube. It has a vacuum. It just sets
up the
20 blood. We check with the patient, make sure it's the
right
21 patient. I do it several times. It's labeled with a
bar code
22 so that you're bar coded just like a box of cereal, and
we spin
23 it down. We separate it. We go from one hand to the
next so
24 we're not working with any more than one tube at a time
or one
25 person at a time. And you separate it and then send it
off.

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1 It's -- we have a lot of checks and balances.
2 Q. Okay. But there are checks and balances. Have you
3 received any questionable readings that you think or
thought

4 that should have been rerun and you retested the
matter?

5 A. Oh, yeah. Occasionally. You do that.

6 Q. Was that based on something that happened to it
before it

7 got to the machine or was it based on something that
the

8 machine read out?

9 A. Sometimes something is wrong with the blood.
Sometimes it

10 was drawn in too small -- if there's too much trauma
when you

11 draw the blood, it might be hemolyzed and the result
will be

12 wrong. It won't be as accurate. So you redraw it.

13 Occasionally, there have been mislabeled specimens. We
try to

14 avoid that. And if we ever think that it is
mislabeled, then

15 we redraw it. Sometimes, there's a reading that the
doctor

16 doesn't believe because of his analysis of the
patient's

17 condition and so he wants it redrawn. So we will redo
at

18 that -- you know, if that happens.

19 Q. All right. Have you been involved in calibrating
the

20 machine, putting the test subject in there and then
calibrating

21 the machine?

22 A. Yeah. I've calibrated some machines. Not all of
them.

23 Q. Okay. And would you agree that that's a very
essential

24 part of getting an accurate reading of the unknown
specimen

25 going in?

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1 A. Well, what we do is we calibrate the machine to
make

2 sure -- let's see. The cell counter that we have, we
calibrate

3 to make sure that it's reading properly. We only do
that about

4 once a quarter. We run controls every single day, and
the

5 controls tell us if we are getting the answers that we
should

6 be so that we know that the machine is still in
calibration and

7 so that we know that the other results are accurate.
We do do

8 that every single day. In the morning and the
afternoon, yes,

9 we do.

10 Q. Okay. All right. Would you agree that that's
essential

11 for a lab to do that's using machines?

12 A. Oh, yes. Yes. Absolutely.

13 Q. I wanted to talk to you just briefly about
publicity
14 because you put in your questionnaire that -- when you
were
15 asked about the extent of the publicity, page 33, No.
145, "How
16 would you describe the amount of media coverage you've
seen
17 about the Oklahoma City bombing," and you put, "Quite a
bit."

18 A. Oh. Yeah. Well --

19 Q. Excuse me. Don't let me step on your answer. Go
ahead.

20 A. That's -- I was just saying when it first happened,
I
21 watched all that.

22 Q. Okay.

23 A. And for a while afterwards, but that was a while
ago.

24 Q. Right. And you told us that for this past six
months,

25 you've been so busy that you really haven't had time to
--

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1 A. I haven't paid attention.

2 Q. -- pay attention to all the publicity, but I take
it for

3 the two years up until -- it's now been two and a half

years.

4 So for two years, did you follow it quite a bit?

5 A. You know, I don't follow -- I don't follow these
types of

6 things because I figure it's up to the jury to take
care of it.

7 Right?

8 Q. That's the theory. And then you get called.

9 A. Yeah. Oh, my. Besides, I know there's a lot of
10 misinformation and -- you know, it seems kind of
pointless

11 anyway --

12 Q. Well --

13 A. -- at this point.

14 Q. You're right, there is a lot of misinformation.
And in the

15 courtroom is where the true and correct information
will come

16 out for a jury of 12 impartial, indifferent individuals
from

17 the community. And that's why we're here talking with
you.

18 A. Right.

19 Q. But in connection with that publicity that you put
"quite a

20 bit" when you were asked about the publicity as to Mr.
Nichols

21 on page 37 -- actually, it starts on page 36, at the
bottom.

22 A. Okay.

about 23 Q. "Please summarize what you've seen, read, or heard
24 the Oklahoma City bombing."
25 "I've heard very general information about the

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1 defendant. I have not paid attention to the details."
2 A. Right.
3 Q. And then the next question, 159, next page.
4 A. Oh, yeah.
5 Q. "I know that he was friends with Tim McVeigh; that
he had a
6 farm; that they met; that he had an ex-wife and a son."
Is
7 that --
8 A. Well, you catch -- you catch little bits and
pieces.
9 Q. Exactly.
10 A. And that's what I caught.
11 Q. Do you recall anything else about Mr. Nichols?
12 A. Not -- not really.
13 Q. Do you recall reading or hearing --
14 A. I recall a few pictures of --
15 Q. All right.
16 A. I guess it was his farm -- some farmland. Some
farmland or

17 farmhouse, but --
18 Q. Was that during the execution of the search warrant
up in
19 Michigan when they had all these black-clad uniformed
people
20 running around executing a search warrant?
21 A. I don't think so. I -- I kind of watched the first
part,
22 you know, with -- when all the stuff was happening in
Oklahoma
23 City. And then I was just kind of catching bits and
pieces.
24 Q. Right.
25 A. They found Terry (sic) McVeigh and then started
putting a

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1 few things together. I would just catch bits and
pieces.
2 Q. The bombing happened on a Wednesday, and then you
said that
3 you recall when they captured Tim McVeigh? That was on
Friday,
4 two days later. Do you recall any pictures or any
impression
5 you got from that?
6 A. No.
7 Q. Okay. Do you recall him being led out of any
building

8 surrounded by FBI agents?

9 A. Well, I remember -- I remember seeing him on the
TV, but I

10 couldn't --

11 Q. Okay.

12 A. I couldn't tell you anything else.

13 Q. Okay. Now, on that same day, that same Friday,
there was a

14 search warrant executed, according to the news reports
that

15 showed a search warrant being executed, at a farm in
Michigan.

16 Is that the one that you're thinking of?

17 A. I suppose.

18 Q. Okay. And during that first week when it was a
matter of

19 constant interest, do you recall hearing or reading
anything

20 about Terry Nichols, where he was at the time of the
bombing or

21 what happened with him, how he came into federal
custody?

22 A. Well, I remember that he was leaving -- leaving the
state

23 or leaving the area in a car and they stopped him for a
minor

24 offense, and then they -- they found out that -- they
put two

25 and two together and figured out that he was a suspect.

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that you 1 Q. Okay. And you're saying that was Terry Nichols

2 remember --

3 A. Yes.

4 Q. -- was in a car --

5 A. No. No. No.

6 Q. -- and was arrested --

I'm 7 A. I'm sorry. I'm sorry. No. I'm sorry. McVeigh.

8 sorry.

asking 9 Q. That's -- that's okay. We're just -- we're just

10 your recollection.

11 A. T. and T., you know. Yeah. I'm sorry.

12 Q. Back to Mr. Nichols --

13 A. No.

14 Q. -- do you recall --

15 A. No, I don't recall.

16 Q. -- anything about his whereabouts or --

17 A. I don't.

18 Q. -- how he came into custody?

19 A. No. I don't recall it. I don't recall it.

20 Q. Okay.

or -- 21 A. I just -- I just remember hearing he was a friend

22 Q. Okay. I take it then from what you've read and
heard the
23 past two and a half years, you haven't formed any
opinion one
24 way or the other about Mr. Nichols' guilt; is that
correct?
25 A. Well, just the fact that he's here and he's a
suspect

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1 makes -- you know, makes -- makes one feel that they --
that

2 you all have suspicions so --

3 Q. Well, when you say "you all" --

4 A. I haven't formed an opinion, a definite opinion,
but I know

5 he's a suspect.

6 Q. When you say that "you all have suspicions," let me
clarify

7 the roles again here.

8 A. I should say --

9 Q. That's the Government. The prosecutors are trying
to

10 execute Mr. Nichols. I'm on the other side.

11 A. Yes. Okay.

12 THE COURT: I don't think it's really fair to
say they

13 are trying to execute Mr. Nichols.

Court's 14 MR. WOODS: Yes, your Honor, I'll take the
15 guidance.

16 THE COURT: All right.

17 MR. WOODS: That's what we're asking questions
about.

18 I understand. I'll act accordingly, your Honor.

19 THE COURT: All right. Thank you.

20 BY MR. WOODS:

21 Q. You, of course, heard the Court out at Jeffco and
then

22 again this morning explain the presumption of innocence
that

23 every defendant goes into court with; that he's
presumed to be

24 not guilty at this time.

25 A. Yes.

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1 Q. And that it's the Government's burden to come
forward with

2 enough information and evidence to convince twelve
members of

3 the jury that he is guilty beyond a reasonable doubt.

4 A. Yes.

5 Q. And you agree with that premise of our law?

6 A. Yes.

7 Q. Now, the death penalty, which the Court has
explained to
8 you, is something that we've got to discuss here now
before the
9 trial even starts because the accusations against Mr.
Nichols
10 are of crimes that carry the death penalty as a
possible
11 punishment. Since we won't get to talk to you ever
again about
12 this matter, we have an obligation to question you
about your
13 views on the death penalty. And the Court explained
that to
14 you out at Jeffco and asked you to fill out a
questionnaire,
15 giving us your sincere beliefs. And then the Court
went over
16 it again this morning with you. And if you would, I'd
like for
17 you to turn to page 28.

18 And of course, I assume that when you got the
summons
19 in the mail and you knew it was for the Terry Nichols
case --
20 did you know at that time back in late August when you
got that
21 summons that Timothy McVeigh had been convicted and had
22 received the death penalty?

23 A. Yes.

24 Q. Did it cause you to think about the issue of the
death

25 penalty since the summons told you that you were being
summoned

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1 on the Terry Nichols case?

2 A. Yes.

3 Q. All right. And then when you got to Jeffco
Fairgrounds on

4 the 17th, two weeks ago today, you were asked about
your

5 feelings. Mr. Manspeaker swore you in under oath. Do
you

6 recall that?

7 A. Uh-huh.

8 Q. And you stated -- "What kinds of cases is it
appropriate,

9 if ever, to impose the punishment of death?"

10 And you stated that "I believe that society as
a whole

11 needs to be protected from people that are predators.
If we

12 cannot keep them isolated, we need to impose the death
penalty,

13 not as punishment, as a type of protection for
innocence."

14 And then you told the Court that you have
thought

15 about it and you've read about the death penalty.
You've read

you've 16 the Grisham books, A Time to Kill. And you stated that
or Klaus 17 read about the Polly Klaus case out in -- Polly Klaus
the death 18 out in California. And do you recall whether or not
19 penalty was assessed in that case?
think it 20 A. I don't -- you know, I -- I don't remember. I
21 was.
Davis 22 Q. And you stated that you've been reading about the
23 case, the local one here in Denver where --
for -- I 24 A. I haven't really read. I just know that he's up
25 glance at things. I just catch things.

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topical 1 Q. What do you recall about the Davis case being of
2 interest of late?
more than 3 A. Well, it was just a few years ago -- well, it was
pretty 4 a few years ago. When it happened, I remember being
5 horrified. It was several years ago.
have 6 Q. And do you recall what the recent news accounts
7 concerned themselves with?

8 A. No.

9 Q. Okay. You understand that in any case where the
death
10 penalty is an option, that the jury is never required
to assess
11 the death penalty. Do you understand that?

12 A. What do you mean --

13 Q. Well, this Court informed you what the charges were
against
14 Mr. Nichols, and he and Mr. McVeigh are accused of
using a
15 truck bomb to destroy a federal building and killing
the people
16 in it, and they are further accused of killing federal
agents,
17 eight federal agents. And the Judge told you what
those
18 charges were. And he also informed you that possible
19 punishment for those offenses is the death penalty.
And you
20 understand that a jury is not required to bring the
death
21 penalty in any case.

22 A. But we have -- we have another trial if --

23 Q. Right.

24 A. If we needed to, we'd have another --

25 Q. Right.

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1 A. -- since --

2 Q. Excuse me. I'm not trying to interrupt you.

3 A. That's okay.

4 Q. The first trial concerns the guilt or innocence?

5 A. Right.

6 Q. And only in the event that there is a verdict of
guilty on
7 either -- any of those 11 counts, then we enter into a
8 punishment hearing.

9 A. Right.

10 Q. At which time, it becomes the jury's duty to assess
the
11 facts that are offered into evidence by both sides and
then
12 make up their mind what the proper punishment is.

There's no
13 requirement that you bring the death penalty. There's
no

14 requirement that you assess life in prison. The only
15 requirement is that the jury have an open mind and be
able to

16 consider both alternatives and then make their own
decision

17 based on their moral beliefs or personal beliefs and
their

18 religious beliefs. As the Court said, the community
should

19 decide the penalty based on the community's conscience.

20 A. Right.
21 Q. So what this process is designed to do is to
question
22 people who have been summoned for the jury like you to
see if
23 they can consider all the facts and evidence that are
offered
24 to that jury and then make their decision based on what
they
25 hear, number one, about the case, how serious the case
is, and

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1 does it deserve the death penalty, and then number two,
what is
2 the proper punishment for that individual and his role
in that
3 offense. And the only requirement is that the jury be
able
4 to -- to consider both life and death, not to assess
either
5 one, but to be able to consider it. And that's
basically my
6 bottom-line question to you, is as a reasonable person,
can you
7 set on a jury and consider both ranges of the
punishment?

8 A. Yes.

9 Q. Okay. Now, in the event that you were to get on
the jury,

to -- 10 which is -- is possible, would you be willing to assess

11 not assess, but would you be willing to accept the
position as

12 the foreperson of that jury?

13 MR. MACKEY: Objection.

14 THE COURT: Overruled. I don't know if the --
if

15 there's an awareness of what that means, though. You
have

16 to -- I don't know if you know what a foreperson is of
a jury.

17 JUROR: I don't.

18 MR. WOODS: Okay.

19 THE COURT: Well, I'll explain it to you.

20 MR. WOODS: Thank you, your Honor. I
appreciate that.

21 It's better from you.

22 THE COURT: When a jury goes to deliberate,
the case

23 is finished in terms of the evidence and the arguments
and the

24 Court's instructions about the law. One of the things
that I

25 tell the jury at that point when they retire to
deliberate --

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1 that's the language we use -- is that they will select

one of

2 their number to serve as foreperson, who shall become
the

3 leader of the jury in terms of -- you know, any group
of twelve

4 people need somebody to be like a chair of the group so
that

5 they can have somebody sort of establishing an order of
6 speaking and all that, whatever they want to do.

That's the

7 position that is being referred to as foreperson. An
elected

8 leader for purposes of leading the discussions.

9 JUROR: I don't think I'd make a good chair.

10 BY MR. WOODS:

11 Q. Well --

12 THE COURT: How juries decide that, I've never
known.

13 None of us do.

14 BY MR. WOODS:

15 Q. Would you agree with me that just based on your
16 questionnaire, when you've answered these questions,

like

17 you've studied religions and you've been religious in
the

18 past -- but now you've made up your own mind about what
you are

19 presently. Would you agree that you're somewhat of an

20 independent person and make up your own mind as to what
the

21 facts are?
22 A. I try to be fair and I try to think for myself.
23 Q. And if the rest of the jurors that interacted with
you for
24 a couple months felt that, would you be willing to act
as their
25 foreperson?

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Juror No. 61 - Voir Dire

1 A. I -- I -- I don't know.
2 MR. WOODS: Okay. Thank you, ma'am. I
appreciate you
3 answering the questions.
4 VOIR DIRE EXAMINATION
5 BY THE COURT:
6 Q. I'm going to just pursue this one more time a
little bit.
7 A. Okay.
8 Q. Because I'm uncertain about your position --
9 A. My position --
10 Q. -- with respect to the penalty.
11 A. Okay.
12 Q. You have been, too -- I mean, you've been very
forthcoming.
13 A. Yes. I'm very uncertain. It's a very difficult
thing.
14 Q. Yeah. And nobody here is trying to push you in one

15 direction or another. Please understand that. But
what we
16 have to know is whether you are open to consideration
of both
17 possible punishments in a case in which having
determined that
18 a person is guilty of a crime, the nature of which
provides for
19 the possibility of a sentence to death or life in
prison
20 without any possibility of ever being released as the
question
21 asked, and then the jury is asked to consider
everything that's
22 been heard, everything that's been heard at this
penalty stage
23 that we've talked a lot about here, and then say, you
know --
24 and it is a moral judgment because there's no -- as I
said to
25 you when we talked earlier, it's not like counting
cells.

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1 There's no formula for it. It's not like saying
objectively,
2 you've got so many factors this way and so many that
way and
3 which is greater or less. That isn't it. The question
is

4 should this man live or die. That's the question.
That's the

5 question that a jury has to answer if -- if the case
goes to

6 that.

7 Now, what --

8 A. Could I answer that?

9 Q. What?

10 A. Could I answer that?

11 Q. That's what I'm reaching for, yes, for you to tell
us

12 sincerely and honestly whether you can consider both of
those

13 possibilities and make a decision.

14 A. I could consider them. I could consider them.

15 Q. Well, but -- then it's --

16 A. I would have to make a decision.

17 Q. Yeah.

18 A. Well, and -- if I had to make a decision, I would
make a

19 decision. I guess I'm afraid that it would haunt me if
-- at

20 some point. That's my doubt, I suppose. But if I were
in that

21 position, I would have to make a decision. I would
have to

22 consider and I would have to make a decision.

23 Q. And as I was saying here, it's not a question of
whether

24 you would be comfortable with it.

25 A. Yes.

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Juror No. 61 – Voir Dire

1 Q. And it's not a question of whether it would be
painful or 2 not painful.

3 A. Yes.

4 Q. It's painful.

5 A. Yes.

6 Q. And it is a decision that any party participating
in it 7 will never forget.

8 A. Yes.

9 Q. Whatever decision it is.

10 But what our duty is under these circumstances
is to 11 consider both possibilities and then decide.

12 A. Yes.

13 Q. And I think what we've been asking here, sort of
all around 14 it, if you're going to make that decision, would you
always

15 make a decision for the life in prison and -- and never
make a 16 decision, no matter what you'd heard, that the
appropriate

17 penalty is death?

18 A. I would tend toward life in prison; but if I had to
make a

19 decision for death, I -- I would do that.

20 Q. Okay. I think you've cleared it up for us. And I
hope you

21 understand why, in a way, we have to torture you with
this

22 because --

23 A. Well, it's really difficult for me.

24 Q. I know. We -- we see that and hear it. And you've
you
25 answered the questions. What I have to tell you now is

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Juror No. 61 - Voir Dire

1 have to live now with some uncertainty --

2 A. Okay.

3 Q. -- about whether you're going to be on the jury.
And

4 that's because this process takes time. You know,
these aren't

5 fixed questions. We discuss these issues, just as we
have with

6 you, with other people and will continue to do so for
an

7 indefinite amount of time. We take whatever time is
needed.

