

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLORADO
3 Criminal Action No. 96-CR-68
4 UNITED STATES OF AMERICA,
5 Plaintiff,
6 VS.
7 TERRY LYNN NICHOLS,
8 Defendant.

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REPORTER'S TRANSCRIPT
10 (Trial to Court: Volume 10)

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12 Proceedings before the HONORABLE RICHARD P.
MATSCH,
13 Judge, United States District Court for the District of
14 Colorado, commencing at 1:40 p.m., on the 2d day of
October,
15 1997, in Courtroom C-204, United States Courthouse,
Denver,

16 Colorado.

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24 Proceeding Recorded by Mechanical Stenography,
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1 APPEARANCES

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Western

3 District of Oklahoma, 210 West Park Avenue, Suite 400,
Oklahoma

4 City, Oklahoma, 73102, appearing for the plaintiff.

5 LARRY MACKEY, BETH WILKINSON, GEOFFREY MEARNS,
and

6 JAMIE ORENSTEIN, Special Attorneys to the U.S. Attorney

7 General, 1961 Stout Street, Suite 1200, Denver,
Colorado.

8 80294, appearing for the plaintiff.

9 MICHAEL TIGAR, RONALD WOODS, and ADAM
THURSCHWELL,

10 Attorneys at Law, 1120 Lincoln Street, Suite 1308,
Denver.

11 Colorado, 80203, appearing for Defendant Nichols.

12 * * * *

13 PROCEEDINGS

14 (Reconvened at 1:40 p.m.)

15 THE COURT: Be seated, please.

16 Before resuming, is there agreement with
respect to

17 No. 895?

18 MR. TIGAR: Yes, your Honor.

19 MR. MACKEY: Yes, your Honor.

20 THE COURT: He may be excused?

21 MR. TIGAR: He may be excused.

22 THE COURT: Then let's bring 99 back in.

23 (Juror No. 99 was recalled to the stand.)

24 VOIR DIRE EXAMINATION CONTINUED

25 BY THE COURT:

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Juror No. 99 - Voir Dire

1 Q. All right, sir. What happened to the hearing
device?

2 A. It's in the chair in front of me. I can hear you
pretty

3 well without it, your Honor.

4 Q. All right. If you need it, put it on. It's been
suggested

5 to me that maybe when you put your hand on your shirt
or move

6 your hand around, that it picks it up. So that may be
the

7 source of the interference, I don't know.

8 A. I'm the only one wearing one of these; right?

9 Q. Yes.

10 A. It would probably help if somebody else in the room
were

11 wearing it, because then I could determine whether it's
just me

12 or whether --

13 Q. Well --

14 A. I know it's not just me, but if it's just --

15 Q. Well, they do tell me that when you touch your --
like when

16 you touch your shirt while it's on there, it will pick
that up

17 and cause static.

18 A. I believe that's a possibility, yes. But I'm --
right now,

19 I just heard a little zap, and so, you know, my hands
are down

20 here now.

21 Q. Whatever works, okay?

22 A. All right, your Honor. Thank you.

23 Q. You did during this recess go ahead and complete
pages 28

24 and 29, and we have now copied those answers. And you

25 understand that we have to ask some questions about
possible

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1 punishment and your general opinions with respect to
2 punishment, particularly with respect to the punishment
of

3 putting somebody in prison for life without any
possibility of

4 release ever and the punishment of death because of the
crimes

5 charged in this case being crimes that under the
statute carry

6 the possibility of a death sentence. That's why we've
asked

7 you these questions.

8 A. Yes, your Honor.

9 Q. Now, in a moment, I will review with you what the
procedure

10 is with respect to trial and a punishment issue. But
of course

11 before we talk about this at all, I want to emphasize,
as the

12 questionnaire did, that Mr. Nichols is presumed to be
not

13 guilty.

14 A. Yes, your Honor.

15 Q. So we would not be talking about punishment at all
unless

16 he were to be found guilty by a jury.

17 But since we have to -- we only have this
chance to

18 talk to people for jury service. We can't after a

trial, then

19 talk again, so we have to include the possibility of a
20 punishment decision now in speaking with you.

21 And you have answered here the questions in
terms of

22 what you think about the death sentence and life
imprisonment
23 without being instructed on the law.
24 A. Yes, your Honor.
25 Q. Okay. Now, are these views that you have expressed
here

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Juror No. 99 – Voir Dire

1 opinions that you have held for sometime?
2 A. Yes, your Honor.
3 Q. Have you thought about the death penalty in a
serious way
4 at times?
5 A. Yes.
6 Q. Have you thought about it in terms of any
particular cases
7 that you may have heard about?
8 A. Yes, your Honor.
9 Q. Like which one?
10 A. Currently I would say the JonBenet Ramsey murder.
11 Q. And what about that in terms of the death penalty?

No one

12 has been charged in that case, as I understand it.

13 A. I believe you're correct. But I understand from
media

14 coverage that the extent of the suffering that the
child went

15 through in the process of the murder, which probably
was a

16 premeditated murder, I believe that would justify
putting that

17 person to death. I sure wouldn't want to be in the
same cell

18 with that type of murderer, myself, if I was in prison.

19 Q. All right.

20 A. I think that's -- if I'm correct, they do keep
murderer,

21 murderers, convicted murderers separate from most of
the

22 general population in prisons; is that correct?

23 Q. Well, it depends on whoever is running the prison
or who

24 the people are. I mean there's no categorical answer
to that.

25 But we're talking here about really the
choices

1 between keeping somebody alive but in a prison and in a
secure

2 way and never getting out vs. putting a person to

death.

that in 3 That's the type of choice. And so are you saying here

here I 4 certain types of murder cases -- and you've described

penalty 5 think under D what you're saying -- there should be a

crimes, 6 of death and that's it; that is to say, for certain

else? Is 7 people should be put to death regardless of anything

8 that what you're telling us?

9 A. More or less, yes, I think it is.

under 10 Q. So in connection with this case you've mentioned

should be 11 investigation, is it your view that whoever did that

it was 12 killed, no matter what? Or who that person is or why

13 done?

If 14 A. I . . . well, right now, that would be my feeling.

and that 15 the -- I hope whoever committed the murder is caught

circumstances, 16 there is a trial; and if there are extenuating

trouble for 17 you know, this little girl was causing all sorts of

circumstances, 18 this person -- there might be some extenuating

19 but I don't see them.

20 Q. Okay. But you could imagine extenuating

circumstances that

21 could be presented and if they were, they ought to be
22 considered; is that what you're --

23 A. Yes, that's correct.

and
24 Q. Well, let me address this in a little different way

There
25 talk about the actual procedure that is to be followed.

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1 is, first of all, a trial on the question of the
sufficiency of

2 the evidence, I mean we've been over that. You've seen
that in

3 a case that you observed in the county court; right?

4 A. Yes, your Honor.

decide
5 Q. And the jury's job is to listen to the evidence and

beyond a
6 whether the evidence proves the person on trial guilty

7 reasonable doubt.

8 Yes?

9 A. Yes, your Honor.

10 Q. If not, the verdict is not guilty.

11 A. Yes.

penalty
12 Q. If the verdict is guilty and there's no death

13 involved, then it's up to a judge to decide the
punishment in

14 the case. Do you understand?

15 A. I'm -- I don't know that technically about it, but,
yes,

16 I'll agree with that.

17 Q. Well, in the case that you observed, the jury found
the

18 defendant guilty?

19 A. That's correct, your Honor.

20 Q. Then do you know what the judge did about
sentencing?

21 A. I do believe at that time the judge did determine
the

22 sentence, and I don't believe there was any
deliberation in the

23 jury about that.

24 Q. No --

25 A. He didn't ask them.

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Juror No. 99 - Voir Dire

1 Q. Well, that's what I'm getting to.

2 A. Okay.

3 Q. The jury is not involved in the punishment decision
4 ordinarily.

5 A. All right.

6 Q. And a judge is. And before a judge makes a

sentencing

case, 7 decision, the judge gets more information about the

things 8 including more information about the defendant, the

history, 9 about his background, his life history, his employment

people 10 family relationships, all those things that differ from

so that it makes one person different from all others,

and 12 individual characteristics, and then holds a hearing

13 listens to both sides and makes a judgment, a sentence

14 appropriate to that person and that crime. Understood?