8 And accordingly, you're going to have to go forward
from today

9 in your life, thinking that you're going to have the
10 responsibility of coming back in here at some future
day and
11 sitting on this jury. And accordingly, you know what
you have
12 to do: Staying away from any discussion of the case or
13 anything about your situation as a possible juror
except make
14 an arrangement with anyone else --

15 A. Right.

16 Q. -- members of your family, and be very careful
about
17 anything that you read, see, and hear, news reports
from any
18 source. And indeed, you know, I would suggest to you
that it
19 wouldn't be fair to us if you now, because of all these
20 questions about penalty and all that -- to go out and
start
21 reading a good deal about it from books or watch movies
about
22 it and so forth. You understand what I'm asking you to
do?

23 A. Right. Right. I do.

24 Q. Please do that.

25 A. Okay.

1 Q. And we'll be in touch with you.

2 A. Okay.

3 Q. You're excused for this day, and we thank you --

4 A. Okay.

5 Q. -- very much.

6 THE COURT: Let's see. 52.

7 MR. TIGAR: Yes, your Honor. That's what my
records
8 show.

9 THE COURT: All right. Would you please stand
first
10 and raise your right hand and take the oath from the
clerk.

11 (Juror No. 52 affirmed.)

12 THE COURTROOM DEPUTY: Thank you.

13 THE COURT: Please be seated.

14 VOIR DIRE EXAMINATION

15 BY THE COURT:

16 Q. First of all, we're sorry to keep you waiting all
this
17 time. You waited yesterday and a good part of today,
and we
18 hope that you don't take that out on us. We're unable
to get
19 people on quite as fast as some might think.

20 So you took an oath like that before. In
fact, two
21 weeks ago when you came out to the Jefferson County
Fairgrounds

the
ourselves

22 with other people, and there I was, and there some of
23 people in front of you now were. And we introduced
24 to you and others; right?
25 A. Yes.

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with me at
the
and now
is next

1 Q. And you'll recall that not only I was there, but
2 that time and introduced to you were lawyers for the
3 Government. Mr. Lawrence Mackey, who is right here at
4 table in front of you. Ms. Beth Wilkinson was there,
5 we have two additional attorneys for the Government,
6 Mr. Patrick Ryan, who is next, and Mr. James Orenstein
7 to him.

And

8 You also recall meeting Mr. Michael Tigar and
9 Mr. Ronald Woods, attorneys for Terry Lynn Nichols.
10 Mr. Nichols was there and is here now.

system, your
trial

11 And you understand that through a chance
12 name came up as a person who may be on the jury for the
13 of the charges that the Government has brought against

14 Mr. Nichols.

15 Now, you have to answer out loud --

16 A. Yes.

17 Q. -- so that it goes down on the record.

18 And I explained to you and the others out
there at the
19 Jefferson County auditorium about the background of the
case,
20 how an indictment was returned in Oklahoma City, what
the
21 charges were; that the Government charged that a man
named
22 Timothy McVeigh with Terry Lynn Nichols and with other
persons
23 not named in the indictment were in a conspiracy or an
24 agreement to bomb a building in Oklahoma City and to
kill and
25 injure people in that building and that the charges
also

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1 included the carrying out of such a plan and the murder
of law
2 enforcement agents in the building. You recall that
generally?

3 A. Yes.

4 Q. And I explained how the case was moved from
Oklahoma here

5 to Denver and also, how separate trials were ordered

because

6 the situation called for different jury -- different
trial for

7 each of the two named persons, and that -- there
already has

8 been a trial of Timothy McVeigh, what the outcome of
that case

9 was, how that does not have any influence over this
case. This

10 is a separate case. This is the case of Terry Lynn
Nichols.

11 You recall all that?

12 A. Yes.

13 Q. And I then explained that Mr. Nichols entered his
pleas of

14 not guilty and thereby put into issue or dispute
everything the

15 Government alleged about him and that's what we're here
to

16 decide, whether there's any evidence to support those
charges.

17 You understand that?

18 A. Yes.

19 Q. And I'll talk a little more about what's involved
in the

20 trial in a few minutes. But before going to that, we
then

21 asked you to fill out a questionnaire and you did, and
you

22 answered a lot of questions. And that's in front of
you now,

23 isn't it?

24 A. Yes.

25 Q. Do you have it there? Okay.

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1 And what we want to do for a little while this
2 afternoon is to go over some of your answers, ask you
for a
3 little further explanation. And you're free to explain
4 anything in here, too, if you want to, even if we don't
ask you
5 about it. But what I -- you know, we're relying on
what you
6 tell us here under your oath and what you tell us now
in these
7 questions under oath. These written answers don't go
to
8 anybody except those of us who are directly involved.
They are
9 not public because a lot of things got asked of you
that are
10 very private. And that's why, also, we arranged that
your name
11 not be used; that you just be referred to by a number
and then
12 nobody sees you going and coming from the courthouse.
All of
13 those things are simply for protecting your privacy.
14 Understand?

15 A. Yes.

16 Q. Now, if I may, I would like to turn your attention
to a couple of things in the questionnaire and ask you about
them.

17 And I want to do this in a way that, you know, is not
going to identify you or cause you some sort of discomfort or
embarrassment, and I don't think we will. But first of
all, on page -- well, let me ask you, you were born in Texas?

22 A. Yes.

23 Q. And that's where you were -- your childhood was, in
Texas?

24 A. Yes.

25 Q. And tell me where Clarksville, Texas, is. It's a
big state

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1 and I'm not familiar where that is.

2 A. It's east Texas. It's between Paris, Texas, and
Texarcana.

3 Q. I'm having a little trouble hearing. If you sort
of talk

4 into the microphone --

5 A. Okay. It's east Texas between Paris and Texarcana.

6 Q. Okay. I've heard of them.

7 A. Very small.

I'm 8 Q. All right. They made a movie about, Paris, Texas,
9 told.
10 A. Yes, they did.
came -- 11 Q. There's some music about that. And then when you
12 well, let's see. You lived in some other places, too.
13 A. Yes.
14 Q. In California?
15 A. Yes.
16 Q. And before that, in Oklahoma?
17 A. Yes.
6. 18 Q. This -- you tell us where you've lived here on page
it was 19 And I'm sorry, I can't read clearly where in Oklahoma
What -- 20 that you lived in the end of the -- from '68 to '71.
21 A. Idabel, Oklahoma.
but I 22 Q. Idabel. Now, we've got folks from Oklahoma here,
Oklahoma is 23 don't know where Idabel is. What's -- what part of
24 that?
25 A. Let me think.

1 Q. It's escaping you right now, too?

2 A. It's across the Red River. I do know that. And
it's a

3 very small town.

4 Q. Down by Texas?

5 A. Yes.

6 Q. Okay. And your family moved there?

7 A. No.

8 Q. You did?

9 A. I did.

10 Q. Were you working when you were there?

11 A. Yes.

12 Q. And what kind of work did you do when you lived in
13 Oklahoma?

14 A. Nurse's assistant in a convalescent hospital.

15 Q. All right. And then you went out to California
after that?

16 A. Yes.

17 Q. You were there for quite a while?

18 A. Yes.

19 Q. In Los Angeles?

20 A. Yes.

21 Q. What did you do there? What kind of work?

22 A. I was a nurse's assistant and a medical --
nonemergency

23 medical transportation driver.

24 Q. Okay. So you've worked in the medical field,
patient care
25 field, for a good long time?

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Juror No. 52 - Voir Dire

1 A. For many years.

2 Q. All right. And you're doing that now?

3 A. Well, yes. I'm a patient service coordinator.

4 Q. What does that job require you to do? What --

5 A. It's transcribing doctor's orders, mainly.

6 Q. Do you have patient contact?

7 A. Well, yes, I do go into the patient's room --

8 Q. And do --

9 A. -- and talk to them.

10 Q. The kinds --

11 A. Just nursing kind of stuff. Not necessarily
nursing stuff.

12 Let's say non-nursing stuff.

13 Q. All right.

14 A. Like talk to them and help them get to the phone or
maybe

15 give them some water or something like that.

16 Q. Uh-huh. Do you have -- well, you're not giving
them shots

17 and --

18 A. No. No.

19 Q. -- baths and all that?
20 A. No.
21 Q. Do you have a -- and I don't know the answer to
this so I'm
22 just asking this out of a general interest. Do you
have any
23 special responsibilities with respect to patients who
may be
24 near death or expected to die?
25 A. No. No. I -- well, let me put it -- only as far
as my

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Juror No. 52 - Voir Dire

1 feelings toward the patients go, that would be my --
just my
2 dealing with it, you know, of going in and maybe
sitting,
3 talking with them, holding their hand. Comfort.
4 Q. And you do that on your own initiative?
5 A. Yes.
6 Q. Because of a concern for those people?
7 A. Yes.
8 Q. Is that right?
9 A. Yes.
10 Q. Okay. Now, if we can turn to page 4. And I don't
-- this
11 is one where I just want to know whether the situation

for

12 which you take this medication is controlled all right
by the

13 medication.

14 A. Yes, it is.

15 Q. And would that in any way affect your ability to
work with

16 us here as a juror?

17 A. No, it wouldn't.

18 Q. Okay. Now, you have on page 20 --

19 A. Page 20?

20 Q. 20. Yes. Actually, it's over on 19 and then 20 --
an

21 incident here where you had some matter concerning
taxes?

22 A. Oh, yeah.

23 Q. Yeah. And you say you had to pay -- how long ago
are we

24 talking about here?

25 A. This year.

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1 Q. This year.

2 A. This year. Well, I paid, I think, every year.

3 Q. Well, you paid -- the taxes?

4 A. My taxes, yeah.

5 Q. But what -- the IRS contacted you about something?

6 A. Well, they wrote me a letter --

7 Q. Don't give the details.

8 A. They just wrote me a letter, yeah, that I owed
them.

9 Q. Okay. They found something on your return --

10 A. Yes.

11 Q. -- that they interpreted as asking you to come up
with some

12 money, and I guess you agreed with them?

13 A. Yes, I did.

14 Q. Is there any carryover from that? I mean, you
indicate you

15 thought they treated you all right or fairly.

16 A. They did.

17 Q. Okay. That's why I asked --

18 A. Okay.

19 Q. -- to see if there was any ongoing dispute there.

20 You are divorced, as I understand it?

21 A. Yes, I am.

22 Q. And is that twice?

23 A. Yes.

24 Q. You had two marriages?

25 A. Yes.

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1 Q. When was the second marriage? When was that
divorce?

2 A. To be honest with you, I can't remember.

3 Q. Well, we'd like you to be honest with us. I
understand.

4 It's been some time ago?

5 A. Yes.

6 Q. And when you were married, what kind of work, if
any, did

7 your two husbands do?

8 A. Well, my first husband, he was a construction
worker.

9 That's been many years ago.

10 Q. Where were you living then?

11 A. Texas.

12 Q. Okay.

13 A. Wichita Falls, Texas.

14 Q. All right. And it's -- and the other one?

15 A. And the second was a truck driver. That was in Los
16 Angeles.

17 Q. And you now have someone living in -- in your
apartment --

18 A. Yes.

19 Q. -- with you?

20 A. Yes.

21 Q. And is that just a -- a sharing expenses or are you
-- is

22 there a relationship there?

23 A. Just sharing expenses.

24 Q. Okay. You understand --

25 A. Yes, I do.

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1 Q. -- I'm not trying to pry into that?

2 A. I do understand.

3 Q. Thank you. I hope for your understanding in asking
these

4 questions.

5 Now, you had a very unfortunate experience as
a young

6 child.

7 A. Yes.

8 Q. And that's on page 5. I don't want to get into any
detail

9 with respect to that, but if you could just tell us a
couple of

10 things about it. How old were you?

11 A. Five.

12 Q. Did it involve a family member?

13 A. No. A friend of the family.

14 Q. A friend of the family. And do you as you sit here
now

15 remember exactly what happened?

16 A. Yes, I do.

17 Q. Okay. And as a result of that, of course, you had
some
18 treatment?

19 A. Yes.

20 Q. The only question that I have about all of that is
do you
21 have any kind of carryover from that that you believe
would
22 affect your ability to be a juror?

23 A. No, I don't.

24 Q. Okay. Thank you. You also, on page 18, in -- in
telling
25 us about your reading habits, show that you have read
perhaps

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1 something by an author, John Grisham, and something by
an
2 author, Scott Turow.

3 A. Yes, I have.

4 Q. More than one or --

5 A. More than one of John Grisham.

6 Q. Is that a favorite author of yours?

7 A. Sort of, yes.

8 Q. They tell me he writes about things dealing with
lawyers

9 and courts.

10 A. Yes, he does.

11 Q. Is that why you read him, because you're interested
in
writing?
12 those things or just because of the nature of the

13 A. Just because of the nature of the writing.

14 Q. Okay. Is there anything where you have taken a
special
15 interest in lawyers and court trials, criminal trials?

16 A. No. No.

17 Q. Okay. You look at it sort of as an interesting
novel? Is
18 that right?

19 A. You mean the novel --

20 Q. Yeah.

21 A. -- that I read? Yes.

22 Q. Okay. I want to explain something. Maybe it's
different
23 from what Mr. Grisham writes about as to what the
process is

24 that we're finding out if you're going to be involved
with as a
25 juror, and that is what a trial is. And then we want
to talk a

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1 little about the special nature of a trial where the

offenses

2 involve the possibility of a death sentence.

3 A. Yes.

I don't 4 Q. So let's review some fundamental things here. And

5 mean to suggest you don't know these things, but it is

that's why I 6 important that there be an understanding of it and

mentioned in 7 go over it with you. Some of this, I've already

some of 8 talking to all of the group out there. And as I say,

wasting 9 these things just may be obvious to you and why are we

10 time on it, but please bear with me.

that 11 First of all, under our Constitution, you know

is 12 any person charged with a crime, no matter what it is,

13 presumed to be innocent of that crime. Do you --

14 A. Yes.

15 Q. -- understand that?

16 A. Yes.

presumed 17 Q. And so that means that Mr. Nichols sits here today

charged 18 to be innocent of the things that the Government has

19 him with. You understand that?

20 A. Yes.

21 Q. And as a part of that, we also say under the

Constitution

22 that it is up to the Government to prove what it has
charged.

23 A. Yes.

24 Q. No person charged with a crime has any duty or
25 responsibility to prove himself not guilty or, indeed,
to prove

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1 anything. The Government making the charge has to try
to prove

2 it. And by proving it, we mean bring in the evidence,
bring in

3 the witnesses you rely on and the exhibits. And here's
a jury

4 of 12 people, open-minded and fair, and show them, by
your

5 evidence, whether you can prove these charges. Now, no
-- no

6 defendant then has to be a witness at that trial and no

7 defendant has to call any witnesses. He can simply
remain

8 silent and challenge the Government's case by
objections.

9 There are rules of evidence that control what can be
considered

10 as evidence and also by cross-examining the witnesses
and so

11 forth. You understand about that generally?

12 A. Yes, I do.
13 Q. And then a jury is told the instructions on the law
at the
14 end of the trial by a judge. In this case, it'll be
me. And
15 the -- the judge's instructions include a lot of
things, but
16 one of the things that's always included in a case, if
it be
17 the case that a defendant doesn't testify or offer
evidence, is
18 you can't -- you can't in any way not only hold that
against
19 him, you can't consider it. Jurors are told you can't
even
20 talk about it. You --

21 A. Yes. I do understand.
22 Q. Okay. Now, then the -- the jury is told about the
burden
23 of proof, which means that before a jury can convict
any
24 person, they must decide. And all of them have to
agree. It
25 has to be a unanimous decision that what they heard and
saw as

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1 evidence proved guilt beyond a reasonable doubt. Not
just that
2 you think that it's probably so, but beyond a

reasonable doubt.

after 3 What that means, in a way, stating it differently: If,
well, 4 considering it all, the jurors discuss it and then say,
have to 5 there's a reasonable doubt about this evidence, you
him not 6 give the defendant the benefit of that doubt and find
7 guilty. Do you understand all these things?

8 A. Yes.

9 Q. Are you willing to accept those principles and
apply them
10 in this case if you were to sit as a juror in this
case?

11 A. Yes.

12 Q. Now, this case, because of the charges, raises an
13 additional matter that we have to talk about. And
that's the
14 question of punishment, if there is to be -- if there
should be
15 a verdict of guilty. Obviously, we don't talk about
punishment

16 unless there is a guilty verdict. But we ask you some
17 questions on this questionnaire; and if you'll turn to
page 28,
18 that's where they are. And they go on over to 29.

Just take
19 whatever time you need to read through that again, your
answers
20 to the -- the questions and your answers.

wrote 21 You've read it? So you have in mind what you
22 there?
23 A. Yes.
is the 24 Q. I want to talk a little about your answers. First
25 subject of the question of what punishment there ought
to be

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asked you 1 for crimes, something you've thought about before we
2 these questions?
3 A. Yes.
good 4 Q. You have. And probably, you've thought about it a
5 many times in different situations. Is that true?
6 A. Yes.
particular 7 Q. And have you thought about it in terms of any
8 cases that have been reported in the news?
9 A. Yes.
10 Q. Would you tell us about that, please.
girl not 11 A. Well, the case of another guy that raped a little
12 very long ago.
13 Q. Okay. And do you know the name?

14 A. Morris.

15 Q. And what is -- what did you think about that?

16 A. Well, I think that -- that he should be put in
prison, but

17 I don't think that he should be given the death penalty
because

18 it doesn't serve a purpose. He's not reliving the
crime; he's

19 just been assisted with death and --

20 Q. Well, you've indicated here a general view, I
guess, that

21 you don't believe in punishment by death.

22 A. Right. I don't. I think it's assisted suicide.

23 Q. Pardon me?

24 A. I think it's assisted suicide; that they don't live
the

25 crime. It's only been -- just been taken away from the

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1 community.

2 Q. How long have you had a view -- that view?

3 A. How long have I had that view?

4 Q. Yes.

5 A. I've always had that view.

6 Q. Is it -- is it based in some religious view?

7 A. No. It's just the way I think. That -- that's my
opinion;

8 that if a person commits a crime and they kill someone
or hurt
9 someone bodily, that they -- that if they are put to
death,
10 then they are not living the crime. They have been
taken away
11 and that the only thing that I see that they are being
taken
12 away from is society.

13 Q. And do you think that is harmful to society?

14 A. Well, I really haven't thought about it that way.

15 Q. All right. Let me ask it another way. Please
understand

16 I'm not trying to put words in your mouth. I want you
to tell

17 us what you think, not just try to agree with me. But
what I

18 think I'm hearing you say is that death's too good for
some

19 people, a death penalty? Are you thinking like that?

20 A. Yes, I am.

21 Q. And that rather than death, maybe they ought to do
to them

22 what they did to somebody else? Is that your view?

23 A. Well, sort of, yes. That they --

24 Q. Well, take this rape case that you mentioned. What
do you

25 think ought to be the punishment for a person who did
that?

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in
have time

1 A. I think that he should be put in prison and -- and
2 solitary confinement, where he would have to really
3 to think about what he did.

4 Q. All his life?

5 A. All his life.

him away?

6 Q. Nothing done to him physically, though? Just put

7 A. Just put him away.

8 Q. Would you use the same punishment for other things?

9 A. Yes.

10 Q. Like murder?

11 A. Yes.

12 Q. But never put them to death?

13 A. No.

14 Q. Because that's too easy?

15 A. That's too easy.

16 Q. Okay. As I say, I -- I didn't try to push you into
17 anything. I just wanted to help you explain your
position.

18 And we've done that, have we?

19 A. Yes, you have.

know

20 Q. Because here's why we ask you these things -- and I

what 21 this is not a subject that's easy to talk about. But
that 22 happens in a case that we call a capital case, where
23 punishment is under the law, one of the things to be
decide 24 considered -- We first, of course, have a trial to
25 whether the defendant is guilty or not.

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Juror No. 52 - Voir Dire

1 A. Yes.
2 Q. That's what we just talked about.
3 A. Yes.
not come 4 Q. And so the question of punishment obviously does
the 5 up until the jury decides that the person is guilty of
6 crime charged beyond a reasonable doubt.
7 A. Yes.
8 Q. Now, in the ordinary cases not involving the
possibility of
9 the death sentence, then the judge decides the
punishment. And
10 there, more information is gathered about the crime,
about the
11 defendant; and particularly about the defendant, where
did he
12 come from, what's his family history, work history, and
so

13 forth. And all of that gets put to the -- in front of
the
14 judge; and the lawyers suggest or argue what the
punishment
15 should be, the judge decides it and decides it
according to the
16 crime and the particular person.

17 When the question, though, is whether the
punishment
18 should be death or life in prison without ever being
released,
19 we don't leave that up to a judge. That goes to a jury
under
20 federal law; and that's where we are here, under
federal law.

21 And the jury, just as is the case in other kinds of
crimes
22 where the judge decides, before the jury can make a
decision,
23 they have got to get more information. And that's
presented in
24 a second trial. And it's a penalty trial.

25 And just like the first one, the second trial
is both

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1 sides, the government and the defense, offering
information

2 from the government's standpoint, things that are
suggested to

3 be aggravating factors, suggesting that death is
deserved. On
4 the other side, the defense argues and presents
evidence to
5 support the idea that death is not a justified sentence
for
6 this person who's been convicted. And then the jury is
asked
7 to decide. But the jury is asked to consider whether
the
8 person should live or die under the standards of the
law, which
9 are about what I've said; that is to say, consider the
10 aggravating factors, mitigating factors. You don't do
11 arithmetic, but, after considering it all, make a moral
12 judgment for the community as to whether this person,
this
13 individual person, should live or die. That's the
issue in a
14 case like that.

15 Now, the question that I have for you -- and
you've
16 already stated your view independently of what the law
says --
17 given that, can you set aside that view and give
consideration
18 to the alternatives of death or life without ever being
19 released on parole?

20 A. My opinion still remains the same.

21 Q. I'm sorry. I didn't hear you.

wouldn't 22 A. It would still remain the same; that I still
23 believe in the death penalty.
24 Q. You wouldn't --
25 A. No.

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1 Q. -- under any circumstances --
2 A. No.
3 Q. -- say that death is deserved?
4 A. Right.
5 Q. Is that what you're saying to us?
6 A. Right.
7 THE COURT: Okay. We appreciate your telling
us your
8 view. Does the Government have any questions?
9 MR. MACKEY: We have none.
10 THE COURT: Defense? Mr. Tigar?
11 MR. TIGAR: Yes, your Honor.
12 VOIR DIRE EXAMINATION
13 BY MR. TIGAR:
14 Q. Good afternoon.
15 A. Hello.
16 Q. I notice in your questionnaire that you said one
thing you

17 enjoy doing is traveling.

18 A. Yes, sir.

19 Q. Where do you like to travel?

20 A. Wherever. Seattle is my best place.

21 Q. Seattle?

22 A. Yes.

23 Q. And in the things you said you were reading, you
said

24 you're reading a book called Make Me Want to Holler?

25 A. Yes.

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1 Q. What's that about?

2 A. It's about -- well, so far, it's about a black guy
that

3 lives in Virginia that he's writing his history of what
his

4 life was like as a teenager. That's as far as I've
gotten.

5 Q. What period of time does that take place?

6 A. I think it was 1960's. In the 60's.

7 Q. The 1960's in Virginia?

8 A. Yes.

9 Q. Was he a -- a student there?

10 A. Yes. He was in school. He was a teenager at the
time.

11 Q. I see. So that was really the -- was he writing
about the

12 beginning of the civil rights movement in the 60's?

13 A. No. He's writing about his life.

14 Q. I see. And you mentioned, also, that you had read
recently

15 something called the -- The 23d Psalm?

16 A. Yes.

17 Q. We know what that is. Is there a book now called
The 23d

18 Psalm?

19 A. Yes, it is. It's just a small book.

20 Q. I see. A -- and then Tina. Is that the --

21 A. Tina?

22 Q. Is that -- you mention -- is that --

23 A. It's Lena.

24 Q. Lena. I'm sorry. I'm not -- I need new
spectacles. What

25 was that about?

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1 A. It's a Christian book. It's about a black lady,
and that's

2 in a -- a college town. She works and how she helps
the -- the

3 nurse there to help the kids, talk to the college
students.

look at 4 Q. When you answered in the questionnaire -- if you'd
5 page 25 with me for a moment, please. This is a -- and
determining 6 Question 114. "What factors would be important in
7 whether an eyewitness identification was reliable?"
You said, 8 "Eyesight and length of time passed before the
question." 9 Can -- are there any other things you can think of that
if some 10 person gets up there and says, Well, I saw so-and-so do
11 something -- what other sorts of questions would you
have in 12 order to evaluate whether they really saw that person?
13 A. Well, what time is the big thing. What did you
see. 14 Q. All right. Would you be interested in whether they
told 15 one story one time and a different story another time?
16 A. Yes, I would.
take a 17 Q. In -- and then at page 30, if you could -- if you'd
18 look with me. You said that -- Question 128. You
think there 19 should be a flat tax.
20 A. Yes.
21 Q. Do you think that would be fair?
22 A. Yes. For me.
23 Q. And does your feeling about that -- would that
affect your

24 ability to fairly judge a case in which the federal
government,

25 which, after all, includes the IRS, is on one side?
Think you

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1 could still give the Government a fair trial?

2 A. Yes.

3 Q. Let me -- let me turn to this question about the --
the

4 death penalty. And I know that Judge Matsch has asked
some

5 questions about it, but I would -- I'd like to ask
something,

6 too. Is -- does the church that you attend or your
Bible study

7 tell something about the death penalty that's important
to you?

8 A. No.

9 Q. So these -- these are views you've developed over
time?

10 A. Yes.

11 Q. And I -- do you think that somehow, the death
penalty is

12 just -- that's too easy on people?

13 A. Yes.

14 Q. What is the -- what do you think is the -- is the
purpose?

think 15 You say a person should be put in jail and just left to
they think 16 about that. Now, what do you hope would happen when
17 about their crime?
they 18 A. That they would regret what they've done and that
wrong; that 19 would know that they have committed a crime that is
they 20 they have -- if -- if they have stole something, that
because 21 shouldn't have done it and they have stole something,
22 if they kill someone, they have taken a life and that's
23 something you can't give back.
there's 24 Q. And do you think that inside of every human being,
thing 25 some spark, some possibility that no matter how bad a

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1 they've done, that they might regret it?
2 A. Yes.
spark 3 Q. Now, that feeling that we all have inside us, some
-- does 4 that might make us regret something that we've done, is
5 your religion help you in that understanding?
6 A. Not my religion. My belief in God.

7 Q. I see. And can you -- I know it's a personal
question.
8 Tell me about that. Is that something -- this spark
that you
9 see inside all of us: That's -- you think that's given
to us
10 by God?
11 A. Yes, I do.
12 Q. Now, if you were on a jury and if you were
presented with
13 this question, all right, suppose you had found
somebody guilty
14 of multiple murders and some people said to you on the
jury
15 the -- we think that this person should be put to
death, would
16 your argument be no, that's really too easy on them?
17 A. Yes. It would be.
18 Q. And so you -- you would argue against the death
penalty
19 because it's not severe enough? Is that right?
20 A. Right.
21 Q. Now, suppose that it were -- is there ever a
circumstance
22 in which if 11 other people thought no, we just don't
think
23 there's any possibility here, that you could say all
right, I
24 would go along with the other 11 and vote for the death
25 penalty?

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1 A. No.

2 Q. And under those circumstances, that would be again
because
3 you see something that you -- you would want to come
out and
4 look at the defendant; right? And you would want to
sentence
5 him to life; correct?

6 A. Right.

7 Q. And when you sentenced him to life, would you be
telling
8 him, I see you as an individual human being and I want
you to
9 be punished in this particular way because of your
10 individuality as -- as -- as conferred on you by God?

11 MR. MACKEY: Objection.

12 THE COURT: Overruled.

13 BY MR. TIGAR:

14 Q. If I'm not saying it right, please tell me what
your
15 thinking is about.

16 A. Tell me in a different way, because -- no, I
wouldn't say
17 that.

18 Q. What is it --

19 A. The way that I understand what you're saying, I
would say
20 that I see you as being a human being that have
committed a
21 crime; that you should pay for it, but not by death.
22 Q. And your assessment of that human being would be
individual
23 to that particular person, what their particular
circumstances
24 were. Is that -- is that right? Based on the crime
they
25 committed and who they are as to how much punishment
they

723

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1 should get, but just not death?
2 A. Just not death.
3 MR. TIGAR: All right. Thank you very much.
I
4 appreciate your talking to me.
5 THE COURT: Well, we'll excuse you now. We're
not
6 deciding who will and who won't serve; and as we go
along,
7 we'll be talking with other people and then make
decisions. So
8 please, as you leave now, understand that you may be in
here
9 serving on this jury. So do like you've been doing:
Stay away

10 from news about it or what purports to be news and
information
11 about it and stay away from conversation with others
about it
12 so that you can come back without the influence of any
of that.

13 You're excused for now.

14 763.

15 If you'll raise your right hand and take the
oath from

16 the clerk, please.

17 (Juror No. 763 affirmed.)

18 THE COURTROOM DEPUTY: Thank you.

19 VOIR DIRE EXAMINATION

20 BY THE COURT:

21 Q. Please be seated there in the chair by the
microphone. You

22 can swivel that around some so that you're in a
comfortable

23 position.

24 A. Thanks.

25 Q. And we'll be asking you some questions, and you
answer them

724

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1 out loud so we can make a record of it. Okay?

2 A. Okay.

3 Q. Now, you recall two weeks ago, you came out to the
4 Jefferson County Fairgrounds and -- along with other
people
5 whose names had come up in a chance process and were
notified
6 that you may be serving on a jury in the trial of the
United
7 States against Terry Lynn Nichols.

8 A. Yes.

9 Q. And at that time, I was there and introduced myself
and
10 also introduced some other people. And they're here
today
11 again, of course. And you recall Mr. Lawrence Mackey
and
12 Ms. Beth Wilkinson were there as lawyers for the
Government.
13 We have additional lawyers for the Government here.
14 Mr. Patrick Ryan is next to Ms. Wilkinson and Mr. James
15 Orenstein next to him.

16 Also, you recall meeting Mr. Michael Tigar and
17 Mr. Ronald Woods, attorneys for Terry Nichols. And
here's
18 Mr. Nichols. He was there with us, as well.

19 And then I explained some things about why you
were
20 there and what the case was about, how the case came up
through
21 an indictment filed in Oklahoma, Oklahoma City, got
transferred

22 to Denver, talked about generally what the charges
were; that
23 Terry Nichols, with a man named Timothy McVeigh and
other
24 persons not named in the indictment were charged with
25 conspiracy or planning to bomb a federal office
building in

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1 Oklahoma City and also in carrying out such a bombing
and in
2 the murder of law enforcement agents in that building.
3 A. Right.
4 Q. And that there had been an explosion in Oklahoma
City on
5 April 19 of 1995, and I also told you that the case had
been
6 separated.
7 A. Right.
8 Q. Two trials instead of one, because circumstances
were
9 different for the two named defendants; that the trial
of
10 Timothy McVeigh had been held and a result reached by a
jury,
11 but that that trial and that result had nothing to do
with this
12 trial and this result. This is why we separated the
cases for

13 trial.

14 A. Right.

15 Q. You remember all that?

16 A. Absolutely.

17 Q. I'm not suggesting that you didn't. But it's
important

18 that we sort of go over that --

19 A. Sure.

20 Q. -- as kind of a background for what we're doing
here,

21 because even though you filled out a questionnaire with
166

22 questions on it and gave us your answers, we still have
more

23 questions.

24 A. Sure.

25 Q. Okay. Now, you have that completed questionnaire
in front

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1 of you now.

2 A. Yes.

3 Q. And we've seen it, too; but as I emphasized to you
when we

4 were together last as a group, we know that we're
asking things

5 that are very personal and private. And we're going to
protect

6 your privacy all we can. And for that reason, nobody
has seen
7 these answers and nobody will see them except the
people
8 directly involved here. They are not public.

9 Now, what you answer in our questions today is
public.

10 We're in a public courtroom. But you're sort of
shielded there
11 and anonymous in terms of the name; but, you know, part
of this
12 has to be in public, because there's a public interest
in the
13 proceeding. But here again, we're not going to, I
hope, use
14 anything here that would identify you. And, you know,
we've
15 even taken precautions that may not be the most
agreeable to
16 you, but preventing people from taking your picture
when you
17 come and go to the courthouse and that sort of thing,
doing the
18 best we can to balance the privacy interests and the
public
19 interests.

20 So I'm going to be asking you some things here
that
21 sort of ask you to expand on some of your answers and
then a
22 few additional things. And then when I'm done asking
you some

ask from 23 questions, the lawyers will have a fair opportunity to
through 24 their point of view. So if you're -- if, as we go
down, 25 here, you want to explain anything that you've written

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think 1 you can do that, too. We'll accommodate that if you
2 further explanation may be important to you and to us.
3 A. Okay.
4 Q. Okay. We've sort of got the ground rules together?
5 A. Yep.
6 Q. Now, you live in Boulder now?
7 A. Yes.
you were 8 Q. You come from Pennsylvania originally. At least
9 born there?
10 A. I was born there.
quite a 11 Q. And in fact, you came out here, though, earlier,
12 bit, because you went to high school in Boulder.
13 A. We moved here then. Uh-huh.
when you 14 Q. About the time you went to high school? Is that
15 moved here?

16 A. Uh-huh.
17 Q. Yes?
18 A. Yes.
19 Q. Okay. You mentioned that your mother is from Iowa.
20 A. Yes.
21 Q. And from a farm in Iowa?
22 A. Yes.
23 Q. Is that farm still in the family?
24 A. We still have farming relatives in Iowa.
25 Q. Okay. And you visit out there from time to time?

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1 A. Not very often, but sometimes.
2 Q. Do you ever like spend the summer on the farm?
3 A. I spent vacations there, yes.
4 Q. And doing some farm work just for the experience of
it?
5 A. No.
6 Q. Okay.
7 A. Well, milking cows once.
8 Q. What part of Iowa -- where in Iowa is the farm?
9 A. Des Moines.
10 Q. Well, it isn't in Des Moines, is it?
11 A. No. Maquoketa. It's outside of Des Moines.

12 Q. And your father, was he -- did he grow up on a
farm, too?

13 A. No. Pittsburgh.

14 Q. Pittsburgh. And that's where you were born?

15 A. Yes.

16 Q. Let me ask you, and I just -- again, this is a very
private

17 matter, but I just want to ask you about your answer on
page 4

18 and Question 14. What you told us there was going to
be done

19 on the 22d, was it?

20 A. Yes.

21 Q. And are you getting along all right?

22 A. Yes. I have -- I'm expecting a doctor call
tomorrow for

23 biopsy tests from that. And then I definitely have to
go every

24 four months for two years. And if the test comes up
with the

25 same result, then I have to repeat the cryosurgery.

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1 Q. Yeah. Okay. Is there anything about all of that
that

2 would affect your ability to sit here with us? We're
not

3 certain about when the trial would start because we
don't know

time, and
amount of
will be.

4 how long this process will take. It'll take us some
5 the trial will last, unfortunately, an indefinite
6 time in terms of we can't tell you what the schedule

7 I'm sure you understand that.

8 A. Right.

involved.

9 Q. That will be several months that you would be

every
advanced

10 A. Well, I definitely have to have the tests repeated
11 four months. It's important. The condition is
12 dysplasia.

tell us

13 Q. Well, I don't -- you know, I don't want to have you

14 all about that --

15 A. Okay.

16 Q. -- if you don't want to.

17 A. It's just something that you definitely have to --

18 Q. Keep a check on?

19 A. Keep in check, that's right.

20 Q. Sure. And the --

for a
days.

21 A. And then if I do repeat the procedure, I'm in bed
22 couple of days. I'm not feeling well for a couple

23 Q. Was that true after the 22d?

24 A. Yes.

25 Q. Were you in bed a couple of days?

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1 A. Yes.

2 Q. Would it be possible, do you think -- let's just
assume
3 you're on the jury.

4 A. Uh-huh.

5 Q. And let's assume that the time for you to repeat
comes up
6 for the testing during that time that you're on the
jury.

7 A. Uh-huh.

8 Q. Now, is the testing, itself, such that you have to
be in
9 bed a while?

10 A. You'd miss a day for that. It -- it doesn't make
you feel
11 very good.

12 Q. You're distinguishing between the testing and the
actual
13 procedure --

14 A. Right.

15 Q. -- that was done?

16 And you wouldn't know whether you need the
procedure

17 unless the test shows that you need it?

18 A. That's right.

19 Q. All right. And if that were -- you know, we hope
that

20 isn't -- just like you do, hope that isn't --

21 A. Definitely.

22 Q. Hope that isn't going to happen, but perhaps it
could be

23 scheduled -- just thinking about the worst, perhaps it
could be

24 scheduled like on a Friday and you have the weekend or
--

25 A. No.

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1 Q. -- is there a certain time --

2 A. There's a certain day they have to do it on,
according to a

3 woman's cycle.

4 Q. I see.

5 A. So it's not up to your discretion.

6 Q. So it depends on that process?

7 A. That's right.

8 Q. I understand. But apart -- you know, as you sit
here

9 today, are you comfortable physically?