15 A. Yes, your Honor.

is 16 Q. Now, that's the way it is normally; and when a jury

Look, 17 given a case to decide, the judge instructs the jury,

job. You 18 don't think about punishment, 'cause that isn't your

that to 19 may not consider it. And that would be true here, too;

against 20 decide whether the evidence supports the charges

the 21 Mr. Nichols, the jury would be asked to just consider

talk 22 evidence at the trial and decide that question, don't

23 about or think about punishment.

a case 24 But if the jury finds the defendant guilty in

25 where the punishment may be life in prison with no
release or

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1 death, now, that's not a question under federal law
that we

2 leave to the judge. We say that question should be
decided by

3 a jury, jury of 12 people coming out of the community
and

4 exercising their judgment.

5 But before that jury can make the decision,
they have

6 to hear more, and they have to consider more
information than

7 that which was given to them at trial. So there is a
second

8 hearing, like a second trial; and it is at that time
that the

9 prosecution comes forward with information that we call

10 aggravating factors, things about the offense, things
that the

11 Government claims would support death as a justified
sentence.

12 The defense, on the other hand, comes forward
with

13 information to the contrary, things about -- like I've
said

14 with respect to what a judge hears, things about the
individual

15 defendant, what he -- his background has been, what
things he's

16 done in his life that show value to his life, things
that may

17 relate to why he was involved in the offense and his
role in

18 the offense. So that these are called mitigating
factors.

19 And then the court gives the jury some
instruction

20 about how they should analyze this in terms of a
logical

jurors 21 sequence of answering some questions that lead the

22 through an analysis of all that they have heard.

the 23 So the jury then is obligated to consider both

making a 24 aggravating factors and the mitigating factors before

25 decision of life or death. But there's no formula;
there is no

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1 make equation. It's up to the jurors individually then to

2 issue as to decisions on this. And each juror must decide the

3 question whether the defendant should live or die. And that

4 really is a moral judgment to be made by each juror.

to you 5 Do you understand the framework I've suggested

6 here?

7 A. Yes, your Honor, I do understand that.

believe 8 Q. The question that I must ask of you is whether you

jury in 9 that you could and would do that if you served on the

10 this case.

11 A. I do believe I could do that, yes. Would do that.

12 THE COURT: All right. Now, counsel have some

questioning 13 questions for you, I'm sure, to follow up on this

from the 14 and maybe some other subjects. So we'll have first

15 Government, Mr. Orenstein.

16 MR. ORENSTEIN: Thank you, your Honor.

17 VOIR DIRE EXAMINATION

18 BY MR. ORENSTEIN:

19 Q. Good afternoon, sir.

20 A. Good afternoon, sir.

your 21 Q. Now, I understand from what you told his Honor that

school; is 22 job now is to monitor students who have acted up in

23 that correct?

24 A. Yes, that's correct.

Orenstein. 25 Q. Let me introduce myself. My name is Jamie

Juror No. 99 - Voir Dire

1 We've never met, have we?

2 A. Not to my knowledge, Jamie.

3 Q. Now, this is actually a job that you've started
recently;

4 is that correct?

5 A. It is correct in this particular case, although in
past

6 years, I have performed this type of work before.

7 Q. With the same school district or a different one?

8 A. Same school district. Same school, I believe.

9 Q. I also noticed that you have a 16-year-old son who
is now a

10 high school junior. Does he go to the same school?

11 A. No, no, he does not.

12 Q. So he's never been one of your customers?

13 A. Not there, no.

14 Q. Now, you mentioned in the questionnaire -- and if
you could

15 like to turn to page 8, Question 38, you mentioned that you

16 about make a study of the Constitution and to teach your son

17 it. Do you see that answer?

18 A. Is this 38, you say?

19 Q. Yes.

20 A. Yes, that's correct. My wife and I.

21 Q. What do you do when you discuss the Constitution
with your

22 son? Do you have any books that you use, or is it a
matter of

23 discussion?

24 A. Well, generally we have copies of the Constitution.
There

25 are some with -- what do they call it? -- annotations
as to

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1 agree what experts feel certain passages mean; and we sort of

2 or disagree with the experts and discuss it.

3 Q. Do you find that you and your son generally agree
or

4 disagree about what the experts say?

5 A. Generally I think we agree.

6 Q. His Honor asked you this morning about the fact
that you

7 that was follow some Supreme Court cases. I was wondering if

8 one of the things that you discussed with your son.

9 A. On occasion, yes. He's pretty cognizant of what's
going

10 on, also; so, yes, we do discuss these.

11 Q. Are there any recent cases or any other
constitutional

12 issues that you recall talking about that made a
particularly

13 deep impression on you or that caused a lot of
conversation

14 with your son?

15 A. No, we just generally -- since my son at that time
was

16 being home-schooled -- this was part of a home-school
course on

17 the Constitution and American government and was just
generally

18 discussed and touched on. We didn't really go into any
details

19 or any certain case.

20 Q. So this was one of a number of subjects that you
were

21 teaching your son as part of home schooling?

22 A. That's correct.

23 Q. How long was your son in home schooling?

24 A. He was in home schooling from fourth grade full-
time until

25 he was a sophomore in high school, when he started
taking

3 Q. What prompted your decision to start -- first of
all, to

4 start the home schooling and then to have him attend
the high

5 school?

6 A. There were mainly health reasons at the time. My
son was

7 very sickly in first and second grades, and he wasn't
improving

8 health-wise; and we felt that there were conditions at
the

9 school, environmental factors, that were causing his
illness

10 and that he would be better off at home and under
protection

11 from allergies, basically. And it proved to be
correct. His

12 health improved dramatically, and his education was
much more

13 concentrated; and he is currently, I believe, in the
Woodland

14 Park High School, considered the student with the
highest SAT

15 score from last year. It wasn't official. It was just

16 something he decided he should take as practice; and I
think he

17 came in possibly with one or two errors in the entire
test.

18 Q. So obviously the home schooling was successful?

19 A. I believe so.

20 Q. And he's doing -- health-wise he's doing okay at
school

21 now?

22 A. He's having problems once again. And we're not
considering

23 taking him out of the school. We're considering
improving

24 medication for him, but he does seem to be having some
serious

25 respiratory problems again. But he is still
maintaining an A

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1 average in all of his classes.

2 Q. Sir, let me ask you about a different subject that
you

3 discussed with his Honor this morning, and you covered
it for

4 the most part. There are just a couple of questions I
wanted

5 to ask you, if you don't mind, about the sleep disorder
that

6 you mentioned.

7 You've obviously been dealing with this and

8 successfully for quite some time. I think you said 25
years?

9 A. Actually much longer than that, but it was about 25
to --

10 yeah, about 25 or 27 years ago that we discovered there
was a

11 problem and finally determined what the problem was.

So for

didn't 12 about two or three years, the problem existed; but we
of 13 know what was causing it. And we tried various methods
and then 14 vitamin therapy, things of that nature, to combat it,
he 15 medication. Finally we went to see a neurologist, and
actually, I 16 determined what the problem was right away. Well,
and 17 did some reading and came across what the problem was
it. 18 presented my analysis to him. And said, yes, that's
since 19 Q. So you found it, and the doctors had missed it; and
have any 20 then you've been dealing with it?
this, 22 Q. The question I had, sir -- and I know nothing about
you need 23 so forgive my ignorance -- does a change in routine
24 effect on the condition and the amount of medication
25 to take?

2 Q. Is there a period of adjustment -- if there is a
change in

3 routine -- where you have to figure out, you know, how
is it

4 affecting me and what level of medication do I need?

5 A. Generally, no. There's -- the doctor pretty much
knows

6 what should be prescribed, and if there's any
additional

7 pressure or something of that nature that might require
me to

8 adjust the medication, I discuss it with my doctor at
an

9 appointment, and he determines whether or not it's wise
to

10 increase or to withhold medication.

11 Q. Sir, I just have a couple of questions finally
about the

12 last subject you discussed with his Honor, which is the
death

13 penalty. You mentioned the JonBenet Ramsey case, and
you said

14 that's something -- from what you believe now -- you
believe

15 death would be the appropriate punishment; is that
correct?

16 A. Yes.

17 Q. Are there any other cases that you can think of
where

18 you've thought about the death penalty where you
thought death

19 was the appropriate punishment or was not?

in the 20 A. Not in general, although I believe in a case like

been a case 21 assassination of President Kennedy, that would have

been 22 where the guilty murderer would have -- should have

23 considered for the death penalty.