10 A. Yeah. I'm -- I'm pretty good.

live with 11 Q. All right. You have, as I understand it -- you
children. I'm 12 another person who has some children. No. Your
13 sorry.
14 A. Those are my children. Yes.
read a 15 Q. I'm sorry. I'll tell you, the way this goes is I
sometimes, so 16 lot of these questionnaires and I get mixed up
the 17 forgive me. You have children and -- I'm turning to
18 page -- well, yeah. Here is the page of their ages.
19 A. Uh-huh.
20 Q. Okay.
21 A. Well --
22 Q. Sorry.
23 A. My son's 19 today.
24 Q. Oh. All right.
25 A. So that changed.

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them? 1 Q. All right. Now, they're living with you, both of
2 A. Yes.
3 Q. And your friend?

4 A. Yes.

5 Q. And your 19-year-old is working and the other one
is in

6 school, I assume.

7 A. He's not working now.

8 Q. Oh. Lost the job since --

9 A. Yes.

10 Q. Okay. But -- and the other one, the younger one,
is in

11 school?

12 A. Yes.

13 Q. Your -- after Boulder High School, you took some
college

14 work and got a degree in business, but -- is that
right?

15 A. Yes.

16 Q. And you work for a firm that's identified on page
9.

17 A. Yes.

18 Q. Now, I'm not using the name of the firm because I
don't

19 know whether that might identify you, but tell me a
little

20 about the nature of the business there. What product
or

21 service does that company provide?

22 A. They're -- the product will just be going out into
the

23 market this year, so -- as a long-time startup, it's
just hit a

24 very fast point of growth.

25 Q. Is it in the computer technology field?

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1 A. No. They make a temperature regulating fabric and
fiber.

2 It's real new.

3 Q. Okay. What is its practical --

4 A. My job is establishing all the job descriptions,
policies,

5 procedures, the human resources and benefits for the
company,

6 recruiting, that sort of thing.

7 Q. For the company, itself, internally?

8 A. Right.

9 Q. And so this is a startup company, is it?

10 A. It's an eight-year startup.

11 Q. And when we adjourned out there in Jefferson
County, I

12 asked you to be careful about talking with other people
and

13 watching television or listening to the radio and so
forth, to

14 avoid things about the case. We know, though, that you
have to

15 talk a little bit about it in terms of what it would
mean to

16 your employment and to your relationship here and to

the

several 17 children if you were to be serving on the jury for

18 months, and I suppose you did that.

everything 19 A. Yeah. I have a new boss, so I had to go over

20 with him.

21 Q. And -- and what did he say to you about it?

person 22 A. Well, it's -- he didn't say much. He's a brand-new

from the 23 that came into the company as CEO. And unfortunately,

to be out 24 time he started, now, I've had this surgery, I've had

like 25 and this, too. So in his first month there, it seems

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1 every week, I'm telling him a reason I can't be there.

2 Q. Yeah. Which is not making him pleased with --

that. He 3 A. I doubt if I'm making the best impression doing

either 4 seems to know, you know, obviously, you can't control

5 one of those situations.

6 Q. Okay.

7 A. But --

8 Q. Well --

but he 9 A. Trying to drive ahead, too, with some work, so --
10 hasn't verbalized much to me.
in here 11 Q. Did he make any suggestion to you about your coming
are, but 12 and trying to get out of the jury -- I don't mean you
13 trying to get out of the jury service?
14 A. No. He didn't say anything like that.
15 Q. Did you talk with him about what case it was?
16 A. Yes, I did.
17 Q. I mean, you identified the case?
18 A. Yes, I did.
involve? 19 Q. And for the purpose of how much time it might
20 A. Absolutely.
know? 21 Q. And are you looking at lost income here, or do you
so I 22 A. Well, unfortunately, we don't have a jury policy,
don't 23 think it would be pretty much loss-of-work income. I
They're 24 think they'll pay me. They are not making sales yet.
25 living on investment dollars --

1 Q. Uh-huh.

2 A. -- and so --

3 Q. They have got to watch it pretty carefully.

4 A. It doesn't matter if they like me or don't like me.

They

5 have to, you know, listen to the board and so forth

about

6 spending money, as well.

7 Q. Yeah.

8 A. I doubt if they'll pay me.

9 Q. Well, what would that mean to you, other than the

obvious,

10 but --

11 A. Well -- right. Well, as a single mom, that's my

income.

12 So it would mean a loss of income, a drop in income.

13 Q. How about your friend here? Is he providing some

support

14 for the living arrangements?

15 A. We have a real restricted arrangement because of --

I have

16 to do that with the child support and so forth. My ex-

husband

17 and I have been back to court several times for that.

And --

18 and I voluntarily reduced my child support in half just

19 starting this month because he's -- he just won't leave

me

20 alone, my ex-husband, about it. You know, it's a

pretty touchy

21 situation, I'd say.

22 Q. Well, this is a touchy question, too, but please
bear with

23 me. Your relationship to the person living with you
now, is

24 that a sharing-expense-type relationship?

25 A. I would say.

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1 Q. Or is there more to it than that?

2 A. It's not a marriage. He's my best friend and very
3 supportive and so forth, but we do not combine our
finances.

4 Q. Okay.

5 A. And we've made that real clear.

6 Q. Well, does he make any contribution to the rent or
-- I

7 don't know if it is rent.

8 A. We -- we split that in half.

9 Q. Okay. So there's some support for the living
arrangements

10 by him on an agreed basis, as I understand it.

11 A. On an agreed basis, that's right.

12 Q. Have you talked with him about upping his share if
you were

13 on the jury?

14 A. No. I would not do that.

here, 15 Q. As I understand it from what you're describing
16 he's -- works out of a home office and travels.
17 A. Right.
computer 18 Q. And he's in engineering related to what you say,
19 systems and software technical support.
20 A. Right.
21 Q. And is that his own business?
22 A. No.
23 Q. He works for another company?
24 A. Right.
into the 25 Q. But it's one of those where you don't have to go

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1 office or the plant? You can do it --
2 A. Right.
3 Q. -- I suppose on computers from home.
4 A. That's right.
5 Q. Laptops and all that.
6 A. Right.
7 Q. Okay. I want to ask you a few additional questions
from
8 your questionnaire, please. One is over on page 18.
We asked

9 you to identify your -- well, whether you have any
familiarity

10 with certain groups, and you showed National Rifle
Association.

11 Then you show a question mark by another one there,
Common Law

12 Court.

13 A. Yeah.

14 Q. That is your question mark, isn't it, there?

15 A. Yeah.

16 Q. Okay. Why did you give us a question mark there?
Have you

17 heard anything about such a thing?

18 A. Well, I just wondered if that was related to like
the

19 district courts or any of the local courts that I've
been

20 involved with lately.

21 Q. Yeah. No, it isn't.

22 A. Okay.

23 Q. It's a phrase all by itself. And if it doesn't
mean

24 anything to you, then that's what we want to know. So
is that

25 the answer, you don't know what that means?

1 A. I don't know.

2 Q. Okay. You also on page 19 answered a Question 87
in a way

3 that causes me to ask you about your sister and her
work with

4 police several years ago, it says. Now -- and this is
-- as

5 you describe it, the work is as a psychic.

6 A. Yes.

7 Q. And I just want you to explain that a little. What
is it

8 that she did with the police department?

9 A. She helped them on several murders. Some of them,
she'd

10 know about ahead of time, actually, and she would --

11 Q. Because she had some sort of a vision of it or -- I
don't

12 know what the wording is here.

13 A. Yes. She's psychic. She --

14 Q. Can see things in advance?

15 A. She can see things -- yeah.

16 Q. And is this something that has been true all her
life?

17 A. Yeah. There are several people in my family that
are

18 psychic.

19 Q. And is it mostly in terms of seeing into the future
that

20 you see things that may happen or will happen?

21 A. No. It goes both -- both directions. Time is

relative, so

22 all time exists at once. And so at any point, you
might

23 contact time in either direction. You might contact

24 information in any direction. So it would be for the
past or

25 the future.

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1 Q. And is this a power you're born with?

2 A. And you can develop it.

3 Q. Have you worked on it?

4 A. Oh, yeah.

5 Q. Well, do you have psychic powers? I don't know if
"psychic

6 powers" is the word. Please help me.

7 A. I'm not clairvoyant, but I do energy work and
energy

8 readings. I'm very spiritual.

9 Q. Okay.

10 A. And I read a lot about developing your intuition
and

11 developing your sense of energy through the chakras and

so

12 forth, so a lot of things with that.

13 Q. Do you belong to a group or organization of people
of like

14 mind and like spirituality?

15 A. I go to several groups of various spiritual-related

--

16 Q. In the Boulder area or where?

17 A. Yeah. Uh-huh.

18 Q. And there's -- you know, people use labels for
things.

19 A. That's right.

20 Q. And they are unfortunate because labels often
become

21 misunderstood. There are some people, I know, in a
community

22 in Arizona -- I can't remember the community now -- but
who

23 strongly believe in certain powers and energy and
related to

24 geometric designs, I think. Is that -- are you related
at all

25 to those groups?

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1 A. There's some real interesting material out on some
things

2 like that. Channeling information. And I recently
went to a

3 workshop by Tommy Mercer, and it was real fascinating.
I don't

4 understand it in depth, everything that he's working
with, but

5 it's definitely valid work that he's doing.

6 Q. I'm not questioning the validity. And, you know --

7 A. Right.

8 Q. Please understand we're not here -- I'm not here to

--

9 A. I mean --

10 Q. -- judge --

11 A. You can experience the energy in the work that he's
doing

12 so you don't have to understand it in depth to
necessarily have

13 some access to -- to what he's doing, what he's working
with

14 here.

15 Q. Now, you know what I'm going to ask you, and that
is does

16 this relate to -- are there -- is there anything about
it that

17 would relate to how you would approach jury service?

18 A. I'm not sure.

19 Q. Let me give you a -- a couple of for instances and
then you

20 tell me. Does this have anything to do with the
ability to

21 perceive the truthfulness of what people say?

22 A. I think it's easy for people not to be truthful
with what

23 they say. I think their energy can't lie.

24 Q. Now, do you perceive energies through an aura or --

25 A. That's one way.

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1 Q. Okay. And there are auras about people that can be
2 perceived by people who have either got the training or
the
3 gift?

4 A. Yeah.

5 Q. Is this right?

6 A. That's true.

7 Q. So if somebody comes into the courtroom -- well,
take me
8 right now. I'm not going to ask you what aura you see
around
9 me. Do you see one?

10 A. I don't see auras. I am working with them.

11 Q. Seeing them in some way?

12 A. I'm working with them. I'm trying to develop it.
I'm
13 working with closer work with it. I do a lot of Reiki
work as
14 well.

15 Q. I'm sorry. What kind of work?

16 A. Reiki.

17 Q. I don't --

18 A. I have a master certification in Reiki. It's
energy work

19 with the body.

are 20 Q. Okay. If a witness comes in to testify, questions

we have 21 asked by the lawyers on each side. One of the things

22 to do here is -- the jury has to do is when this person

says 23 testifies to something, another person comes in and

have some 24 something contradictory, which is true. Now, do you

25 special way to approach that kind of an issue?

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sure 1 A. Well, I've never been in that situation, so I'm not

2 how I would --

telling 3 Q. Well, I take it you've been in situations where you
4 wondered about the truthfulness of what someone was

5 you.

6 A. Right.

way to 7 Q. Now, how do you approach that? Is there a special

8 approach that just in daily life?

lot about 9 A. I do follow my intuition a lot. You can sense a

for 10 people's energy by the way they are holding their body,

11 instance, and different things like that, so it's a
combination
12 of things. It's not that I don't listen to people and
what
13 they're saying. I do definitely, but --
14 Q. But you do more than that?
15 A. Right.
16 Q. The -- the reason that I ask you, you know, in some
detail
17 about this, of course, is that we go according to a
certain
18 procedure in trials and ask the jury to make judgments
about a
19 number of things that are involved in -- and then
finally, the
20 ultimate judgment of whether a case has been proved.
So there
21 are a lot of side -- not side issues, but issues that
lead up
22 to that, like differences in the testimony of witnesses
and
23 their believability, the believability of a person as a
person,
24 and then what he or she says, too. So let me just go
through
25 the trial process in explanation. You have never been
in a --

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1 in a trial; right?

2 A. Well, my divorce was --

3 Q. Okay.

4 A. -- with a judge and it was an all-day event, but
that's the

5 only time.

6 Q. And not a pleasant one, of course.

7 A. No.

8 Q. But the -- the way in which a criminal trial goes
is that,

9 as I've already said, the defendant is presumed to be
not

10 guilty, presumed innocent, the Government has to come
in with

11 the evidence. Right?

12 A. Right.

13 Q. And it is up to the Government to prove what it has
14 charged. The defendant doesn't have to prove anything,
doesn't

15 have to call any witnesses or introduce any evidence.

16 A. Right.

17 Q. You understand that?

18 A. Uh-huh.

19 Q. And you can't infer anything from the fact that a
defendant

20 on trial does not take the stand and testify, if that
is the

21 case, or does not call witnesses because he doesn't
have to.

22 A. Right.

has to 23 Q. And doesn't have to prove anything. The Government
that, 24 prove it. And not just prove this to some satisfaction
charges 25 well, it's probably true. They have to prove their

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terms is 1 beyond a reasonable doubt. What that means in plain
jury -- the 2 that if, after considering all of the evidence, the
things are 3 jurors have a reasonable doubt about whether these
of that 4 proved, they have got to give the defendant the benefit
it? Do 5 doubt and find him not guilty. You accept that, I take
6 you?

7 A. Kind of. Yes.

8 Q. Well, you show some hesitation. Tell me why.

9 A. Well, I think in this country, we've seen recently
10 sometimes where that beyond a shadow of a doubt --

11 Q. I didn't say "beyond a shadow." Now --

difficult 12 A. Right. But I think that sometimes it's very

court 13 to -- to pull out everything. I know that's how the

14 system has to run, though, yes. I do understand that.

15 Q. Okay. And it's a human process, and we use the
things that

16 are common to us all as human beings, and that is our
sensory

17 perceptions, the general ones that everybody shares,
what they

18 see and touch and smell and so forth. And these
witnesses come

19 in and tell us what they saw or heard or smelled and
what they

20 recall about it. The recollection is a part of it.

21 But as I say, the ultimate thing is that we
ask a

22 jury, Okay, you've heard it all. Now tell us, does
this

23 evidence satisfy you beyond a reasonable doubt, does it
prove

24 to you as a rational process, analyzing this evidence,
that the

25 defendant did what he's charged of doing with the
intent that

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1 he's charged with doing it? You understand?

2 A. I do.

3 Q. Now, can you do that?

4 A. I believe so.

5 Q. And you accept that as being your duty if you were

on a

6 jury, do you?

7 A. As a duty, yes.

think

8 Q. Yeah. You may want to design another system and

we're

9 there's another way to find the truth of a matter, but

asked to

10 working with a system that exists. And you're being

better

11 participate in that system, even though you may know a

12 way. Accept that?

13 A. Yes.

the way in

14 Q. Okay. Now, can you participate in the system in

15 which I've described it?

to you

16 A. Yes. And there would be a chance to say something

17 if there was something that was interfering, I imagine?

18 Q. Well, what do you have in mind there?

clear

19 A. Well, like, for instance, if you got some really

suppose

20 messages about something someone said or, you know -- I

information

21 you would want some kind of -- you would want that

22 related to you, as well.

it.

23 Q. And to the lawyers. I don't know what we'd do with

either.

24 A. Neither do I, and I'm not saying that would happen,

25 I'm just saying that, certainly, within that system,
you know,

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I 1 if someone can swear I will do this and so forth -- and
you did 2 understand the duty and everything involved. But if
with 3 have that experience, you'd want someone to share that
4 you, as well.

5 Q. All right.

6 A. Correct?

hear 7 Q. Sure. Accepted. What you're telling me and what I
of 8 you telling me is if anything came to you as a result
about 9 your -- of these things you talked about, you'd tell us
10 it before you let it influence you.

11 A. Right.

12 Q. All right. Fair enough.

though, 13 Now, we've got to talk about it some more,

the 14 because of the nature of the crimes charged, because

guilty 15 statutes involved provide that if a defendant is found

of a 16 of these types of crimes, then there's the possibility
questions 17 sentence to death. And that's why we asked you the
questionnaire. 18 on page 28 and going over to page 29 on this

questions and 19 And, yes, please take a moment to review those
20 your answers.

21 A. Yeah. I'm fine.

22 Q. Okay. You remember these questions?

23 A. Yes.

24 Q. And remember your answers?

25 A. Yes.

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have 1 Q. And I -- I want to ask you a little about how you
what do 2 answered because we just -- this is just in terms of
without 3 you think. And we asked you about life imprisonment

4 ever being released, what you thought about that as a
5 punishment, and you said it may be appropriate --

6 A. Right.

death as a 7 Q. -- for some crimes. And then we asked you about

8 punishment, and again, you said very appropriate for --

I said

"Very 9 "may," you said "very." I'm sorry. I misread it.

talk 10 appropriate for some crimes." And then you went on to
11 about danger to society or loss of life or quality.

12 A. Right.

13 Q. Quality of life?

14 A. Right.

life by 15 Q. Like if you deprived somebody of the quality of
16 impairing their biological autonomy?

being 17 A. Such as a victim always have an altered life, not
before. 18 able to go back into a life similar to what they had

19 Q. Like rape? Harmed in some way?

20 A. Yeah.

21 Q. Would rape be an example?

maybe 22 A. Yeah. Like that, or crimes against children that
sort of 23 they are emotionally scarred for their life and that
24 thing.

person has 25 Q. All right. And then you go on with "A dangerous

1 committed" --

2 A. I misspelled it. "Heinous acts."

3 Q. Heinous, yes. Thank you.

4 A. Something really --

5 Q. You didn't have a dictionary there to help you.
Okay.

6 A. No, I did not.

7 Q. "Heinous acts on others."

8 A. Uh-huh.

9 Q. And then finally -- not finally, but over on the
next page,

10 "I support capital punishment, but, as most humans,
feel true

11 justice is rarely balanced." Explain that a little.

12 A. Right. It's something that I struggle with a lot
right

13 now. I think about justice because as a human being,
you want

14 justice to exist. But if you look at all things being
part of

15 the same energy of creation and God blows his prana out
into

16 manifestation and the world is created and -- and it's
energy

17 which is the thickest and farthest from God, you could
call

18 evil or you could even call Satan is still part of part
of that

19 original source. And the part of evolution, spiritual

20 evolution is all of these darker thicker energies

coming into a

21 higher and higher resolution of energy back into the
main
22 source, back into God and that's God's acknowledgment
of
23 itself, in a sense. And so if someone -- if I judge
someone
24 else, for instance, that -- it's easier in day-to-day
things
25 than huge crimes, but they may be there in their
spiritual

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1 path. It doesn't mean we don't need to react to that.
But
2 it's hard to see -- if you believe everything's from
the same
3 one source, it's hard to -- to -- to see how we can
execute
4 justice. That the bigger picture of evolution of
justice is
5 happening with or without us. I guess that's -- I know
the way
6 I think is sometimes a little hard for some people to
handle,
7 but --
8 Q. Well --
9 A. -- it's --
10 Q. What -- what --

11 A. -- my belief.

12 Q. What's the definition of justice, if there is one
in

13 this -- in what you've described.

14 A. I don't know. It's very, very hard to -- when
something is

15 out of balance, it's not justice, so justice would be
bringing

16 it back into balance.

17 Q. Okay.

18 A. And it's -- it's those types of questions, I think
that we

19 struggle with as human beings. It seems like we're
kind of

20 having to deal with a lot of things here that, you
know, we

21 don't necessarily have all the answers for and we've --
we

22 apply what we can, but, in a bigger scope, I think
that's where

23 justice really lives. Outside those obligations.

24 Q. Well, what -- what we're dealing with here, though,
is what

25 we refer to often as a system of justice.

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1 A. I know.

2 Q. Meaning a human system.

3 A. Right.

4 Q. And I suppose what we accept as justice generally
is a fair
5 trial within the rules, a fair judgment by fair-minded
people
6 who consider the law and the evidence --

7 A. Right.

8 Q. -- make a decision about guilt or not, according to
these
9 rules that we've talked about.

10 And then when it comes to punishment, it's a
-- it's a

11 different thing. We haven't talked about the
punishment
12 approach yet because I wanted to talk with you first
about
13 trial on the issue of guilt. Now, let me just expand
on that a
14 little, because in cases not involving the question of
death or
15 life without parole, without ever being released, we
say to --
16 the court system says, well, a judge decides that, not
a jury.

17 A jury decides guilt or not. If the jury decides the
person
18 has been proven guilty of the crime charged, then the
jury is
19 done with that case, and the courts are done with it if
it's a
20 not guilty verdict. Everybody is done with it then.

21 But if there's a guilty verdict, then there's

more

22 information collected about the defendant and about the
crime,

23 circumstances of each, and with respect to the
defendant, the

24 things that are individual to that person: life
history,

25 employment history, sort of psychological makeup.
Things like

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1 that can be considered. And then a judge hears from
both

2 sides, considers that additional information, and
decides what

3 sentence, what punishment is appropriate for that
person and

4 that crime; individually determines.

5 Now, when the issue is life or death, because
of the

6 statute involved or the statutes involved, which is
what we're

7 talking about here, if there were to be a guilty
verdict, then

8 in a case with these crimes charged or similar ones,
it's up to

9 a jury to have to make that decision. We don't leave
that to a

10 judge. And what the jury does is similar to the judge:
Here's

11 more information than what they heard at trial. So
there's a
12 separate hearing, a second hearing, a penalty phase
hearing, at
13 which, just as in the trial, the prosecutors, the
lawyers for
14 the government, present information, and so do the
lawyers for
15 the defense. And we call this additional information
16 "aggravating factors," the things that are urged to
support the
17 penalty of death, and "mitigating factors," things that
suggest
18 that death is not a deserved punishment for this
particular
19 human being, the defendant.

20 And then the jury is asked to consider those
things
21 and then make a judgment between life or death. In the
end,
22 what these jurors are doing is coming in and saying we
are the
23 conscience of the community and our judgment is a moral
one,
24 and that is that the defendant should be put in prison
for life
25 with no release ever, or that the defendant should be
put to

1 death. That's the kind of question. You've listened
very
2 carefully as I've explained?
3 A. Yes. My hands are sweating. I have listened to
you.
4 Q. I understand that.
5 A. Yeah.
6 Q. And the question we have of you is a very hard one
to
7 answer, but we need to know it, because we can't talk
about
8 this again later, you know. We have to talk about it
now, even
9 though Mr. Nichols is here presumed to be innocent and
there
10 never will be such a hearing. That's the presumption.
But on
11 the other hand, if that's a possibility, we need to
know
12 whether you can do that, meet that responsibility. So
the
13 question of you is, if you served on the jury, if there
were a
14 verdict, if you had a penalty trial, then -- we had a
penalty
15 trial, can you make a moral judgment as to whether the
16 defendant should live or die?
17 A. No. I would hate to be in that position.
18 Q. No one wants to be. We don't get volunteers to do
this,
19 you know.

20 A. I know.
21 Q. And I'm not -- please, I'm not quarreling with you.
22 A. Right.
23 Q. I'm just --
24 A. I'm just trying to be honest.
25 Q. That's right.

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1 A. I would hate to be in that position.
2 Q. Well, could you do it as a -- as a duty?
3 A. No. I think my higher duty is -- is spiritual in
nature,
4 and I would feel that would be unfair for me to judge
that
5 situation personally.
6 Q. And is it the judgment process that you couldn't --
I mean,
7 you've told us --
8 A. Yeah. The judgment -- the judgment, itself. I did
say I
9 support the death penalty and I do feel that way as a
person.
10 You see terrible things happen, and you don't want
those things
11 to be part of, you know, a threat to your society and
-- and
12 people in your community or yourself. But to be in the
actual

13 position of -- of --
14 Q. Doing it?
15 A. -- being the specific person judging someone would
be very
16 difficult, I think, spiritually, you know. It just
would be
17 very difficult.
18 Q. No question about difficulty.
19 A. Right.
20 Q. You know, I'm not trying to push you. I'm just
exploring
21 your answer.
22 A. I just wonder karmically how it would affect me. I
think
23 it would be very difficult. I don't --
24 Q. Well, let me put -- and don't let me put words in
your
25 mouth.

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1 A. Okay.
2 Q. I'm just trying to get it into a framework that I
can
3 understand.
4 A. Sure.
5 Q. And would it be accurate in trying to describe what
you're

public 6 telling us that conceptually, and even as a matter of
society? 7 policy, there's a place for the death penalty in our

8 A. Yes. I believe so. Absolutely.

9 Q. But then are you saying that somebody else will
have to do 10 it; I can't?

11 A. Right. I think it's just not at all where I could
operate

12 from personally. Just like there's so many jobs like
that and 13 you're doing the job that very much suits your energy.

And a 14 doctor, you know -- thank God there's people that can
cut

15 people open without fainting. I can't really even
visit

16 someone in the hospital without really getting dizzy
and

17 nauseous. And so, you know, there's different points
that we

18 all serve as a community. And, you know, I'm sorry if
it seems

19 weak to you, but there's other appropriate places for
me to

20 serve that I'm much stronger at.

21 Q. Could you serve in the armed forces? Could you
carry arms?

22 A. No. No. I could not.

23 THE COURT: Okay. We appreciate this exchange
and

24 your statements. Will the Government have any
questions?

25 Well, we can take a recess. Will you be
having

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1 questions, Mr. Tigar?

2 MR. TIGAR: I was going to ask you if we might
take a
3 recess, your Honor, so that we could decide that.

4 THE COURT: Very well. Let's do that. If you
don't

5 mind -- we've been at this a little longer --

6 JUROR: Sure.

7 THE COURT: -- than you have, and we need a
little

8 break. So please bear with us. We're going to take 20
9 minutes. You can step out now, and we'll have you back

and see

10 if counsel has some questions for you. Okay?

11 JUROR: Okay.

12 THE COURT: 20 minutes.

13 (Recess at 3:15 p.m.)

14 (Reconvened at 3:35 p.m.)

15 THE COURT: Be seated, please.

16 What have you -- Mr. Tigar?

17 MR. TIGAR: Yes, your Honor. There was a
matter we'd

18 like to take up with the Court briefly at the bench.

19 THE COURT: All right. Please come forward.

20 (Bench Conference 7B1 is not herein transcribed by
court

21 order. It is transcribed as a separate sealed
transcript.)

22

23

24

25

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1 (In open court:)

2 MR. TIGAR: We would like to put some
questions to the

3 juror, your Honor.

4 THE COURT: As does Mr. Ryan.

5 Okay. We'll -- ask her to come back in.

6 If you'll be seated again, we have some
questions from

7 counsel, Mr. Ryan, on behalf the Government.

8 MR. RYAN: Thank you, your Honor.

9

VOIR DIRE EXAMINATION

10 BY MR. RYAN:

11 Q. Good afternoon.

12 A. Hi.

13 Q. My name is Pat Ryan. I'm the Oklahoma United
States

14 Attorney. I'm here with the other prosecutors to
present the

15 evidence against Mr. Nichols. I just have a few
questions,

16 because I think you've made some of your views very
clear. I'd

17 like to cover it just a moment longer.

18 One of the things you expressed to his Honor
is that

19 you were worried karmically. Am I saying that
correctly?

20 A. Yeah.

21 Q. If you were required to participate in a death
penalty

22 decision, you'd be worried about your karma. Could you

23 explain? What do you mean by that?

24 A. Well, it's a philosophy of whatever wrong act or
wrong

25 judgment you make, it will come back to you. For
instance,

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1 whether another person inflicts that on you or not,
it's going

2 to come back to you. And I do believe what you put

your energy

poorly, 3 into, it will come back to you. If you invest it

4 you're going to get some negative returns.

5 Q. In this lifetime, or another lifetime?

6 A. Or both.

7 Q. Or both.

8 A. Or many.

concerns you 9 Q. And so you're concerned -- at least one of the

that that 10 have with respect to the death penalty is you think

this life 11 would cause you to suffer ill effects either later in

12 or another, life or both?

affect 13 A. Right. If you were making a bad judgment, it would

14 you.

-- I 15 Q. And you think it would be a bad judgment regardless

were 16 mean, if you decided on the death penalty, even if you

ill 17 right or wrong, you think you would still have these

18 effects?

that cause, 19 A. I think you'd still be putting your energy into

20 so there would be some effect to you.

while 21 Q. If I understood, what you told Judge Matsch is that

22 you may conceptually believe in the death penalty --
23 A. Right.
24 Q. -- as a legitimate form of societal punishment --
25 A. Right.

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1 Q. -- you, yourself, could never be one of those
jurors making

2 that decision.

3 A. Right.

4 Q. And no matter how many times I ask you or how many
5 different ways I put it to you, your answer is always
going to

6 be the same.

7 A. Right.

8 MR. RYAN: Okay. Thank you.

9 THE COURT: Mr. Tigar?

10 VOIR DIRE EXAMINATION

11 BY MR. TIGAR:

12 Q. Hello.

13 A. Hello.

14 Q. I'm one of the lawyers appointed by the Court to
help Terry

15 Nichols. My name is Michael Tigar.

16 I wanted to start by asking some questions
about your

Community 17 background, and so on. You attended Front Range
18 College?
19 A. Yes.
20 Q. Did you take psychology courses there?
21 A. Yes.
Lang? 22 Q. Was Professor Lang one of your professors, Edward
23 A. Sounds like it, familiar. Long time ago.
24 Q. I understand. And do you know, living in Boulder
-- do you
25 know Leslie Aaholm?

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1 A. I don't.
got. Do 2 Q. Well, let's talk about the jury summons that you
3 you -- do you believe in coincidence?
4 A. I don't believe in coincidence, no. I think
coincidence is
5 meaningful, so there is not -- you know -- there is
meaning to
6 coincidence, is what I believe.
got a 7 Q. Have you reflected, believing as you do, on why you
8 jury summons?
9 A. Yes.

10 Q. Why do you think you did?
11 A. I hate to answer that, because it's fairly
personal. Do
12 you really -- you need to know. Okay. I'll tell you.
13 Q. Well, if it's too personal, then we could do it at
the
14 bench or I could ask another question, because --
15 A. I think it's from a past-life experience.
16 Q. And do you think that -- when you got the summons,
did you
17 think that you had some obligation, based on something
that had
18 gone before, to not be chosen as a juror?
19 A. No.
20 Q. Did you -- did you think that if the process of
selection
21 made you one of the 12 people in whose hands the law
puts this
22 decision that that would be okay?
23 A. I think any situation that we are put into, we have
to do
24 the best and look for our truths; so yes, if I am
selected as a
25 juror, I will serve that within the system that it
operates in

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1 and do the best I can, operating from my own truths as

well.

2 Q. I want to look back -- if you'd look at page 10 of
your
3 questionnaire, please.

4 Question 44: You fired an employee.

5 A. Yes.

6 Q. And you said you were asked to relieve three
persons. Now,

7 by relieve three persons, what did you mean?

8 A. My boss asked me to fire three different people
while I was
9 at a particular place of employment.

10 Q. Did you do that?

11 A. Yes.

12 Q. Now, did that involve your having to make a
judgment?

13 A. I was asked to fire them without my judgment.

14 Q. Did you agree with the judgment?

15 A. No, not in all cases.

16 Q. And have you been able to put your life back
together or to

17 reconcile the fact that you made a judgment to separate
three
18 people from their employment?

19 A. Well, I did it in a different-than-traditional way.
I did

20 have that much going for me. I gave them more time,
like a

21 notice to leave, not leave immediately, which is not
very

22 traditional, took them to lunch, talked to them, you
know, on a
23 very personal level about what the problems were and so
forth;
24 and they all seemed to also be struggling with the
position, so
25 nobody was horrendously surprised or upset of the three
that

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1 were leaving, and that made it a lot easier, too.
2 Like nobody walked out crying or anything like
that.
3 They were also struggling with the position; so it
wasn't too
4 bad.
5 Q. So was that a situation in which, although you
didn't
6 agree, the structure within which you operated put a
7 responsibility on you and you did it?
8 A. Right. But I did leave the job.
9 Q. I understand. I'm not trying to argue with you.
10 A. Right. I did operate under the authority I was
under at
11 the time, and then I chose to leave that position
because I
12 didn't agree with the manager's position on a lot of
things

13 like that, so . . .

14 Q. Now, much of your reading is about the energy in
the human

15 body. Is that right?

16 A. Right.

17 Q. Right. I mean, chakras are -- well, how would you
define a

18 chakra?

19 A. I would say the chakras are points in the body, in
the

20 energy body that interact with the physical body; and
they're

21 data centers and energy centers where we're receiving
and

22 energy is leaving our bodies.

23 Q. And in your view, do they occur along meridians?

24 A. Yes.

25 Q. So that there are meridians of energy that run in
the body

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1 and along these are the chakras that are centers; is
that --

2 A. That's correct.

3 Q. And is that based on a study of eastern medicine?

4 A. That's an ancient knowledge, yes.

5 Q. Now, in addition to studying that aspect of eastern

6 medicine, have you also studied eastern philosophy?

7 A. Yes.

8 Q. Now, you were talking a little while ago about this
concept

9 of karma.

10 A. Right.

11 Q. And I heard you say that karma is some idea of --
of things

12 equalizing over the long term. Is that --

13 A. Right.

14 Q. -- right?

15 A. But the long term is a long term, but that's
correct.

16 Q. Okay. And the long term, I heard you say, could be
from

17 past life or past lives?

18 A. Yes.

19 Q. Or on into the future.

20 A. Correct.

21 Q. Future lives?

22 A. Right.

23 Q. Future embodiments?

24 A. Right.

25 Q. And I heard you say that bad karma could result
from having

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1 made a wrong judgment.

2 A. Correct.

3 Q. Is that right?

4 Now, when you say that you would not want to
be a

5 person who, along with 12 others, would deliberate and
then

6 each person make up their mind what's the appropriate
7 punishment for a crime, that somehow the potential
karma of

8 that kind of decision is very, very great.

9 A. Yeah. I don't believe that I said that I wouldn't
be part

10 of 12 people deliberating -- unless you were talking
about the

11 death penalty particularly.

12 Q. Yes. I understand.

13 A. Okay.

14 Q. I'm saying if one of the subjects -- let's suppose
that you

15 were chosen to be on a jury and at some point the
question was,

16 all right, you 12 people, tell us whether you
unanimously favor

17 life without any possibility of release or unanimously
favor

18 death, or whether you simply don't have a unanimous
decision on

19 it and come back and tell us. Let's suppose those were
the

issues 20 alternatives. Would you think that when one of the
-- a 21 there was this death question that that's -- that has a
22 karmic load to it?
23 A. Yes.
24 Q. That's so much greater than something else?
25 A. Yes.

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1 Q. And you'd be afraid of making a wrong judgment?
2 A. Or even -- yeah. Definitely.
3 Q. Now, I notice at the same time that you did say
that you 4 think it's very important to follow the Judge's
instructions in 5 cases.
6 A. Right.
7 Q. Let me talk about that. You know, there are cases
that 8 you -- that have helped form your opinion about the
criminal 9 justice system. Right?
10 A. Right.
11 Q. For instance, the O. J. case.
12 A. Right.

13 Q. Now, there was a case in which 12 jurors
deliberated and

14 came up with a verdict. After all the things that you
read

15 about, what did you think of that?

16 A. I thought it was real unfortunate.

17 Q. And what was unfortunate? Was what the jurors did
18 unfortunate?

19 A. From what we were reading in the media, it seemed
very

20 obvious that he was guilty. And I felt personally -- I
felt he
21 was guilty.

22 Q. So you thought that was unfortunate. Did you think
that
23 the jurors hadn't followed the judge's instructions?

24 A. I think that the attorneys twisted the
representation of

25 what was -- sorry. No offense.

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1 Q. Don't be sorry. That's okay. We have -- we have a
room

2 full of lawyers here, and, not at all jokingly, each of
us

3 carries our own karma load around with us; so if we did
it,

4 we'll pay. But do you think that lawyers do that for a
living,

5 or just some lawyers, or what?

6 A. Yes, I think that's what lawyers are paid to do.

7 Q. What is it -- well, okay. What is it that we're
paid to
8 do, do you think?

9 A. Represent your client.

10 Q. Right.

11 A. And whatever that would entail. In that particular
case,
12 their duty was to protect their client, and so they did
a lot
13 of things that manipulated that.

14 I wasn't like a heavy-duty O. J. case
follower.

15 Q. I understand. And I'm not suggesting that.

16 A. Okay. Good.

17 Q. Did you have some criticism of how the prosecutors
18 presented their case, as you watched it?

19 A. The prosecutors.

20 Q. That would be Marsha Clark and Christopher Darden.

21 A. I didn't watch a lot of it, but -- so I'm not real
sure
22 what you're asking.

23 Q. All right. Well, the next -- the other case -- let
me go
24 on to something else that's a little closer to home.
You said
25 you'd followed news reports about the Ramsey case.

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1 A. Right.

2 Q. And do you think there is an instance in which the
criminal

3 justice system is not working properly?