24 And I don't know that much about the Manson
situation.

25 As I understand it, Mr. Manson, who was involved in --
had a

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them to 1 cult following that committed murderers, that he told

trial 2 do it. I don't believe there -- has there ever been a

I heard 3 that has judged him to be guilty of . . . ? Somehow

and that 4 that there wasn't but that he was still incarcerated

5 after more than 20 years, he's still incarcerated and

prison. 6 considered to be very dangerous and so he's still in

penalty 7 Q. But that's another case where you thought death

8 should be considered?

found 9 A. If he were actually actively involved, if it were

10 out, if he suddenly came out and said, Yes, well, I did

commit

11 that murder, myself, and it was -- well, any of those
crimes

12 were very seriously -- you know, crimes against all
mankind, in

13 my opinion. And they deserve the death penalty.

14 MR. ORENSTEIN: All right. Well, sir, I thank
you.

15 You've been answering a lot of questions this morning.
I know

16 yet, but I that there are probably a few more questions for you

17 in this thank you for answering my questions and participating

18 process.

19 JUROR: Thank you, sir.

20 THE COURT: Mr. Tigar.

21 MR. TIGAR: Yes, your Honor, thank you.

22 VOIR DIRE EXAMINATION

23 BY MR. TIGAR:

24 Q. Good afternoon, sir.

25 A. Good afternoon.

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the 1 Q. I wanted to go over some of the things that were in

the -- 2 questionnaire, and I promise to try not to repeat what

one of

4 what others have asked. My name is Michael Tigar. I'm
Nichols.

5 the lawyers asked by the court to represent Terry
relatives

6 A. I have been on a farm for a very short time, have
or two,

7 that own a farm in Sedalia, Missouri; so I spent a day

8 I'd say, with them. And it was very enjoyable.

9 Q. Do you know how -- how their farm works or what
they raise

10 there?

11 A. Mainly poultry and some cattle, I believe.

12 Q. So do you know whether they use fertilizer in their
13 operations?

14 A. No, I don't know that.

15 Q. With poultry and cattle --

16 A. I assume that they might, in some cases.

17 Q. I want to talk to you a little bit about your job
as a

18 fault,
19 assigned to you acts up, if there's some problem in the

20 detention hall, how do you go about deciding who's at

21 them?
try to

22 A. Generally if there is a student that acts out, I

where 23 discuss the situation with them and calm them down to
do what 24 they will again sort of continue with their studies and
over. 25 they should be doing until their time in detention is

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that 1 If the student acts out belligerently, I find
individual 2 sometimes just going and standing very close to that
will cause them to settle down.
have, 4 I haven't had any problems where the students
area and 5 you know, openly and belligerently left the detention
started causing more trouble outside of the room.
believability 7 Q. Have you ever had to resolve a question of
and you 8 where there's some disturbance, somebody makes a noise
that, and 9 ask a student and the student says, Well, no, she did
questions? 10 then the person says, No, he did that, one of those
A. 11 No, I don't believe I have had to do that.
understand the 12 Q. How would you resolve a believability -- you
reason we'd be asking because if you're selected as a 13

juror,

14 there will be witnesses here; and I'm just trying to
get an

15 insight as to how you -- how you resolve these
questions of who

16 to believe.

17 A. Well, usually I would -- I'm assuming I would think
that I

18 would determine if this was a problem, and the problem
is what

19 I'm concerned about, not necessarily who caused the
problem,

20 and try to determine that that activity would stop.
And that

21 would be more important to me than who did what,
basically.

22 Q. Now, you mentioned, when Judge Matsch was asking
questions

23 and again when the prosecutor was talking, that you had
some

24 been interest in what the United States Supreme Court had

25 was doing. And I think I heard you say, when Judge Matsch
was

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had 1 talking to you, that there were some areas in which you

2 disagreed or had concerns about the direction the
Supreme Court

3 was taking. Can you share with me your thoughts about
that?

4 I'm not asking you about specific cases. This is not
some sort

5 of a law case. But could you share with me your
feelings about

6 that?

7 A. Well, I do disagree with the rulings on the, oh,
I was in
8 religion -- prayer in the schools for one thing. When

9 school one year, something like third grade, we had
prayer in

10 schools, and it was just a very short activity at the
beginning

11 of the day. And if I recall correctly, there were some
prayers

12 given over the speaker system, you know, the intercom.
And

13 there were things that we could do in class. I
memorized one,

14 one of the Psalms in third grade, and we did -- looked
at other

15 scriptural statements in fourth and fifth grade and
sixth

16 grade.

17 Then seventh grade came around, and all the
Supreme

18 Court had said that this was unconstitutional, no one
should be

19 praying in school, no one should be looking at
scripture, and

20 suddenly all that activity stops. And it was brought
into

or the 21 question whether activity such as observing Christmas
I was 22 Thanksgiving holidays should be observed in education.
before, 23 only a seventh-grader, but I know what I had enjoyed
24 and suddenly there was this void; it was not allowed.
people 25 And I felt that this was wrong, that a lot of

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will 1 have been harmed by this. And I think possibly history
in 2 prove out that the acting-out students have increased
3 dramatically from that time to present. I don't recall
or 4 school students running around and cursing at teachers
in 5 striking other students right -- just for the fun of it
this in 6 front of teachers ever happening before. But I've seen
7 grade school and in middle school and in high school.
you can 8 Q. Is there any other area, other than that, in which
Supreme 9 think of in which you have some concern about what the
10 Court is doing?
11 A. I heard a recent decision. I can't recall what it

was at

12 the moment, but I felt that it was slightly . . . it
was wrong.

13 But I'm sure there was legal technicalities that I'm
not aware

14 of that caused the court to support --

15 Q. Please let us know. You couldn't possibly say
anything

16 more about it than other members of the Supreme Court
say about

17 each other, so share that with me.

18 A. No, I just heard a short news statement about it
and

19 thought that it -- that it was incorrect, that they
should not

20 have -- I had hoped that they would have gone the other
way in

21 their decision on whatever the subject was.

22 Q. Do you remember what it was?

23 A. No, I don't.

24 Q. Did it have to do with Proposition 2? Was it the
Colorado

25 constitutional provision?

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1 A. No, it was the . . . it was something national,
nationwide,

2 although the constitutionality of amendment -- I
believe it was

on that 3 amendment -- I'm glad they made the decision they made

4 one.

about 5 Q. Well, you said at page 2 that you have no opinion

and the 6 marriages between people of different racial or ethnic
7 backgrounds. Now, I wasn't sure what you meant there,

Would 8 reason I ask is Mr. Nichols is married to a woman of a

9 different race. There are children of that marriage.

which 10 that cause you any problem being a juror in a case in

11 Mr. Nichols is involved?

man is 12 A. No. I have many friends, ones who -- there's the

and 13 black and the wife is white, and they have children,

have 14 they're great and wonderful family. And vice versa. I

married a 15 several friends, you know, of -- my brother-in-law

family. 16 young lady from the Philippines, and it's a beautiful

17 Proud to be a member of it.

correspondence 18 Q. You mentioned that you have an extensive

same 19 with a friend in Kansas City. I wonder, is that the

assistant 20 person that you referred to as a former chaplain's

people? 21 with whom you correspond, or are those two different
22 A. Those are two different people. I don't know if I
23 mentioned in here about the chaplain's assistant that I
24 correspond with now, too. It's not that -- that strong
a
25 correspondence, unfortunately. But occasionally, I
think about

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that got 1 once a month, one of us will pick up on the fact that
2 somebody -- the chaplain's assistant will determine
other 3 some unanswered correspondence and then write to the
starts 4 individual. And then a couple weeks later, an answer
5 going the other way.
you have 6 Q. Now, your friend, then, in Kansas City with whom
that I 7 corresponded about Waco, there were a couple of phrases
that you 8 thought I heard that I wanted to ask about. You said
the 9 hadn't corresponded with him about hate crimes. Or has
organizations, 10 subject of militia movements, Klan, right-wing
that 11 have those issues come up in your correspondence with

12 person?

13 A. Not very much. Occasionally some have. It's
usually he

14 writing to me about his opinion. I don't usually
answer in any

15 great extent. Maybe just make a comment or maybe write
a

16 paragraph in the letter to him about my feeling about
it.

17 Usually, unfortunately, my correspondence to him has
been in

18 much less detail and much less proficiency than his.
He writes

19 to me about two or three times a week and maybe gets an
answer

20 maybe once or twice a month.

21 Q. Is he one of those people who have very strong
opinions

22 that he just will not hesitate to share with anybody
that he

23 thinks should hear them?

24 A. He usually keeps his opinion to his close friends,
I'd say.

25 He does not usually go out and, you know, broadcast it
to

1 others.

2 Q. And you have your own opinions; right?

3 A. That's correct, yes.

4 Q. Now, when a jury that considers a case, that's 12
people

5 all with -- who may have different views of the
evidence, who

6 may remember things differently, how would you describe
7 yourself in a situation like that? Are you somebody
who would

8 hold his ground, or would you want to listen to what
other

9 people say? How would you want to participate in that
process?

10 A. I would say that I would be a participant and I
would try

11 to weigh the evidence; and if I felt very strongly that
I was

12 right and they were wrong, I would do my best to sway
their

13 opinion. If it were a situation where I would be the
only one

14 holding that opinion, I think possibly I might hang up
the

15 jury. But if it -- it would depend on the evidence
especially,

16 you know.

17 Q. I'm not asking for a commitment from you to do any
18 particular thing. Every person is entitled to
participate in

19 the process, and of course Judge Matsch will instruct
how the

20 deliberations go forward.

21 A. Uh-huh.

this 22 Q. So let me move on to the last area here, and that's

there, is 23 question of punishment. Now, Mr. Nichols, as he sits

that's 24 presumed innocent. So we may never get there. I mean

phase. 25 our -- that is to say we may never get to a punishment

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the 1 And are you clear in your mind that you can afford him

know 4 Q. Now, on this question of punishment, again we don't

unravel 5 the facts of this case. And, you know, it's going to

ask you 6 in front of the jurors who will decide it. So let me

can 7 about a hypothetical case, as it were, and see if we

this. 8 understand a little more about your feelings about

school with 9 Suppose that a former student at your high

grounds 10 a terrible grudge against someone came into the school

11 and with a gun and opened fire and killed a few people.

All

the 12 right? Having purchased the firearm and having planned

13 event in advance.

that 14 Now, would you -- and suppose you were judging

but 15 case. You probably wouldn't because it's your school,

to think 16 suppose you were judging that case. Would you be able

person 17 about the whole range of possible punishments for the

release 18 that did that; that is, life without any possibility of

19 as well as a death sentence?

20 A. I believe so, yes.

judge 21 Q. And would you consider and give effect to, if the

there was 22 instructed you that you should consider them, and if

23 evidence to support it, something about that person's

had, what 24 background, what kind of a home life that person had

on; 25 kinds of other influences in that person's life, and so

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well as 1 that is, factors about that individual human being as

2 about the evident carnage, the damage that had been
caused?

3 A. Yes, I'm sure I could.

4 MR. TIGAR: Thank you, very much, sir. We
appreciate

5 the chance to talk with you.

6 JUROR: Thank you, Mike.

7 THE COURT: And we're not making decisions day
by day

8 as we go along here as to who will serve and who will
not

9 serve; so you're excused now. And we'll be in touch
with you

10 as we proceed, but you'll have to go away from here
assuming

11 that you will indeed be on the jury; and accordingly,
just as

12 you remember when you left the Jefferson County
Fairgrounds, I

13 cautioned you to be careful in conversation, in
watching

14 television, listening to the radio, reading, staying
away from

15 anything that could influence you as a juror. Will you
do

16 that?

17 JUROR: Yes, your Honor, I will.

18 THE COURT: All right. You're excused now,
and we'll

19 be in touch with you.

20 JUROR: Thank you.

21 THE COURT: Thank you.
22 We have 493.
23 If you'll please raise your right hand and
take the
24 oath from the clerk here.
25 (Juror No. 493 affirmed.)

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1 THE COURTROOM DEPUTY: Thank you.
2 THE COURT: Please be seated there in the
chair by the
3 microphone. It swivels around so that you can adjust
it in any
4 way that you find comfortable.
5 VOIR DIRE EXAMINATION
6 BY THE COURT:
7 Q. You recall receiving the summons that notified you
that
8 your name had been selected through a chance system as
a
9 possible juror in the case of United States against
Terry Lynn
10 Nichols.
11 A. Yes.
12 Q. And you mailed in a short questionnaire, and then
you
13 received a notice on the -- to appear on the 17th of
September

and

14 at the auditorium in the Jefferson County Fairgrounds,

15 indeed you came out there.

16 A. Yes.

sides

17 Q. At which time I was there as were lawyers for both

And I

18 and Mr. Nichols, and I introduced myself and also them.

the

19 want to do that again so that you know who's here in

20 courtroom today.

here at

21 You recall meeting Mr. Lawrence Mackey, who's

the

22 the first table, and Miss Beth Wilkinson, attorneys for

the

23 Government. Not there then but now appearing also for

Wilkinson,

24 Government, Mr. Patrick Ryan, who is next to Miss

25 and Mr. James Orenstein next to him.

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Woods,

1 You did meet Mr. Michael Tigar and Mr. Ronald

present.

2 attorneys for Terry Lynn Nichols; and Mr. Nichols was

about

3 Now, and at that time, I explained some things

4 the background of the case, the procedural history of

the case,

of the 5 including charges filed in Oklahoma City and the move

trials; 6 case from Oklahoma City to Denver and the separation of

in a 7 that the charges in the case, which I sort of described

Terry Lynn 8 general way being a conspiracy charge, charging that

James 9 Nichols here, the defendant, and a man named Timothy

were, 10 McVeigh and other persons not named in the indictment

according to the Government's allegations, in a 11 conspiracy or a

and injure 12 plan to bomb a building in Oklahoma City and to kill

that also 13 the people in there, being a federal office building;

carried it 14 the charges being that they played roles in that and

eight law 15 out and that there was a plan and indeed a murder of

16 enforcement agents in the building. You remember that

17 description?

18 A. Yes.

19 Q. And of course I also mentioned that the trials were

persons, 20 separated, there were differences between the two

be 21 differences in the cases, and therefore they should not

22 tried in the same case before the same jury and that

there has

they 23 already been a trial of the charges relating to -- as

sentenced to 24 related to Mr. McVeigh who was found guilty and

Nichols; 25 death; that that has no effect on the trial of Terry

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to be 1 that in a very real way we start over and the jury now

Terry 2 selected must consider the evidence as it relates to

has made 3 Nichols separate from any decision that another juror

4 with respect to Mr. McVeigh; you recall that?

5 A. Yes.

Nichols 6 Q. I mean I told you that. And also told you that Mr.

of not 7 is presumed to be not guilty and that that presumption

it's the 8 guilty which is true not only with respect to him but

person 9 same constitutional protection that is given to any

who that 10 charged with a crime in the United States, no matter

Constitution 11 person is or what the crime charged is because the

12 says that before a defendant can be found guilty, the

jury has

him 13 to hear evidence and decide whether the evidence shows

the trial 14 guilty, but he's presumed to be not guilty and starts

trial, 15 with that presumption and that carries throughout the

unless the 16 entitles him to acquittal, a verdict of not guilty,

is 17 evidence proves to the satisfaction of the jury that he

18 guilty as charged. You heard me say that.

19 A. Yes.

terms is 20 Q. And also that what that presumption means in real

what case 21 that a defendant in a criminal case, again no matter

at trial, 22 or who the person is, does not have to prove anything

but it's 23 does not have to prove himself or herself not guilty,

its 24 up to the Government who's prosecuting the case through

bring in the 25 attorneys representing that level of government to

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evidence, 1 evidence and to see if the jury is satisfied by that

2 and the defendant doesn't have to produce any witnesses

and

and 3 doesn't have to testify, has the right to remain silent

objections 4 simply challenge the Government's evidence through

examination. 5 under rules of evidence and also through cross-

asked: 6 And then at the end of the trial the jury is

gives 7 Well, does this evidence prove the case? And the court

particular 8 instructions about what has to be proved for the

And in 9 offense charged, and then it asks the jury to decide.

consider only 10 making that decision, the jury can, first of all,

anything 11 the evidence that they heard at trial and disregarding

the 12 that they may have heard elsewhere, focusing only on

the 13 evidence at trial and follow the law as it is given in

proved 14 instructions and then determine whether the case is

that 15 beyond a reasonable doubt, which means in another way

reasonable 16 after considering it all, that if the jurors have a

must 17 doubt as to whether the evidence proves the crime, they

him not 18 give the defendant the benefit of that doubt and find

19 guilty.

just
20 I reviewed that, I think, in a general way and

what
21 call it to your attention now again. And you've heard

22 I've said.

23 A. Yes.

24 Q. Yes?

25 And then we asked you to complete a
questionnaire,

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And I
1 which you have done and which you have now with you.

taken
2 invite your attention to it as we go along; but we've

the
3 that, as I told you we would, made copies of it. We,

given it
4 lawyers here and I, have those copies, but we haven't

have
5 to anybody else, and won't. And the answers that you

private in
6 given us relate to some things that are personal,

identify you
7 nature, and we recognize that. We're not going to

your
8 here by name. And we're not going to give out publicly

here and
9 answers, but we ask you to answer a few more questions

10 perhaps for some explanation of some of your answers.