4 A. I'm not sure what's not working properly there.
The day

5 that I heard about that case, I had a really strong
feeling

6 of -- about that case, and a lot of facts -- well,
facts, I

7 say, but things that have come up in the media since
then are

8 the things that I had felt, also, were present in that

9 situation. And so they're still working on that, but I
think

10 that those people have quite a lot of money and can
also hide

11 from the law.

12 Q. Now, you did -- you also said at page 27 that you
think

13 that some political or religious opinions can be
harmful when

14 taken to extremes.

15 A. Absolutely.

16 Q. And that -- and then in 123, you feel groups
forming around

17 extreme ideas that potentially represent harm are not

18 appropriate.

19 A. Absolutely.

20 Q. And when you say "absolutely" with that sense of conviction

21 in your voice, whose job is it to protect us from groups that,

22 although they might have their right to their opinions, are

23 doing things with them that are inappropriate?

24 A. Well, the way that our country is based on freedom, it just

25 comes at a very high price. And it's unfortunate, because

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1 there is groups like the KKK that can form that are very

2 negative, low-energy groups that are hurting people; and I felt

3 that same way about the Michigan Militia. When I've heard

4 people speak, they've got so much rage, antigovernment; and it

5 seems a little bit ludicrous that they can exist by law. And I

6 know that's ignorant, maybe a little idealistic; but as a

7 person, when you hear these people getting together with such

8 strong negative energies, it's -- it seems very
harmful.

9 Someone will get hurt. Absolutely.

10 Q. And if somebody gets hurt, if a KKK band burns a
church, an
11 African-American church in Mississippi, whose job would
that be
12 then to do something about it?

13 A. The government. The legal system.

14 Q. And you would hope that people would be prosecuted
for
15 that.

16 A. Absolutely.

17 Q. And, of course, if it was being prosecuted there in
18 Mississippi, they would call jurors from the community
to
19 serve; right?

20 A. Right.

21 Q. Now, I want you to imagine some of those jurors
that were
22 called to serve might have ideas that were sort of in
favor of
23 the KKK. Could you imagine that?

24 A. Yes. Yeah. That's true.

25 Q. It could happen?

1 A. Uh-huh.

2 Q. Now, would you, as an American citizen, expect that
if
3 somebody was called to a case that they should set
aside their
4 beliefs and follow the judge's instructions about how
to
5 evaluate the evidence and decide the case just on the
law?
6 A. Ideally; but I don't think you can separate
yourself from
7 your authenticity of how you believe and who you are
and how
8 you feel; but they would have to act within the system,
yes.

9 Q. Right. And --

10 A. But they wouldn't put their beliefs down.

11 Q. No, I don't say put them down.

12 A. They can't.

13 Q. We're talking about -- I understand that -- well, I
don't
14 understand. I'm not supposed to say that. But if a
person has
15 a deeply held belief --

16 A. Right.

17 Q. -- then you think that's -- that's something that's
not
18 easy to just cast aside. Right?

19 A. Right.

20 Q. Let me come, then, to this case. Do you think that
if you

juror, do 21 were selected as a juror -- if you were selected as a

22 you think that would be a coincidence?

23 A. No.

Judge 24 Q. And if you were selected as a juror and you heard

jury, I want 25 Matsch say at some stage in a case, Members of the

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so far 1 you to respect the presumption of innocence, I want you

opinions 2 as is humanly possible to put aside your preformed

just 3 that you may have got from the media, I want you to

me if you 4 evaluate based on the evidence and I want you to tell

follow 5 have a reasonable doubt or not, would you be able to

6 that instruction?

7 A. To a certain extent.

8 Q. In what way would you not?

was 9 A. Well, as I said to the Judge, if I felt like there

strongly 10 something personal within myself that I felt very

11 about, I would tell him. I wouldn't, you know, operate

feel in 12 covertly or anything; but it's hard to judge how you'd

13 a situation until you're in the situation.

14 Q. Right.

15 A. And so I'm just saying that, you know --

foresee 16 Q. So you'd be honest about it. Right now, you can't

17 anything like that. Is that right?

18 A. I'm not sure.

19 Q. Okay.

20 A. I'm not sure.

with 21 Q. But if something did come up that would interfere

the 22 that, you'd raise your hand and say, I want to speak to

this. 23 judge and something has come up and I just can't do

yes. 24 A. I would tell him what I was thinking or feeling,

others have 25 Q. And now, again, let's move on; and I know that

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you were 1 gone into this, but I want to ask it again. If then

there were 2 to find somebody guilty of a crime in which the --

executed, 3 these options about punishment, should this person be

4 should there be life without possibility of parole,
should
5 there be some other sentence -- these options were
there. And
6 there was a process; that is, evidence was presented,
people
7 from the victims and, you know, from reading -- let me
8 interrupt a minute.

9 Did you read in the paper about Governor
Romer's
10 recent decision about that case where he listened to
the
11 district attorneys and the family and so on?

12 A. No.

13 Q. Well, then let's -- let's suppose hypothetically
you're in
14 a case. You'd hear evidence from victims, you'd hear
evidence
15 about the nature of the offense, you'd hear evidence
about the
16 degree of involvement of the person, you'd hear
evidence about
17 the background of the person. Indeed, the law says
that it's
18 called "information"; that is, that you'd just hear
witness
19 after witness, days and days. Then you'd hear the
lawyers
20 arguing and discussing them, all the purpose of that
being so
21 that the jurors have all the information.

22
coincidence

Would you then be able, it not being a

23 that you found yourself there, to listen to the Judge's
24 instructions and to make your choice?

25 A. Yes.

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1 MR. TIGAR: Thank you very much.

2 THE COURT: Well, we don't know whether you're
going

3 to be on the jury or not, and we don't make the
decisions as we

4 go one by one or even day by day; so please bear with
us with

5 this uncertainty. Continue to do as you have been
doing,

6 avoiding discussion about the case now or anything
connected

7 with it. Be careful about what you read, see, and hear
so that

8 you would not be influenced by anything outside of what
you see

9 and hear in the courtroom. All right?

10 We'll get back to you when we can.

11 JUROR: All right.

12 THE COURT: For now, you're excused.

13 JUROR: Good day.

14 THE COURT: Thank you. You, too.

15 335.

16 Yes. If you'll please raise your right hand.
Take
17 the oath from the clerk.

18 (Juror No. 335 affirmed.)

19 VOIR DIRE EXAMINATION

20 BY THE COURT:

21 Q. Please be seated there. You can adjust that chair,
swivel
22 it around in whatever way is comfortable for you.

23 And we're going to be asking you some
questions. I
24 will, and then counsel may; and, you know, we ask you
to answer
25 these questions out loud so we can record them, your
answers.

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1 And this is a follow-up, of course, to the
fact that
2 you got a summons for possible service as a juror in
the case
3 of United States against Terry Lynn Nichols. And
that's what
4 the summons told you. You'll recall that day, I'm
sure.

5 A. I do.

6 Q. And also, the day a couple of weeks ago on

September 17

7 when you were out at the Jefferson County Fairgrounds
and with
8 other juror panel members. And I was there, talked
about the
9 case a little and introduced participants. And I want
to do
10 that again because we have people here, and I think
they should
11 be introduced to you so you know who is participating
today.

12 And you recall meeting Mr. Lawrence Mackey
here at the
13 first table, Ms. Beth Wilkinson was there, as attorneys
for the
14 Government. We have additionally for the Government
appearing
15 now Mr. Patrick Ryan, who is next to Ms. Wilkinson, and
16 Mr. James Orenstein.

17 You recall Mr. Michael Tigar, Mr. Ron Woods,
attorneys
18 for Mr. Nichols. And here's Terry Nichols. He was
with us at
19 that time as well.

20 And you will remember, I'm sure -- and I don't
mean to
21 suggest that you don't remember, but it's kind of
important
22 that we just talk about the foundation here so that
it's clear
23 on the record -- that I explained what this trial is
going to

24 be about in general terms and then what the charges
were in an
25 indictment returned in Oklahoma, how the case got moved
from

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1 Oklahoma City to Denver; the fact that the indictment
charged
2 Mr. Nichols, along with a man named McVeigh, Timothy
James
3 McVeigh, and the indictment said "others not named" in
a
4 conspiracy, as it's called, or agreement or plan to
bomb a
5 federal office building in Oklahoma City, to kill and
injure
6 the people in it; also to carry out that plan and to
murder
7 eight law enforcement agents in the building.

8 You remember all that?

9 A. Yes, I do.

10 Q. Sure. And that I explained that the trials were
separated
11 because the cases had to be considered separately in
separate
12 trials, different juries, and that Mr. McVeigh's trial
has
13 already been held and what the outcome was and that now
we're
14 holding the trial with respect to the charges as they

relate to

15 Mr. Nichols.

16 So that's why we're here and we asked you to
fill out

17 a questionnaire. And you have it in front of you, and
I see

18 you kind of looking at it. And I -- we've taken these
answers,

19 your completed questionnaire, and gave it to the
lawyers, as I

20 said we would, and to me; and we're going to follow up
on that

21 with a few more questions and to some extent ask you
probably

22 to explain a little more about some of these answers.
But of

23 course, we know that we're in an area that involves
your

24 privacy interests, which we will try to protect.
That's why

25 your name is not being made public. This questionnaire
has not

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1 been given to the press or anything. We even go to the
lengths

2 of making sure that as you come and go from the
courthouse

3 nobody can take pictures of you or anything like that,
because

4 we're trying to protect your privacy, recognizing that
that's
5 important to you. And we know we've invaded it. But
we
6 appreciate your cooperation.

7 Now, let me just ask you first -- I noticed
you
8 looking at the questionnaire. Is there something in
here you
9 want to tell us about?

10 A. No.

11 Q. Okay. So you're a little anxious about what's
going to
12 happen.

13 A. Right.

14 Q. I understand that. We all do. And as I said,
we're not
15 going to repeat everything that's in here. You're not
going to
16 get asked all these questions over again. But there
are a few
17 things that we want to ask you to explain a little.
Let's just
18 start sort of with basic background facts.

19 You're born in Colorado, out east at -- in or
near
20 Burlington?

21 A. Yes, in Burlington.

22 Q. In Burlington?

23 A. Yes.

24 Q. And you grew up in -- went to high school in
Stratton?

25 A. Right.

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1 Q. And then you went up to Sterling to a junior
college?

2 A. Yes, to a junior college.

3 Q. Then to Fort Collins to CSU?

4 A. Yes.

5 Q. And you're now, as I understand it from what you've
told

6 us, married?

7 A. Yes.

8 Q. And you're working for the government?

9 A. Yes, I am.

10 Q. Department of Defense in what used -- I guess it
used to be

11 called Air Force Finance Center or something?

12 A. Right. Yes.

13 Q. What's it called now?

14 A. It's now called the Defense Finance Accounting
Service.

15 Q. All right. And that's the type of work you do
there,

16 accounting?

17 A. Right.

there
18 Q. And you've been working for the defense department
19 how long now?
20 A. For 13 years.
21 Q. Your husband works there, too?
22 A. Yes, he does.
23 Q. And how long has he been working there?
24 A. Approximately 17 years.
25 Q. Did you meet there?

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1 A. Yes, we did.
2 Q. Okay. Good guess. And is he an accountant, too?
3 A. Accounting technician.
4 Q. Well, doing roughly the same kind of work that you
do?
5 A. Yes.
6 Q. And that this is where the payroll --
7 A. Right, for military pay.
8 Q. Yeah -- military pay comes from.
9 And you told us something about your following
of news
10 here and what your practices are; and of course, when
you got
11 the jury summons, we asked you to be careful. And then
out at

12 the fairgrounds when -- before you left, I asked you to
be
13 especially careful not to discuss this questionnaire or
the
14 process or anything about the case with anybody. But,
of
15 course, whether you come in here and serve on this jury
for
16 several months or not does have some effect on your
husband,
17 too.

18 A. Right.

19 Q. So I assume you've talked with him at least about
what jury
20 service might involve. Have you?

21 A. We hadn't really discussed that, no.

22 Q. Well, you know, it would mean you're down here with
us
23 instead of out there at the finance center, obviously.

24 A. Right. Instead of driving to work with him.
Right.

25 Q. Right. Your regular workday: Is it roughly the
same as we

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1 would be doing here, or do you have a different
schedule?

2 A. No, it's a little different. It's 6:30 till 5,
four days a

3 week.

4 Q. Oh. Well, here it's going to be a little
different, but --

5 A. Right.

6 Q. And you live in Parker now?

7 A. That's right.

8 Q. How long have you lived out there?

9 A. I've lived there ten years.

10 Q. Do you have some acreage there, or are you right in
town?

11 A. No. It's a housing subdivision.

12 Q. Okay. Parker has grown a lot in the time you've
been out

13 there?

14 A. Yes, it has.

15 Q. Still is growing; right?

16 A. Yes.

17 Q. Now, we also asked you to be careful, as I said,
about what

18 you saw and heard on the news and the like; but we know
that

19 things happen, even inadvertently. Have you come
across

20 anything in the publicity that has been out there about
this

21 case since you've completed the questionnaire?

22 A. Well, if I hear something on the news, if I have it
on, I

23 switch the channel.

local 24 Q. All right. Well, you've had a regular practice of
25 television news.

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1 A. Right.

to? 2 Q. And is there one station that you normally listen

and 3 A. Normally listen to 9 News when I get home from work
4 then the national news after that.

5 Q. And what have you done to change that?

6 A. Haven't been listening to it this week at all.

7 Q. How about the week before, after the 17th?

would 8 A. I've had the news on, but if I heard anything, I
9 switch the channel.

daily? 10 Q. You also, I guess, take the Rocky Mountain News

11 A. Yes.

Mountain News. 12 Q. And there have been some things in the Rocky

13 Have you read those?

14 A. I haven't been reading the paper lately.

that if 15 Q. And have you got your husband working with you so
16 he reads something he doesn't talk to you about it?

17 A. He reads the sports page.
18 Q. Okay. And CNN has been the source of news for you
for some
19 time?
20 A. I also watch that a lot.
21 Q. And again, have you been careful to avoid anything
on CNN
22 relating to what we're here about?
23 A. Yes. I haven't been watching it recently.
24 Q. And let's see. You also, I guess, tune into a talk
show?
25 A. Oh, in the morning sometimes on the way to work,
yes. I

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1 listen to Peter Boyles.
2 Q. Have you done that since you got your summons?
3 A. No, I haven't been doing that.
4 Q. Do you know, have you ever heard discussion on that
show
5 about this matter?
6 A. I haven't heard that on this show.
7 Q. I mean, before you got the summons?
8 A. No, I never heard that.
9 Q. Okay. Now, you served on a jury before when you
lived in

10 Burlington.

11 A. Right.

12 Q. And you described that a little bit as we asked you
to do

13 on -- let's see -- I think it's page 26.

14 That was a criminal case?

15 A. Yes, I believe so.

16 Q. Something to do with drugs?

17 A. It was drug-related, yes.

18 Q. Tell us what generally it was about. Well, first,
how long

19 ago was it?

20 A. Actually, it was 19 years ago, so I don't really
remember.

21 I just remember it lasted approximately two days, and
it was a

22 drug-related case.

23 Q. Like selling drugs?

24 A. It might have been possession of drugs, I think.

25 Q. Not too sure?

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1 A. I'm not too sure, no.

2 Q. Was there one defendant, or more than one?

3 A. It was one defendant.

4 Q. One defendant?

5 A. Uh-huh.

6 Q. And the jury did reach a verdict?

7 A. Yes.

8 Q. Which was what?

9 A. Was guilty.

10 Q. And you were not the foreperson of the jury?

11 A. No.

12 Q. But you were a member of a 12-person jury?

13 A. A 12-person jury.

14 Q. And as you sit here now, do you remember anything
about the

15 jury's deliberations, how they went about picking the

16 foreperson and deciding the case? I'm not asking you
what they

17 did, just do you remember it.

18 A. I just remember deliberating. That's about all I
remember.

19 Q. Okay. So you have a sort of basic idea about the

20 structuring of the criminal justice system, having once

21 participated in it?

22 A. Yes.

23 Q. And did you find that experience to be interesting?

24 A. Yes, I did.

25 Q. And did you come away from that feeling anything
about jury

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want to 1 service, like you'd like to do it again or you'd never
2 do it again or anything like that?

3 A. Really no opinion.

principles 4 Q. Okay. Well, let's talk about a couple of the

heard about 5 that are fundamental, because I'm sure you probably

I'm about 6 them from the court there in Burlington, because what

cases and 7 to talk about are principles that are common to all

that 8 courts in this country under our Constitution, which is

or who he 9 the person charged with a crime, no matter what it is

You 10 or she is, is presumed to be innocent of that charge.

11 heard that.

12 A. Yes.

responsibility to 13 Q. And that a person charged has no duty or

explain 14 prove himself not guilty or to prove anything or

have to 15 anything, doesn't have to call any witnesses, doesn't

16 take the stand and testify. It's up to the government,

be it 17 whatever government it is who has brought the charges,

18 the national government, as is the case here, or the
local
19 prosecutors or state -- it's up to them to come in and
prove
20 what they've charged. Do you understand that?

21 A. Yes, I do.

22 Q. And they do that by calling witnesses and producing
23 exhibits and so forth.

24 And a defendant does not have to be a witness,
he
25 doesn't have to testify and can't be called by the
prosecution

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1 and also doesn't have to do it himself voluntarily and
doesn't
2 have to call any witnesses. You understand that?

3 A. Yes, I do.

4 Q. You remember in the case that you heard whether the
5 defendant testified?

6 A. I don't remember.

7 Q. Well, when it happens that a defendant doesn't --
of
8 course, they can if they want to; but if it happens
that a
9 defendant does not testify, then we tell jurors, you
can't talk
10 about that, you can't consider that. That's not some

kind of

11 an admission or that this person is afraid that -- of
12 testifying. There are a lot of reasons why somebody
doesn't
13 testify. Do you agree with that?

14 A. Yes.

15 Q. And then after hearing and considering all of the
evidence,

16 the jury has to decide, well, does this evidence prove
this

17 person guilty of what he or she has been charged with
and to

18 give the juror -- to give the defendant the benefit of
any

19 reasonable doubt that remains after hearing it all.
You heard

20 such an instruction, I'm sure.

21 A. Yes.

22 Q. And followed it, I trust, in that case. And are
you

23 prepared to do that again in this case if you served on
this

24 jury?

25 A. Yes, I am.

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1 Q. Is there anything about the nature of the charges
here or

2 the circumstances of this case where you would not
follow that

3 fundamental principle of law?

4 A. No.

5 Q. Now, do you have any idea what happened after the
guilty

6 verdict in the case in which you sat?