11 This of course is public in a courtroom, but
people

12 out there don't see you; and we arrange a way for you
to get in

13 and out of the building without being photographed or
anything

14 like that. So that's simply a matter of protecting
your

15 privacy, you understand.

16 A. Yes.

17 Q. Okay. Now, I want to go over with you some of the
things

18 that you have told us in your answers; and I understand
that

19 you live now in Denver, but you were born in Colorado
Springs

20 and then your father was in the Air Force?

21 A. Yes.

22 Q. And you moved around a bit, including outside the
United

23 States, I assume because of the changes in his station.

24 A. Yes, uh-huh.

25 Q. And now you are -- you're in Denver and have a
business

you

2 work for a company -- and we're not identifying the
company --

this 3 but this is in the food brokerage business. Now, does

4 mean food going to retail stores or restaurants or
combination?

5 A. Retail stores.

6 Q. Retail stores?

7 A. Uh-huh.

8 Q. And you've been in this work for a number of years.

9 A. Yes.

10 Q. With the same company?

11 A. Yes.

12 Q. And is this something where you work on commission?

13 A. I do work on some commission, yes.

14 Q. And also a base salary?

15 A. And also a base salary.

16 Q. And you have a young child who's in a child-care
facility?

17 A. Yes.

18 Q. And your husband is self-employed --

19 A. Yes.

20 Q. -- in investments?

21 A. Yes.

22 Q. Working out of the home?

23 A. Yes.

the
24 Q. And your concern, as I understand it, here, about
your
25 effect on family and on the child care and perhaps on

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1 business of your serving on the jury; is that right?
2 A. I don't understand your question.
in this
3 Q. Yes. Well, if you were to be selected as a juror
however
4 case, obviously you'd be with us --
several
5 A. Yes.
6 Q. -- here 9 to 5 essentially day in and day out for
several
7 amount of time it took to try the case, which could be
several
8 months.
9 A. Yes.
been
10 Q. A matter which would impact on your life as it has
been
11 going along.
12 A. Yes.
ability to
13 Q. And one of the things that would impact is your
ability to
14 get your youngster in and out of the day-care facility?
15 A. Yes, it would. Yes.
16 Q. And have you talked with your husband about that?

17 A. Have I talked to him about being on the jury?
18 Q. Yes.
19 A. Yes.
20 Q. And have you discussed with him that you'd have to
have
21 help with -- as I understand it, you take --
22 A. I take him in and I pick him up.
23 Q. Pick him up.
24 A. He doesn't have that freedom to do that.
25 Q. Why not?

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morning
1 A. Because his work requires him -- his time in the
our --
2 and in the evening. That was one of our agreements to
3 to run our family.
4 Q. Now, he has to follow the market?
5 A. Yes.
6 Q. Does he?
know, I'm
7 So that he has to follow -- does he -- you
does he
8 not trying to intrude into his business operation, but
9 follow markets globally, not only New York, but foreign
10 markets?

11 A. Yes. Uh-huh.

strong
12 Q. You have in your responses here expressed some

is that
13 opinions that you say you have come to about this case;

14 right?

15 A. I have to read them again.

16 Q. Okay.

17 A. But my opinions were

let's get
18 Q. All right. Well, let's talk about them. Page --

19 to the pages.

have
20 I want to address page 37. Question 160. You

free to
21 previously in the questionnaire -- and you can feel

limit
22 look anywhere on the questionnaire. I'm not trying to

relative to
23 you. But you have seen quite a bit of publicity

case so
24 this -- what may be referred to as the Oklahoma bombing

the event
25 that we include both Mr. McVeigh and Mr. Nichols and

1 itself.

2 A. Uh-huh.

3 Q. And then you have here, "If asked what opinions
have you

4 formed and on what they are based," and you say,
"Media," and

5 then you express an opinion.

6 And is that your opinion now?

7 A. I think my opinion, if he was a partner within the
crime,

8 he should pay the consequences for his crime.

9 Q. But this says that you have an opinion that he was
indeed a

10 I'm not partner; and that's what I'm exploring with you. Now,

11 trying --

12 A. I guess from what the media has presented to the
public,

13 that he was a partner within the crime, from what I've
14 understood from the media and from radio and TV.

15 Q. And then on --

16 A. Talking to everybody.

17 Q. -- on the same page as 162, that's what you're
saying, that

18 you read or heard that they were partners in the crime.

19 A. Uh-huh.

20 Q. Now, of course that's the charge --

21 A. Uh-huh.

22 Q. -- in the case. And the -- to that charge, he
entered --

23 and to all of the charges -- he entered pleas of not
guilty,

the 24 and that's why we're going to have a trial, to see if

25 Government can prove that charge; do you understand?

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1 Yes?

2 A. Yes.

I can 3 Q. I'm sorry, you have to answer yes or no out loud.

4 see you nod, but it doesn't go into the record.

guilty, 5 But the presumption is therefore that he's not

says 6 no matter what the media says about him or anybody else

think 7 about him, including conversation or what people may

can set 8 ahead of time; and the question comes to whether you

media has 9 preconceived notions or opinions or things that the

evidence. Can 10 reported aside and deal with the issues on the

11 you?

12 A. I'm not sure if I can or if I can't.

can turn 13 Q. Now, another thing that you said in here -- if you

Question 14 to it, please -- page 38. Please read your answer to

15 164.

away 16 A. Okay. That I have a child and that life was taken

17 from children --

18 Q. You don't need to read it out loud. We've read it.

19 A. Okay.

bit 20 Q. I just want to ask you to expand on that a little

your mind 21 because that is suggesting to me that you've made up

life of 22 here that not only are you sensitive to the loss of

and then 23 children, but that you say something about Mr. McVeigh

24 Terry Nichols is one and the same.

25 Now, what are you telling us there?

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1 A. What I had said earlier; that I feel that they were
2 partners in it, in the crime.

3 Q. And again, that's based on --

4 A. -- what I've heard through the media.

5 Q. -- what you've read or heard.

look at a 6 Just give me a moment, please, so that I can

7 reference here.

8 You apparently listen regularly to certain

programs,

9 radio programs.

10 A. Yes, uh-huh.

11 Q. I'm looking over on page 17. And talk shows.

12 A. Uh-huh.

13 Q. And is that like when you go in to work in the morning?

14 A. No. I drive around in my car a lot, and I listen to the

15 radio as I'm going to my different calls.

16 Q. You move around a lot visiting outlets?

17 A. Yes. Uh-huh.

18 Q. And are there particular shows that you listen to regularly

19 or almost daily?

20 A. Yes, uh-huh.

21 Q. Which ones?

22 A. Well, I listen to 630 on the radio. There are talk shows

23 that are --

24 Q. Is that like an all news?

25 A. Yes, all-news radio station.

1 Q. Which includes talk shows relating to news?

2 A. Yeah, it's pretty much news and relating to news.

3 Q. Has the -- have you listened to those when the
subject has

4 been the trial of Timothy McVeigh, for example?

5 A. Well, when that was on, yes, uh-huh.

6 Q. How closely did you follow the news reports of that
trial?

7 A. I listened to it -- as I was riding around in my
car, I

8 would listen to it as it was being presented on the
radio.

9 Q. And what do you remember from it? I don't mean all
the

10 details, but what stands out in your mind as it may
relate to

11 Terry Nichols?

12 A. As how it relates to Terry Nichols?

13 Q. Yes, if it did. Or how you related it to him.

14 A. Well, just that he was part -- he was part of the
setup of

15 the crime.

16 Q. And what part is it that you understand he played?

17 A. I don't know. I guess in planning the -- in
planning the

18 crime and getting the equipment together for the crime,
and I

19 guess that's where I feel that he was part of it.