7 A. No, I don't.

8 Q. Well, in cases ordinarily where the offense charged
is not

9 subject to the penalty of death, you know, that's
typical. The

10 jury does its job, either guilty or not guilty verdict,
and

11 that's the end of it from the jury's standpoint; but if
there

12 is a guilty verdict -- that is to say, if the jury
finds by its

13 unanimous verdict that the evidence shows guilt of a
particular

14 crime beyond a reasonable doubt, the matter goes back
to the

15 judge, the court, to decide what the punishment should
be, what

16 the sentence should be.

17 And before judges make that decision for the
18 particular defendant, they need more information than
what came

19 in at the trial; so more information is collected about
the

20 offense and about the defendant and with respect to the

he was 21 defendant, things like this person's background, where
22 born, what the family history has been, his
relationship to
23 others, work history, the things that make each person
a unique
24 being, individual.

25 And then that information is presented to the
judge

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1 and there is a hearing with both sides appearing and
stating
2 their respective positions, and the judge makes a
decision
3 about what is the sentence that's appropriate for this
person
4 and this crime, individual determination.

5 Do you understand that?

6 A. Yes, I do.

7 Q. So that probably is what happened in the case where
you
8 served; and then as you say, you don't know what that
decision
9 was.

10 A. I'm not sure.

11 Q. That's not unusual, because jurors are not asked
their
12 opinion about that. They're just asked to decide the

case. It

13 is different now, though, here in the Federal Court;
and there

14 are differences between federal law and some state
laws. But

15 under the federal law, when the crimes charged carry
the

16 possibility of a death sentence, then we don't leave
that to a

17 judge. That's decided by a jury. And so the jury has
to make

18 a decision based on another hearing. And before we
talk about

19 that, I want to talk with you a bit about your views
concerning

20 punishment, of the possible punishment of imprisonment
for life

21 without any possibility of being released and death,
because we

22 asked you some of those questions on page 28.

23 Go ahead and turn to that page. And it goes
on to 29,

24 too.

25 All right. I just wanted you to be familiar
with what

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1 you wrote, here.

2 And this -- you know, these were broad
questions about

you 3 what do you think. And I take it you've told us what
4 think.
5 A. Right.
down to 6 Q. And the way I read your answers, they sort of come
in 7 yes, I think that there should be a punishment of life
in 8 prison in certain cases and a punishment by death, too,
9 certain cases; and it depends on the circumstances.
10 A. Right.
11 Q. Can you expand on that a little?
thought 12 Well, first of all, tell us this: Have you
of a 13 about the question of the death penalty and the penalty
before 14 sentence to life in prison without ever being released
questions? 15 you got this questionnaire and were asked these
16 A. I did think about it, yes.
17 Q. Did you think about it when you got your summons?
18 A. Yes, I did.
19 Q. Had you thought about it before that?
20 A. I had thought about it, yes, before that.
with 21 Q. Sure. And have you thought about it in connection
22 particular cases that have come up?

23 A. Yes.

24 Q. Tell us what your -- the cases that have caused you
to be
25 thinking about that.

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1 A. I guess I think it's appropriate in cases of mass
murder,
2 serial murder.

3 Q. And are there any particular cases that you have
heard
4 about or read about that come to mind when you give
that
5 answer?

6 A. No.

7 Q. The -- how would you define the mass murder?

8 A. Where several people are killed, many people are
killed.

9 Q. Now, have you talked about this with others? By
"this," I
10 mean whether the death penalty is an appropriate
punishment
11 under certain circumstances.

12 A. I think so, yes.

13 Q. Like who?

14 A. Probably co-workers different times, college, I'm
sure.

15 Q. All right. Speaking about co-workers, when you --

I take

called -- 16 it people out there at the finance, whatever it's
I

17 still think of it as the finance center -- heard about
you're

18 maybe going to be on this jury, did they talk with you
about

19 it?

20 A. No, they didn't. I mainly just told my supervisor.

21 Q. And did that person suggest anything to you about
your

22 approach to this jury summons?

23 A. No, he did not.

24 Q. Okay. And what was it? Just a question about,
well, we

25 may have to do some scheduling adjustments then if you
get

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1 called in?

2 A. No. I mainly just let him know I received the
summons and

3 when I would be gone.

4 Q. Okay. Well, coming back to the question of talking
with

5 others about the sort of social policy involved in the
death

6 sentence, is that something you and your husband have
talked

7 about?

8 A. Yes, we have.

9 Q. And generally speaking -- you can't speak for
another

10 person, but generally speaking, do you understand that
his

11 views are sort of the same as yours? I mean, are you
12 essentially in agreement on these things?

13 A. I think we feel the same.

14 Q. Now, can you tell us any more about the
circumstances?

15 You've talked about the circumstances of the crime.

16 A. Right.

17 Q. Distinguishing between mass murder, as you say, and
some

18 other killings, I suppose. Do you see it as also
involving the

19 circumstances of the person found guilty?

20 A. Well, I think the circumstances, if it was
premeditated,

21 planned in advance, that kind of thing.

22 Q. All right. Well, let me talk with you about what
is

23 involved here procedurally. And by "here," I mean in a
capital

24 case in the Federal Court, regardless of the crime.
And I'm

25 not talking about this case as such, and the reason
that we're

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1 not talking about this case as such is that we don't
have the
2 evidence and the circumstances in front of us. And as
I've
3 said, you can't infer anything from what, you know -- I
know
4 that you read and have seen some things about Oklahoma
City,
5 what happened there in April of 1995, what's happened
since,
6 the McVeigh trial. Put that aside now, because I'm
talking to
7 you about the process in a capital case.

8 And of course, we don't get into this process
unless
9 there is a guilty verdict. And in deciding that part
of the
10 case, the question of punishment doesn't come up. If
you think
11 about it, you were probably told in that case out in
Burlington
12 that you shouldn't consider punishment because that's a
matter
13 for the court and it doesn't affect the jury.

14 Now, it's the same in a capital case. You
don't
15 consider the question of punishment when you're
deciding
16 whether the evidence proves guilt; but if it does and

there is

17 a verdict of guilty, then it is necessary for the jury
to hear
18 additional information, much like I've described it for
the
19 court in a noncapital case.

20 So there is another hearing, a trial, really,
a second
21 trial on the question of punishment. And it is at that
time
22 that the prosecutors come forward with information that
are
23 generally referred to as aggravating factors that
suggest in
24 the view of the prosecution lawyers that death is
deserved for
25 this defendant in this crime. And the defense lawyers
come

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1 forward with information to the contrary called
generally
2 mitigating factors. And these are things that go to
suggest
3 that death is not deserved for this defendant, the
defendant
4 found guilty of whatever the crime. Follow me?
5 A. Uh-huh.
6 Q. Now, what the jury has to do is consider all of
that. And

7 the mitigating factors usually include things about the
8 individual human being who has been found guilty of the
crime,
9 things about his or her background, things just like
I've
10 talked about court sentencing, things that make the
individual
11 just that, a unique human being. And there is no
formula for
12 deciding this question. It comes down to after
considering it
13 all and talking it over with other jurors in
deliberation, then
14 each juror has to make an individual judgment, which
really
15 comes down to a moral judgment whether the defendant
should
16 live or die.

17 Do you understand the process?

18 A. Yes, I do.

19 Q. And the nature of the question?

20 A. Yes.

21 Q. And the question that you must answer for us is
would you
22 be able to do that?

23 A. Yes.

24 Q. And to give fair consideration to the particular
defendant
25 and all of the circumstances and decide whether it
should be

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1 death or life without -- life in prison without any
possibility

2 of being released?

3 A. Yes.

4 Q. You could do that?

5 A. Yes.

6 THE COURT: The lawyers have an opportunity to
ask you

7 some follow-up questions, some additional questions, so
if

8 you'll please listen to them and answer them, as you
did me.

9 Ms. Wilkinson?

10 MS. WILKINSON: Thank you, your Honor.

11 VOIR DIRE EXAMINATION

12 BY MS. WILKINSON:

13 Q. Good afternoon.

14 A. Good afternoon.

15 Q. I know you felt like you filled out the entire
16 questionnaire and answered a lot of the Judge's
questions, but

17 we have a few follow-up questions, if you'll bear with
us this

18 afternoon. As the Judge told you, my name is Beth
Wilkinson;

19 and it's my job and in fact my privilege to present the
20 evidence against Terry Nichols. And I say that to you
because
21 you are also a government employee.
22 A. Yes.
23 Q. And, of course, you will understand that people
have
24 concerns about whether you could sit on a judge -- sit
and
25 judge this case fairly. You understand that?

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1 A. Yes, I do.
2 Q. And so I just want to ask you right out: You work
for the
3 government. Your husband works for the government.
4 A. Yes.
5 Q. And can you come in here and give Mr. Nichols and
the
6 Government a fair trial and listen only to the evidence
you
7 hear in this courtroom before you make any decision?
8 A. If selected for the jury, that's my job. Yes.
9 Q. And you understand that you can't take it into
account,
10 your employment or your husband's employment.
11 A. Right. I understand.

bombing, 12 Q. Now, you don't know anyone who was killed in the

13 do you?

14 A. No, I don't.

15 Q. And do you know whether there was any defense
agencies in

16 the federal building in Oklahoma City? Are you aware
of

17 whether there were?

18 A. No, I don't.

19 Q. Did any of your colleagues or your supervisor who
found out

20 that you were called for jury service in this discuss
with you

21 your federal employment and how that might affect
whether you

22 could be called as a juror?

23 A. That was discussed before I received my summons,
during the

24 first trial.

25 Q. During the McVeigh trial?

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1 A. Yes.

2 Q. And can you tell me about those discussions?

3 A. Well, many people said you wouldn't be selected if
you

4 worked for the government.

5 Q. Did they say why you wouldn't be selected?

6 A. Mainly just because you worked for the government,
they
7 felt you wouldn't be selected.

8 Q. You understand now that that's not an automatic
9 disqualifier?

10 A. Right. I always felt it was not.

11 Q. And you're comfortable that you can follow the
Judge's
12 instructions on the burden of proof for the Government;
that we
13 have to prove beyond a reasonable doubt the charges?

14 A. Yes.

15 Q. Those same principles, general principles would
apply to
16 any penalty phase. You understand that?

17 A. Yes, I do.

18 Q. And as the Judge explained to you, there are two
phases to
19 a trial of this type. Did you understand that?

20 A. Yes.

21 Q. Whence you and your fellow jurors would determine
whether a
22 defendant was guilty -- and let's assume you made that
decision
23 for purposes of this discussion -- we would and the
defense

24 could, if they chose to, present evidence or
information about

25 whether the defendant should receive life in prison
without any

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1 chance of parole or the death penalty. You understand
that?

2 A. Yes, I do.

3 Q. Do you also know that under our system, we don't
have any

4 automatic death penalty, no matter what the crime is?

5 A. (Juror nods head.)

6 Q. So for example, when you told the Judge you thought
that

7 certain crimes could warrant the death penalty, like
mass

8 murder, you understand that even if someone were
convicted of

9 that, they can't automatically receive the death
penalty?

10 A. Right.

11 Q. Can you accept that as a principle?

12 A. Yes.

13 Q. I know that you wrote in your questionnaire that it
depends

14 on the circumstances whether someone gets life in
prison or the

15 death penalty. Is that right?

16 A. I guess that was my --

17 Q. Your personal view?
18 A. Personal view, yes.
19 Q. That matches with what the Judge instructed you as
what the
20 law is here in this courtroom; that you would have to
consider
21 all the circumstances before coming to any decision.
22 A. Right.
23 Q. And you're comfortable doing that and having an
open mind
24 if you were to get to that point in the process?
25 A. Yes.

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1 Q. During the trial and perhaps during the penalty
phase, if
2 it gets to that point, you would hear testimony from
federal
3 employees, from federal agents and from employees of
federal
4 agencies, other federal agencies. Would you be able to
judge
5 their testimony just based on how they respond in the
6 courtroom, what they tell you, their demeanor and all
the other
7 characteristics that you would use to determine whether
someone
8 was telling you the truth?

9 A. (Juror nods head.)

10 Q. And would you treat them the same as you would
treat any

11 other witnesses?

12 A. Yes, I would.

13 Q. Are you sure about that?

14 A. Yes.

15 Q. You understand why I'm asking you these questions?

16 A. Yes, I do.

17 Q. I appreciate that.

18 When you received your summons and you
discussed this

19 with your husband, did you discuss with him at all his
views on

20 the death penalty?

21 A. No, not at that time. No.

22 Q. So you know his views from prior discussions that
you all

23 have had?

24 A. Right. Right.

25 Q. And he didn't try and influence you in any way
about what

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1 decisions you would make if you were called as a juror?

2 A. No. I didn't talk to him at all as a juror.

it? 3 Q. And he understands that you can't talk to him about

4 A. Right.

5 Q. I want to talk to you more generally about your
opinions of

6 the criminal justice system. It sounds like you had
one

7 experience as a juror almost 20 years ago.

8 A. Right.

9 Q. How would you describe that experience overall?

10 A. It was a good experience.

11 Q. You wrote on your questionnaire that -- just
recently --

12 that you followed the O. J. trial.

13 A. Right.

14 Q. And I realize "followed" is probably a general
word. Did

15 you -- you didn't watch the trial on TV every day, did
you?

16 A. No. Occasionally, I did and then read about it in
the

17 newspaper and on the news.

18 Q. What was your impression of that proceeding?

19 A. It was not a good impression at all.

20 Q. Tell me why, if you could.

21 A. I refer to it as a circus.

22 Q. What about it created that circus-like atmosphere?

23 A. I think just seeing it on TV. I can't really
describe.

the 24 Q. Do you think the television cameras affected how
25 proceedings were carried out?

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because 1 A. I would say yes, just because it was televised and
2 it was a high-profile case involving a celebrity.

going to 3 Q. Do you understand that in this courtroom we're not
4 have cameras?

5 A. Right, right.

but even 6 Q. That's it's not going to be shown on television;
trial, 7 though it's not shown, as you know from the McVeigh

goes on 8 there is a lot of media attention and reporting on what
9 here in the courtroom. You're familiar with that?

10 A. Yes.

the 11 Q. Did you follow much of the publicity surrounding
12 McVeigh trial?

13 A. No, I didn't.

14 Q. Why was that?

15 A. I just didn't. I don't know.

interest in 16 Q. Did you feel like you didn't have a personal

17 the case?
18 A. I just read it occasionally in the newspaper.
That's all.
19 I didn't really follow it that closely. That's all.
20 Q. Are you aware of any of the evidence that was
presented in
21 that case?
22 A. Just very little.
23 Q. I ask you that because in your question -- or in
your
24 responses at the end of the questionnaire -- if you
want to
25 take a look at them, they're on pages 37 --

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1 A. All right.
2 Q. -- where the Court asked you about your opinion of
the
3 defendant.
4 A. Right.
5 Q. And what you had heard and seen about Terry
Nichols.
6 A. Right.
7 Q. You wrote down that -- for example, that you had
seen a
8 couple television programs, some specials.
9 A. Right.

10 Q. And that you were aware that the defendant had an
ex-wife,

11 a son and a brother.

12 A. Right.

13 Q. But you don't remember specific details?

14 A. I remember seeing those shows on, but I don't
remember

15 specific details from them.

16 Q. Do you remember when you watched those programs?

17 A. It's been some time ago. Several months ago, I
think.

18 Q. And are these the only impressions that you have
left from

19 seeing those?

20 A. Right. And I remember reading things, you know,
but I

21 can't remember specific details about it.

22 Q. The next question you can see there, 160, "Have you
formed

23 an opinion about the defendant."

24 You said, "Yes. I believe he may have been
involved

25 based on what I've seen or read."

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And 1 A. Right. I just was giving you my honest opinion.

2 that -- from what I had read prior, that was my
impression.

3 Q. Now, listening to what the Judge told you about
what your

4 obligations and duties would be here in the courtroom,
could

5 you set aside that opinion?

6 A. Right. I understand as a juror, you do set that
aside.

7 Q. And do you have any doubt about how you could do
that?

8 A. No.

9 Q. Down at the bottom of that same page on 163 -- and
I think

10 this might be the wording of the question -- it asked
you

11 whether you've changed your opinion of Terry Nichols
based on

12 the result of the trial of Mr. McVeigh. Do you see
that?

13 A. Yes.

14 Q. Now, there you say, "They have not changed." Does
that

15 mean you didn't change your views about Mr. Nichols
based on

16 what you knew about the trial of Mr. McVeigh?

17 A. I think I mean I didn't change my initial
impression that I

18 felt he may have been involved.

19 Q. Now I hear you describing it as an impression. Is
that

20 more accurate than an opinion?

21 A. I think it's more, yes, just an impression.

22 Q. Well, you're someone who works with numbers?

23 A. Right.

24 Q. I assume you have kind of a logical mind, right, as
an
25 accountant?

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1 You understand that your impression or what
you read

2 in the media or see on television is just that, an
impression.

3 It's not all the facts where you could make a logical
and

4 rational decision.

5 A. Right. Yes.

6 Q. And have you had to make decisions like that before
either

7 in your work or your personal life where you put aside
maybe

8 some preconceived notions and went through a rational,
logical

9 analysis before you came to a decision?

10 A. Yes, I would say so.

11 Q. Can you think of any examples where you were able
to do

12 that, were able to put out of your mind some
preconceived

13 notion? I don't know if it was about someone you had
first met

14 or about a decision to buy a home or something like
that.

15 Where you were able to set aside some preconceived
notion?

16 A. I don't have specific examples.

17 Q. It's kind of a hard question but something that
would help

18 you or help us understand how you're going to be able
to put

19 aside those impressions.

20 A. I don't have any examples.

21 Q. Okay. But you don't have anything that you can
think of

22 that would make it difficult for you to do, to follow
the

23 Court's instructions?

24 A. No.

25 Q. Let me ask you just a few follow-ups on some of the
things

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1 you wrote in your questionnaire. You told us that you
had

2 grown up, until you were four, on a farm. Is that
right?

3 A. Right.

4 Q. Does your family still have that farm?

5 A. Yes. My father does.

6 Q. Do you go back there to visit?

7 A. Yes.

8 Q. And do you participate? Do you help him with the
farm,

9 or --

10 A. Not really anymore, no.

11 Q. Do you know anything about fertilizer or --

12 A. No, I don't.

13 Q. No. Do you know what kind of fertilizer he uses at
his

14 farm?

15 A. No, I don't.

16 Q. What about your husband? Is he from a farming
background?

17 A. No, he's not.

18 Q. He's a city guy?

19 A. He's a city guy, yes.

20 Q. You also told us that you're a practicing Catholic?

21 A. Yes.

22 Q. And you try and attend church on a weekly basis?

23 A. Right.

24 Q. I want to take that and go back to our discussion
on the

25 death penalty a bit. Are you familiar with the
Church's

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1 teachings on the death penalty or whether they have any
2 teachings on the death penalty?

3 A. No, not really. I'm not really familiar with their
4 teachings.

5 Q. What if you were to learn that there were? And I
don't
6 know, so I'm just giving you a hypothetical. Would the
7 Church's view on that affect your ability to make a
decision in
8 this case?

9 A. I basically have my view formed already, and that
wouldn't
10 affect me.

11 Q. When you say you have your view formed, you mean
that it's
12 appropriate depending --

13 A. Yes.

14 Q. -- on the facts and circumstances?

15 A. Yes.

16 Q. Can I ask you one more question? A lot of people
say they
17 listen to Peter Boyles.

18 A. Yes.

19 Q. Can you tell me why people like to listen to Peter
Boyles

20 or why you like to listen to Peter Boyles?

the

21 A. I don't know. Something different to listen to in
22 morning.

23 Q. Is he kind of a controversial figure?

24 A. Yes, controversial.

husband

25 Q. Does he generate conversation between you and your

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1 between your driving to work?

2 A. Sometimes, yes.

have never

3 Q. I think you've told the Judge, though, that you
4 heard him discuss the Oklahoma City bombing case?

5 A. Right.

6 Q. Nor Mr. McVeigh or Mr. Nichols.

7 A. Right.

answering

8 MS. WILKINSON: Thank you. I appreciate you
9 my questions.

10 THE COURT: Mr. Tigar.

11 VOIR DIRE EXAMINATION

12 BY MR. TIGAR:

13 Q. Good afternoon.

14 A. Good afternoon.

15 Q. This Peter Boyles -- it's on AM radio?
16 A. AM.
17 Q. Do you tend to agree, or disagree with his view?
18 A. I have my own views.
19 Q. Let me ask -- do you have any relatives whose last
name is
20 May who work at the federal correctional institution?
21 A. No, I don't.
22 Q. Now, you mention that your parents still farm.
23 A. Yes.
24 Q. What's the size of the farm?
25 A. Probably around 1500 acres. Small farm.

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1 Q. What do they raise?
2 A. Corn, wheat, and pinto beans.
3 Q. Is that corn for the table, or is it feed corn?
4 A. Feed corn.
5 Q. Feed corn?
6 A. Grain.
7 Q. Grain. So in other words, they just take it off
right at
8 the ground and then grind it up and make ensilage out
of it?
9 A. Yes, either that or sell the grain.

10 Q. I see. Or -- oh, just sell it. Now, do they
process it on
11 the farm, or do they trench silage, or do you know what
they do
12 with it?
13 A. They normally sell it as grain.
14 Q. Oh, they just sell it right off as they do it?
15 A. Right.
16 Q. Have you ever heard them express any opinions about
the
17 family farm and federal policy towards farmers or
things like
18 that?
19 A. No, I don't think so. We really don't talk about
that
20 much.
21 Q. Okay. Now, looking over here at the publications
you read
22 and where you get your news, could you look at page 16
with me,
23 please. Have you heard or seen anything about the
Oklahoma
24 City situation or the cases that came out of it on CNN?
25 A. No.

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1 Q. Do you watch CNN regularly?

2 A. Occasionally, I'll watch it.

3 Q. Now, have you seen or read or heard anything about
it on

4 "Dateline"?

5 A. I don't remember what I saw programs on. It was on
the

6 wife and son, and I don't remember what that was on.

7 Q. Now, did you ever watch a TV special with that
fellow Peter

8 Jennings?

9 A. No, I don't --

10 Q. Don't think -- all right. You do remember seeing,
as you

11 said over on one of the other pages, a few television
specials;

12 right?

13 A. Right.

14 Q. Well, can you tell me when the first time is you
can

15 remember seeing one of those specials?

16 A. It must have been three or four months ago.

17 Q. And that was the one where Mr. Terry Nichols'
brother was

18 on?

19 A. I can remember that, yes.

20 Q. Okay. And Mr. Nichols' ex-wife and son?

21 A. I remember that, uh-huh.

22 Q. And what -- what impression did you get from
reading

23 that -- from seeing that, rather?

the
24 A. You know, I don't really remember specifics from
25 special.

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that,
1 Q. And then the other specials you saw were after
2 somewhat within the recent past?

months
3 A. It's -- everything I remember seeing was several
4 ago.

come up on
5 Q. Okay. And how about on Larry King? Has it ever
6 Larry King, anything to do with Oklahoma City that you
7 remember?

8 A. Not that I remember watching.

news. Is
9 Q. How about -- you say you watch the local Denver
10 that -- which channel?

11 A. I usually watch Channel 9.

12 Q. News 9?

13 A. Uh-huh.

the
14 Q. Do you remember watching the television coverage of
15 verdict, the guilt verdict in the McVeigh case?

16 A. Yes, I do.

door of 17 Q. Do you remember prosecutors coming out the front
18 the building, the courthouse building after that
verdict? Do 19 you remember seeing coverage of that?
20 A. Yes, I saw that.
21 Q. What do you remember seeing there?
22 A. Pardon me?
pictures of 23 Q. What do you remember seeing when you saw the
24 the prosecutors coming out the front door?
seeing 25 A. I just remember, you know, the guilty verdict and

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1 the prosecutors.
2 Q. Do you remember seeing crowds of people on the
sidewalk?
3 A. I'm not sure.
4 Q. Okay. Now, do you remember the television coverage
of when
5 the jury came in with a verdict of death?
6 A. I was at work that day, I remember, but --
7 Q. And what do you remember about that coverage? Do
you
8 remember any pictures of victims of the bombing or
families of

9 the victims?

10 A. I don't really -- I don't remember.

11 Q. Do you remember talking about the verdict, either
the guilt

12 verdict or the death verdict, with anybody at work?

13 A. I was at work, yes, when it was announced.

14 Q. It was announced at work?

15 A. Yes, when I was at work.

16 Q. Okay. Well, how was it announced at work? I mean,
how

17 did --

18 A. They have radios at work.

19 Q. I see. They had radios at work.

20 A. Uh-huh.

21 Q. Do they always have radios at work?

22 A. Several people do.

23 Q. And they listen to the news?

24 A. Occasionally, they'll listen to the radio, yes.

25 Q. Now, did you hear it directly from the radio, or
did

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1 somebody tell you?

2 A. No, I heard it from the radio.

3 Q. Okay. And what was the reaction -- I'm trying to
get an

4 idea: Are you in a large space where you can hear or
see other
5 people as you work, or do you have a separate office?
6 A. We each have separate cubicles.
7 Q. Cubicles. Now, are those government-type cubicles
where if
8 you really jumped up on a chair you can see over them?
9 A. You can see over and they're shorter.
10 Q. Was there -- could you observe any reaction from
the other
11 folks that were in your area from that?
12 A. There was reaction, yes.
13 Q. What was the reaction?
14 A. Some people felt it was a just verdict.
15 Q. Some people felt what? I'm sorry?
16 A. It was a just verdict.
17 Q. Was there anybody that said that it wasn't a just
verdict
18 that you heard?
19 A. I don't remember that.
20 Q. Now, did you express an opinion about it?
21 A. I don't think I did.
22 Q. Do you remember having an opinion about it?
23 A. I had an opinion.
24 Q. What was your opinion?
25 A. I had felt that he was guilty.

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1 Q. Did you feel that the sentence of death was a just
2 sentence?

3 A. I did.

4 Q. Now, what was it about what you heard about the
trial of
5 Timothy J. McVeigh that caused you to think in that
case that

6 death was the right sentence?

7 A. Well, that 160 people were killed.

8 Q. Anything else?

9 A. And that it was probably planned in advance.

10 Q. I notice that you, in talking about the things that
you
11 read -- you've read books or a book by John Grisham.
That's

12 over on page 18.

13 A. I haven't read the book. I do have a book.

14 Q. Oh, you have the book, but you haven't read it?

15 A. I haven't read it.

16 Q. Okay. So -- have you talked about John Grisham's
book with
17 members of your family?

18 A. No.

19 Q. And -- well, tell me a little bit about on page 26
there

20 about your jury service. Do you remember how long it
took your
21 jury there to reach a verdict? And that's that drug
case out
22 in Burlington.
23 A. Seems like it was several hours. I really -- a
couple
24 hours.
25 Q. Hard to remember details. Is that fair to say?

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1 A. Hard to remember, yes.
2 Q. What was it that impressed you about the
prosecution's
3 evidence or, by contrast, didn't impress you about
whatever it
4 is the defense lawyers did that led to your verdict in
that
5 case? Can you share with me what you can remember
about that
6 decision process?
7 A. It's hard to remember.
8 Q. So nothing -- nothing comes to mind?
9 A. Nothing, no.
10 Q. Well, I can certainly, you know, understand that.
I -- you
11 do say that on page 33 here, if you could help me there
and

12 turn to that -- that you get news from -- and this is
Question
13 144 -- TV, radio, newspaper, conversations, and heard
other
14 people discussing the case. Right?
15 A. Right.
16 Q. Okay. And you also said you followed the O. J.
Simpson
17 trial. Now, in that case, did you think that -- who do
you
18 think did a bad job in the O. J. Simpson trial? Maybe
that's
19 the best way to --
20 A. What do you mean by that?
21 Q. Well, you thought it was a circus. Right?
22 A. Yes. Right.
23 Q. So -- and you didn't think it was appropriate to be
a
24 circus. Right?
25 A. No.

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1 Q. Well, who was it that wasn't behaving
appropriately, I
2 guess, as you -- did you think the defense lawyers --
3 A. I feel all the parties.
4 Q. Everybody?

5 A. Right.

6 Q. The defense?

7 A. Yes, and the prosecution.

8 Q. The prosecution. The judge?

9 A. Yes.

10 Q. The jurors?

11 A. That, I wouldn't know.

12 Q. Okay. Well, as a result of publicity about this particular

13 case, you told us candidly that "I believe he may have been

14 involved based upon what I've seen or read." Right? That's

15 over on page 37.

16 A. Right.

17 Q. Now, do you think that it's fair for Terry Nichols to be

18 concerned about a 13-year government employee who expresses

19 that sentiment serving as a juror? Do you think it's fair to

20 be concerned about that?

21 A. Yes.

22 Q. Well, would you help me with that? What is it that you

23 read that led you to believe, as you say, that he may have been

24 involved?

25 A. I think that was just a personal impression. I don't

Juror No. 335 - Voir Dire

1 remember specifics -- specific details.

2 Q. Now, would we have to bring you some evidence to
show you

3 that he wasn't?

4 A. To --

5 Q. Yeah, in other words, would it take some doing on
our part

6 to overcome that impression that you have, based on all
that

7 you've heard and read?

8 A. I think I'm just stating an impression here. I'm
not

9 saying I felt he was guilty.

10 Q. No, I understand. I understand the words used.
I'm not

11 trying to put words into your mouth. I'm just asking
you the

12 question, this impression or whatever.

13 A. The evidence would convince you --

14 Q. I'm sorry?

15 A. The evidence would convince you whether he was
guilty or

16 not.

17 Q. I see. But would you be looking to us to help
dispel, to

18 help get rid of that impression?
19 A. Well, if I served as a juror, I would hear the
evidence
20 presented in court.
21 Q. And would you be expecting that the defense would
present
22 some of the evidence that would help you dispel that
23 impression?
24 A. No, I understand that they don't have to do that.
25 Q. Okay. And as you sit there today, do you feel,
looking as

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1 deep inside yourself as anybody can -- I mean, let me
preface
2 this. There is lots of other cases out there, not just
this
3 one.
4 A. Right.
5 Q. Do you feel that Terry Nichols is guilty?
6 A. Right now, no.
7 Q. Let me just go a little further, because there will
be
8 evidence in this case -- let me not ask in that form.
If there
9 is evidence in this case that people involved with the
United
10 States military were killed by this bomb, how would you

feel

11 about that?

12 A. I feel the same no matter who was killed by the
bomb.

13 Q. Suppose there was evidence that -- that there was
an issue

14 as to whether somebody who worked for the United States
15 military was telling the truth or not. Would you tend
to think

16 that that person whose believability was in issue was
your

17 colleague and you'd trust them more?

18 A. No, I don't think so.

19 Q. Well -- and I'm really -- you understand we're at
the heart

20 of the inquiry. If I asked my son, you know, Did you
break

21 that window, and he said, Well, I don't think so, I'd
probably

22 ask a few more questions.

23 A. Right.

24 Q. Can you help me about how you would evaluate the
25 believability of somebody from the United States
military who

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1 was a witness here? Would that person start off in
your view

2 with the idea, gee, they're a colleague of yours
because they

3 work for the same employer and --

4 A. No. I think there is more to it than who they work
for to

5 judge whether you can believe them or not.

6 Q. I understand that.

7 A. Their background, their --

8 Q. But would you give -- would you give them -- would
you

9 start off looking at them more favorably than you
would, say,

10 Terry Nichols?

11 A. I would say not.

12 Q. Well, let's look at this question of your views on
to ask

13 punishment. You understand that we only get one chance
this

14 questions, and the first thing we're going to do when
innocence

15 trial starts is be talking about the presumption of
some

16 and there isn't going to be a penalty phase; but if for
part,

17 reason there is this life phase of the trial, a second
18 for some reason we wouldn't be able to go back and ask
19 everybody all over again, so we have to do it now.

20 A. Uh-huh.

21 Q. Well, you've said, "Certain murder cases, depending
on the

22 circumstances."

23 Now, some people -- and you've also, I think,
talked
24 about you have not heard discussion in your church
about the
25 death penalty. Is that right?

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1 A. No.

2 Q. Some people favor the death penalty strongly. Some
oppose
3 it strongly. Some aren't quite sure. How would you
describe
4 your view?

5 A. I would say I favor the death penalty, depending on
the
6 circumstances, all the circumstances. The case.

7 Q. Okay. And is that a strongly held view? Have you
had that
8 view a long time? That's two questions.

9 A. Yes, I've had that view a long time.

10 Q. When is the first time you can remember thinking
about the
11 issue of capital punishment?

12 A. I would say it goes back to high school or college.

13 Q. Now, in a case where a person is found guilty of
multiple
14 premeditated, planned, intentional, cold-blooded

murder, murder

15 of many people, do you feel that life in prison could
ever be

16 the appropriate punishment?

17 A. In that case, I feel the death penalty is
appropriate.

18 Q. That is to say, if you were on a case and somebody
was

19 convicted of that, that would be enough for you to say
the

20 death penalty is the appropriate -- is the appropriate
21 punishment?

22 A. Well, that is some of the circumstances, yes.

23 Q. Pardon?

24 A. Yes, that's some of the circumstances that would
make it

25 appropriate.

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1 Q. And could you -- and if that's -- when you say
"some of the

2 circumstances," could you tell me what you mean?

3 A. I guess I mean it would be appropriate.

4 Q. And that's the appropriate punishment if somebody
is

5 convicted of that; is that right?

6 A. Yes.

7 Q. And that -- was that what influenced your view that
the

8 appropriate punishment for Timothy McVeigh was death?

9 A. Yes.

10 MR. TIGAR: Thank you very much.

11 Excuse me, your Honor. I wanted to ask Mr.
Woods.

12 Thank you, your Honor.

13 VOIR DIRE EXAMINATION

14 BY THE COURT:

15 Q. Let me just follow that up a moment. You said
"some of the

16 circumstances" or "one of the circumstances." I'm not
sure

17 what you did say; but when Mr. Tigar asked you about

18 cold-blooded, premeditated, multiple murder --

19 A. Yes, that is the circumstances I would consider

20 appropriate.

21 Q. All right. Are there any other circumstances that
would be

22 considered by you if they were presented to you as what
I was

23 talking about, mitigating factors?

24 A. Those are the ones that come to my mind.

25 Q. Yeah, but what we're trying to ask you -- and it's
very

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1 awkward because we can't ask you about this case. We
don't
2 know adequate information. Let me ask it of you this
way:
3 With respect to what you heard about the case with Mr.
McVeigh,
4 did you hear anything about what happened in the second
trial,
5 penalty phase, and what evidence or information was
presented
6 there?
7 A. I did hear some, yes.
8 Q. And what did you hear? Can you recall?
9 A. Well, I remember 168 people killed.
10 Q. All right. Anything else?
11 A. It was planned in advance.
12 Q. Anything else?
13 A. That's all I remember.
14 Q. Do you remember hearing anything about what his
lawyers
15 presented as mitigating factors?
16 A. No, I don't.
17 Q. And so you don't know what the jury had in front of
them?
18 A. No.
19 Q. Now, I'm not trying to argue with what you've said.
I'm
20 just trying to draw you out a little bit more; and I
guess one

a 21 way to ask it is whether you believe that any role that
than, 22 person plays in a case resulting in the murder of more
that 23 you know -- several people -- that there isn't anything
24 could be considered mitigating there?
25 A. I'm not sure.

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you're 1 Q. Well, and we're not sure how to react to what
asked it 2 saying. That's the trouble. And, you know, Mr. Tigar
penalty, some 3 in terms of some people strongly favor the death
Some 4 people strongly oppose it, never would consider it.
be 5 people say any killing is a death penalty. You seem to
is 6 saying, well, you're strongly in favor of it if there
7 killing of more than one person.
listen 8 A. I guess I am saying there are factors. You have to
9 to all the factors. I guess that's what I am saying.
verdict and 10 Q. Is -- can you tell us that if there is a guilty
11 it does involve a lot of deaths and injury -- that is,

the

12 offense in which a defendant played some role -- that
you
13 believe there should be a death sentence there because
of the
14 effects of it, the number of people killed, regardless
of any
15 other circumstances?

16 A. Yes, I do believe.

17 THE COURT: All right. Well, we appreciate
going
18 through this with you and your answers. And, you know,
there
19 isn't any right and wrong answer. We just need to know
your
20 answer and -- your answers, and you've given us that.

21 We can't tell you here this afternoon whether
you will
22 serve or not serve on this case, because we don't know;
and I
23 won't be able to tell you when we will know. So please
go
24 forth now with the same cautions that you did when you
were
25 excused out at Jefferson County Fairgrounds and avoid

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1 discussion of the case with others and stay away from
publicity

2 about it. Will you do that?

3 JUROR: Yes, I will.

4 THE COURT: Okay. You're now excused. Thank
you.

5 (Juror out at 5:02 p.m.)

6 THE COURT: All right. We're just a bit past
5:00, so

7 we'll recess until 9:00 tomorrow morning.

8 Court is in recess.

9 (Recess at 5:02 p.m.)

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1 REPORTERS' CERTIFICATE

2 We certify that the foregoing is a correct
transcript from

3 the record of proceedings in the above-entitled matter.
Dated

4 at Denver, Colorado, this 1st day of October, 1997.

5

6

Paul Zuckerman

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Bonnie

Carpenter

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