20 Q. Okay.

21 A. The planning and -- the planning. Maybe not being
there at

22 it, but the planning.

trial as 23 Q. Did you talk with your husband about the McVeigh

24 it was going along?

25 A. Yeah.

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1 Q. And about the outcome, the verdicts?

2 A. Yeah. Uh-huh.

to what 3 Q. And did you pretty much agree, the two of you, as

4 you thought about it?

5 A. Of him being guilty?

6 Q. Yes.

7 A. Yes.

8 Q. And of the sentence?

mean we 9 A. Yes. I don't know if we agreed upon that, but I

10 both understood what the sentence was.

cannot speak 11 Q. Well, I -- you know, I recognize obviously you

12 for what your husband's views might be.

13 A. But I can speak for my own.

14 Q. Yes.

the 15 A. And my own are that maybe we didn't agree on what

16 verdict was, but we did agree of what the verdict was.

17 Q. I didn't understand what you said, so --

18 A. Okay. We agreed upon what the verdict was, that it
was a

19 death sentence. He agreed upon that it was okay. I
didn't

20 agree upon that it was okay.

21 Q. The death sentence?

22 A. Right.

23 Q. What is your view? I mean what disagreement did
you have?

24 I guess that's what I'm trying to ask.

25 A. Well, I don't know if I could put someone -- I
couldn't put

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1 someone to death. I couldn't do that. Maybe somebody
else

2 could. And obviously other jurors did do that.

3 Q. Okay. Well, that's another subject that we'll come
back

4 to, if we may.

5 You have some opinions about other things in
here that

6 I'd like to talk with you about a little. And please,
you're

7 not on trial for your opinions. Don't become defensive
about

8 it; we simply want to know some of the things that have

9 happened in your life and some of the views that you
have.

10 That's why we ask the questions in this way.

11 You traveled around a good deal, as you
already said,

12 when your father was in the Air Force.

13 A. Uh-huh. Yes.

14 Q. And then you came to Colorado to live -- I'm sorry,
I'm not

15 remembering when.

16 A. I was born in Colorado Springs, and then my father
was

17 and then transferred probably every three years out of Colorado

18 back into Colorado again.

19 Q. Then did he retire here?

20 A. He retired here, and I went to college here.

21 Q. Okay. So I think you've lived -- you've shown that
on and

22 off you've been in Colorado during your lifetime --

23 A. Yes.

24 the past Q. -- and you've been here continuously, I guess, for

25 15 years?

2 Q. And living near at least where you are now?

3 A. Yes.

4 Q. You say -- please turn to pages 4 and 5. Bottom of
4,

5 Question 19, top of 5, Question 20. Now, I'm not going
to

6 intrude on this very much, but are you now, at this
time,

7 obtaining services of the type mentioned -- receiving
services

8 of the type mentioned in Question 20?

9 A. No. Huh-uh.

10 Q. How long ago was that that you sought support of
that

11 nature?

12 A. About 12 years ago.

13 Q. Okay. And the matter -- on page 19, is this
something that

14 affects you in your work?

15 A. Do I get a -- are you asking me does this happen to
me when

16 I work?

17 Q. Yeah, I'm sure there's some stresses and strains in
the

18 work you do.

19 A. Certainly.

20 Q. Sure. And some days are worse than others or
hopefully

21 better than others.

22 A. Certainly.

23 Q. Do you have this type of reaction to days when
they're

24 unusually stressful?

25 A. Yes, uh-huh.

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1 Q. And is that such that it's temporarily disabling?

2 A. Yes, uh-huh.

3 Q. I mean do you need to go lie down?

4 A. Yeah.

5 Q. Or take medication?

6 A. No, huh-huh. But I say I need to relieve stress,
yes.

7 Q. Do you see that as a potential problem for what --
you

8 know, to the extent that you know about it, of being on
a jury?

9 A. Yes, I think it would be very stressful.

10 Q. You've never been on a jury, have you?

11 A. No.

12 Q. Now, I didn't say that to quarrel with you, you
know,

13 haven't done you're not sure about what the feeling is when you

14 it.

15 A. Uh-huh.

16 Q. But your notion is that it would be difficult,
given your

17 general reaction to stress; is that what you're saying?

18 A. Yeah. It would be hard, I think.

19 Q. You also show on page 6 that a near relative of
yours here

20 has a health problem. Page 6, Question 31. Is that
something

21 that involves the need for you or your husband to
provide some

22 care and assistance?

23 A. Yes.

24 Q. Does she come to your home, live in your home?

25 A. Yes, uh-huh. She'll be here for the whole --
she'll come

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1 here in November. And she'll stay probably till,
possibly

2 February, March.

3 Q. Does she need daily support?

4 A. Yes. She does.

5 Q. And so is that an additional problem for you,
serving on a

6 jury?

7 A. Yes, it is.

8 Q. What -- has this happened before, that she spent

extended

9 time with you?

10 A. Yes.

11 Q. And how have you managed to do your job and assist
in her

12 care?

13 A. I manage to do it. It's hard to do, but I manage
it. It

14 gets harder and harder as her capabilities get less and
less.

15 Q. So she has some progressive condition that is --

16 A. Yes.

17 Q. -- deteriorating?

18 Now, you're out and about, as I understand it,
in your

19 car.

20 A. Yes, uh-huh.

21 Q. With cell phones and --

22 A. No.

23 Q. But so you're able to go, if necessary, back to
your home

24 to do things --

25 A. Yes.

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1 Q. -- and --

2 A. I can pick her up and take her to the hospital.
Then I can

3 go back to doing what I'm doing and then go and pick
her up and

4 bring her home.

5 Q. With respect to page 11 -- on page 11 -- and we
asked you

6 to list there or to mark organizations or type of
employment

7 that you or members of your family have been in. And
you

8 marked state, county, or city law enforcement. What
are you

9 referring to there?

10 A. That my brother-in-law works in Sterling, Colorado,
as a

11 warden.

12 Q. In a jail or -- county jail?

13 A. Yes, in a jail.

14 Q. Or in a state -- I can't remember if there's a
state

15 institution there.

16 A. It's -- he just moved from Limon to Sterling.

17 Q. So he works for the state department of
corrections?

18 A. He works for the state, uh-huh.

19 Q. How long has he been working with -- in the
corrections

20 field?

21 A. He's been working in it, oh, I'd say, for at least
20 years

22 or more.

23 Q. You visit with him about that?

24 A. Sometimes I do.

25 Q. Discuss it?

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1 A. Uh-huh.

2 Q. He tell you about particular people there and
problems that

3 he may be having with them and that sort of thing?

4 A. He doesn't refer to them; he may say something of a
person,

5 but he doesn't refer to a person individually. I mean,
I would

6 never know --

7 Q. -- who it is?

8 A. Yes.

9 Q. But when there are problems with people in custody,
he

10 talks about what the problems are? Does he, or not?

11 A. No, I would say it would be more general. You
know, just

12 problems.

13 Q. Okay. And then the next page, you've got a
television or

14 radio station. What does that refer to?

15 A. I'm sorry. What page was that?
16 Q. 12.
17 A. 12.
18 Q. The next page.
19 A. And what question are you --
20 Q. Yes. You marked somebody has had some employment
with a
21 television or a radio station, and I'm asking you who.
Fort
22 A. My sister was working for the radio station up in
23 Collins.
24 Q. Doing what kind of work?
25 A. She was the director of the radio station.

1005

Juror No. 493 - Voir Dire

1 Q. Had general management responsibilities?
2 A. General management of the radio station.
3 Q. How long ago was that?
4 A. About a year ago.
know?
5 Q. Is that station affiliated with a network, if you
with the
6 A. I'm not sure. I think it's private owned. It's
7 school. College.
8 Q. With the university there.
9 Now, under "religious," you marked "a

combination";

10 and I'm not sure whether you're talking about at
different

11 times, or whether that describes your religious views
today. I

12 mean, there's a comma in between, suggesting that it
may be at

13 different times, and I'm just confused.

14 A. I guess we practice both.

15 Q. And the "we" being you and your husband?

16 A. Uh-huh.

17 Q. Do you come from differing backgrounds --

18 A. Yes.

19 Q. -- in religion?

20 A. Yes. Uh-huh.

21 Q. And which background was yours? I mean, were you
raised in

22 the Catholic Church?

23 A. Yes.

24 Q. And he in the Jewish faith?

25 A. Yes.

1006

Juror No. 493 - Voir Dire

1 Q. And so now you've sort of made your own
combination?

2 A. Yes. Uh-huh.

3 Q. Do you attend services --

4 A. Yes.

5 Q. -- of both religions?

6 A. Yeah. Not every Sunday.

7 Q. No, no --

8 A. But yes.

9 Q. Well, you know, there's no religious test here, obviously;

10 often. I'm but the combination is one that we don't see very

11 sure you recognize that.

12 A. I see it more and more.

13 sort of Q. Is that right? And are you doing this planning on

14 this combination of faiths with your child?

15 A. Yes. Uh-huh.

16 Does Q. Now, your view with respect to the death penalty:

17 that come in part from your religious convictions?

18 A. No, huh-uh.

19 little Q. How did you -- we're going to talk about that a

20 understand, more; but just tell me the origins of that as you

21 yourself.

22 death Q. That I think that -- morally don't believe in the

23 personal penalty. It's not my religious belief; it's my

24 belief.

25 Q. How long have you held a view like that?

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Juror No. 493 - Voir Dire

1 A. Ever since I've been a child.

2 Q. And is there some particular event or some
particular case

3 or something that affects it, or is this just an
evolving view

4 of personal morality?

5 A. It's just my personal belief. It's been with me
for all of

6 my life.

7 Q. All right. Page 20, Question 90. Here again,
we're not

I 8 exploring this to cause you to be uncomfortable; but as

9 understand it, this family member was charged and
convicted?

10 A. Yes. Uh-huh.

11 Q. And how long ago was this?

12 A. 15 years ago.

13 Q. And was it here in Colorado?

14 A. Yes.

15 Q. And in a state, or a federal court?

16 A. State.

17 Q. And your answer on B is that it wasn't, in your

opinion,

18 fairly done; is that right? The conviction?

19 A. I don't think that he had a good lawyer. I think
that he

20 went in there very empty-handed.

21 Q. Do you think he was not guilty?

22 A. I don't know if he was guilty or not.

23 Q. Did it go to trial?

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

25 Q. Was it a plea bargain --

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1 A. Yes.

2 Q. -- as you understand it?

3 A. Yes.

4 Q. And you think it was a bad bargain; is that what
you're

5 saying?

6 A. You know, I just don't think it was -- I don't
think he had

7 a good representation of himself.

8 Q. Because of the lawyer?

9 A. Because of the lawyer.

10 Q. You tell us on page 21 that you know -- on Question
96, you

11 know at least one defense lawyer or public defender,

someone

husband's 12 involved in defending criminal cases because of your

13 friendship with the person?

14 A. Yes, uh-huh.

with this 15 Q. And have you talked about criminal defense work

16 person?

17 A. No. Huh-uh.

your 18 Q. Okay. So the fact that he or she's a friend of

you have 19 husband really doesn't mean anything in terms of what

like 20 learned about the criminal justice system or anything

21 like?

22 A. No, huh-uh.

Question 23 Q. You know apparently on the next page, 22, line --

that an 24 99, there was years ago a lawsuit about workplace. Was

know? 25 injury, or what kind of a dispute was that, if you

1009

Juror No. 493 - Voir Dire

dispute over 1 A. From what I remember her telling me, it was a

the 2 a man getting paid more than her and the man moving up

3 scale much faster than she was.

4 Q. So a gender discrimination --

5 A. Right.

6 Q. -- issue?

7 A. Discrimination.

8 Q. Did that go to trial?

9 A. Yes, it did.

10 Q. And was it in federal court?

11 A. You know, I don't know that.

12 Q. Was it in this state?

13 A. No.

14 Q. Do you know whether this came out with some remedy
for her?

15 A. Yes. Uh-huh.

16 Q. And was she satisfied with the outcome, as she told
it to

17 you?

18 A. Yes, I think she was satisfied.

19 Q. Do you know if there was --

20 A. I don't think she was satisfied because of the
wrongdoing

21 towards her, but I think she was satisfied because
something

22 was done for it.

23 Q. Okay. Was there a jury in that case, if you know?

24 A. I don't know.

25 Q. Now, on page 24, the questions on 109 and 110: Are

these

1010

Juror No. 493 - Voir Dire

talked 1 yes answers something different from what we've already

 2 about?

 3 A. No, these aren't any different, huh-uh.

 4 Q. I'm sorry. I didn't hear.

 5 A. From what we've already talked --

 6 Q. Yes.

 7 A. -- this is what that is.

 8 Q. This is the same thing?

 9 A. Yes, uh-huh.

 10 Q. Same case?

 11 A. Uh-huh.

 12 Q. How about next page, please, 112. Question 112.

Tell

when I

 13 me -- tell us what you're referring to there. I guess

 14 friend. read this, I thought this was probably your husband's

 15 A. I have a girlfriend that's studying law right now.

 16 Q. Okay. And she's talked to you about some of the

things in

 17 the case books or the materials she's studying?

 18 A. Yes, uh-huh.

19 Q. You talk with her about the death penalty?

20 A. No, huh-uh.

21 Q. You -- on page 30 -- I'm sorry to jump around like
this,

22 but it's sort of the way I have my notes.

23 about the On page 30, Question 129, where it asks you
you say importance of following the court's instructions, and

25 you don't agree or disagree and no explanation. Could
you

1011

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1 explain that for us?

2 A. 129?

3 Q. Yes.

4 A. I mean, I don't disagree not to follow their
instructions

5 or -- I mean I'm not going to not follow them. I don't
know.

6 I guess maybe I didn't understand the question.

7 Q. Okay. Perfectly good answer. Well, let me expand
on it a

8 bit by suggesting to you going back to when I was
referring to

9 how a criminal trial goes, you know, referring you back
to the

10 general explanations given at Jefferson County.

with a 11 A. Uh-huh. I mean, I know that you said don't discuss
disagree 12 lot of people. I mean that I agree with; I wouldn't
13 with that.

the 14 Q. Well, what I'm about to get to is the rest of it.

what 15 A. Okay.

the 16 Q. And what this is referring to is instructions at

what 17 trial -- I mean in part. It's all instructions. But

presented, 18 happens at a trial, again, is that the evidence is

the 19 there are two sides in the case. Witnesses are called,

some 20 exhibits; and then at the end of the trial, the court,

how they 21 judge, instructs the jury about the law and also about

in 22 things concerning how they must analyze the evidence,

23 can consider the credibility of witnesses when they're

24 dispute, and that sort of thing. And we call those

25 instructions on the law.

1012

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1 And it's the jury's obligation to follow those
2 instructions, including what I've mentioned about the

Those are

they must

then

shows

understand?

those

them in

that gets

presumption

in the

I've

have seen,

3 presumption of innocence and the burden of proof.

4 instructions within the meaning of this question. And

5 therefore, before a jury can find a defendant guilty,

6 follow those instructions, analyze the evidence, and

7 determine whether under the instructions the evidence

8 guilt beyond a reasonable doubt. Now do you

9 A. Uh-huh.

10 Q. Now, do you agree that you as a juror should follow

11 instructions?

12 A. Yes, I agree.

13 Q. Well, let me ask you about your ability to follow

14 this case, if you were to serve on this jury, because

15 to the central focus here.

16 Are you prepared to give Terry Nichols the

17 of innocence?

18 A. I don't know. I think I've heard a lot of things

19 media, so I don't know if I'm tainted some about what

20 heard.

21 Q. Well, the instructions would say that which you

22 read, and heard outside the courtroom, you must set aside.

23 A. Uh-huh.

24 Q. And you must focus and consider only the things that were

25 evidence, that came in as evidence.

1013

Juror No. 493 - Voir Dire

1 A. Uh-huh.

2 Q. Now, you know, I'm not trying to pressure you into any

3 answer, but the real question is: Given the amount that you've

4 heard, given the discussions that you've had and the views that

5 you've formed and told us, could you do it in this case?

6 A. I don't know if I could. I think it would be awfully hard

7 to do it. I don't know.

8 Q. So, you know, you have that in your mind coming into the

9 case, if you were -- if this were the day that we swore the

10 jury and started the trial?

11 A. Uh-huh. That would be in my mind. I mean, I would have,

12 you know, thoughts in my mind about it already.

13 Q. And, of course, I guess it comes down to how

indelible that

away and 14 impression is, whether you can erase it and take it

is. So 15 focus simply on the evidence. Only you can answer this
16 question. And we understand the answer, whatever it

17 what do you think?

feelings 18 A. I think I do have a . . . I think I already have

19 about what I think if he's guilty or not.

20 Q. And hard to put it aside?

heard 21 A. Uh-huh, it is hard to put it aside, from what I've

22 and what I've thought about, what I've seen.

penalty 23 Q. Okay. Well, I want to get back to the issue of the

24 again; and in doing so, I want to be clear. As this

25 questionnaire made clear before the questions on page
28 and

1014

Juror No. 493 - Voir Dire

questions and 1 29, there was an explanation. We ask about these

thinks 2 your views not because anybody involved in this case

find 3 that, you know, in advance that the jury is going to

the 4 Mr. Nichols guilty; it is simply that we can't ask in

what 5 middle of trial if there's a guilty verdict, you know,

case. But 6 your views are before we go on with the rest of the

different 7 you understand that the question of punishment is

8 from the question of whether the evidence proves guilt.

9 A. Uh-huh.

10 Q. Do you?

11 A. Yes.

beyond a 12 Q. So first we'd have a trial to determine whether the
evidence shows guilt to the satisfaction of the jury

guilty 14 reasonable doubt. If the answer is no, then it's not

there then 15 and that's the end of it. But if the answer is yes,

that don't 16 has to be the question of punishment. Unlike cases

17 involve the death penalty, in cases where that is the
punishment; 18 possibility, where the question is really on

govern 19 because of the offenses charged and the statutes that

to death 20 them, whether the defendant so convicted should be put

question. 21 or put in prison the rest of his life. That's the

And the 22 We don't leave that to a judge; that goes to a jury.

23 jury has to listen to more, receives other information,

a 24 different and additional information at what amounts to
25 second trial.

1015

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1 A. Uh-huh.
2 Q. And then they have to -- the jurors have to
consider what
3 the government lawyers bring in to -- we call them
"aggravating
4 factors," to suggest that the punishment for this
defendant on
5 trial and found guilty should be death. And the
defense has
6 the opportunity and would be presenting information
about the
7 defendant, his own unique characteristics, background,
beliefs,
8 conduct in other respects, work history, all these
things that
9 are unique to a defendant; and we call those
"mitigating
10 factors." And then the jury has to consider all that
they have
11 heard and seen and decide the question of whether the
defendant
12 should live or die. That's the issue that's presented
in a
13 sentencing phase.

is that 14 And what you told us here a little while ago
that I 15 you are opposed to the death penalty; so the question
as one of 16 have of you now is that if you had the responsibility
on the 17 the jurors to make the decision on life or death based
would you 18 trial and the penalty phase hearing, if there is one,
death 19 be able to set aside your own moral view about the
outlined by 20 penalty and make a decision on the factors that are
21 the Court as mitigating and aggravating facts?
if other 22 A. No, I wouldn't be able to set that aside. I mean,
believe in 23 people want to sentence him to death, you know, they
death, 24 the death penalty and they want to sentence somebody to
25 and that's what they want to do, then they can do that.

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Juror No. 493 - Voir Dire

I'm not
I'm not
1 Q. But you won't do it?
2 A. But I don't want to do it.
3 Q. But you -- and this isn't argumentative, please.
4 trying to argue with you; I'm only exploring your
answers. And

5 you have on page 28 said that as at least a matter of
policy,

6 you can recognize that there can be a penalty of death.

7 A. I can recognize that; that other people can do
that, such

8 as Timothy McVeigh was sentenced to death. I would not
want to

9 partake in that.

10 Q. Because of your moral view?

11 A. Yes.

12 Q. All right.

13 THE COURT: We have questions from counsel.

14 MS. WILKINSON: Just a few, your Honor.

15 THE COURT: All right.

16 VOIR DIRE EXAMINATION

17 BY MS. WILKINSON:

18 Q. Good afternoon.

19 A. Hi.

20 Q. As the Judge told you, my name is Beth Wilkinson;
and I'm

21 one of the prosecutors responsible for presenting the
evidence

22 against Mr. Nichols. You've answered a lot of
questions, and I

23 don't want to take up too much more of your time; but I
just

24 want to be clear on your views and make sure I didn't

25 misinterpret anything.

Juror No. 493 - Voir Dire

1 I think it's fair from reading your
questionnaire and

2 seeing your responses to the Judge that you don't want
to be

3 here today, do you?

4 A. Tell me who would want to be here today.

5 Q. I'm not trying to accuse you of anything. As you
said,

6 there's probably lots of people that don't want to be
here.

7 But I'm just sensing from you that you don't want to be
here

8 answering these questions. Is that true?

9 A. I think there's many more things I'd rather be
doing.

10 Q. And you don't want to serve on this jury, do you?

11 A. It's probably not the top of my list of things to
do.

Judge
12 Q. When you told us in the questionnaire and told the

that or
13 that you thought Terry Nichols was guilty, did you do

the
14 do you believe that based solely on what you've read in

15 media and heard in other sources in the media?

16 A. Yeah, I guess, from what I've read and seen and
heard.

17 Q. Do you have any knowledge of the facts of the case?

the
18 A. I have some. From what I've read and heard of what

is
19 media presents and gives to you.

is
20 Q. What is it that makes you think that Terry Nichols

pointed
21 guilty of the crime?

160, No. --
22 A. From what I've heard from the media, it just has

this
23 that he's part of the crime.

24 Q. If you could turn to your questionnaire on page

160, No. --
25 I mean page 37, Question No. 160. When you answered

1018

Juror No. 493 - Voir Dire

deserved
1 question, you said that you thought that Mr. Nichols

deserves
2 death; is that right?

deserves
3 A. If he's part of the crime, that's what he -- if he

that he
4 it, yeah.

that he
5 Q. Well, I guess maybe I'm not clear. Do you think

saying?
6 deserves the death penalty? Is that what you're

guilty of
7 A. I think that he deserves what anybody -- if he's

8 the crime, that he deserves what he deserves and what

the jury

on a 9 will give him. I won't be one of the people deciding

10 death penalty.

11 Q. Okay. And you've made up your mind about that?

12 A. Yes.

13 MS. WILKINSON: Thank you very much.

14 JUROR: Uh-huh.

15 THE COURT: Mr. Woods.

16 MR. WOODS: Thank you, your Honor.

17 VOIR DIRE EXAMINATION

18 BY MR. WOODS:

19 Q. Good afternoon.

20 A. Good afternoon.

21 Q. My name is Ron Woods, and I'm one of the lawyers
that was

22 asked by the court to represent Terry Nichols in this
case. We

23 have to go last, so we're not going to have many
questions

24 inasmuch as they've already been covered. I want to
thank you

25 for being frank and honest with us in stating what you
feel

this

2 questioning from both sides.

3 sent in You initially advised us back in July when you

4 and you the summons -- you know, you got your original summons

5 back in had to fill out just a few questions, and you sent that

6 there to the court on July the 28th. And that's probably not

7 question: "Is in your folder; but in the summons, there was a

8 serving on there any other reason that would prevent you from

9 this jury?"

10 guilty." And you stated, "I think Terry Nichols is

11 penalty of And then you signed your name. "I declare under the

12 best of my perjury that all answers are true and correct to the

13 knowledge and belief," and you signed that.

14 A. Uh-huh.

15 Q. And that was your belief?

16 A. Uh-huh.

17 questioning? Q. And you stuck with that today under all this

18 A. Uh-huh.

19 Q. Is that correct?

20 A. Uh-huh.

21 Q. Now, you also stated as to the questions about your source

22 of news on this case and how you got your news about this case,

23 you listed just about all of them there were: The radio news,

24 TV news, newspapers, hearing other people discuss a case. And

25 then you also said that you went out of your way to seek out

1020

Juror No. 493 - Voir Dire

1 news about this case, because there were about four different

2 blanks, and --

3 A. I said I seeked out news?

4 Q. Let me refer you to the question. It's on page 33.
And

5 it's Question 145.

6 A. Okay.

7 Q. "How would you describe the amount of media coverage you've

8 seen about the Oklahoma City bombing?"

9 And you checked off very much, parentheses,
went out

10 of your way to read about it and watch news accounts
about it.

11 And in the question right above it, 144,
"Please

12 indicate where you heard or read about the Oklahoma
City

13 bombing case," you checked off TV news, radio news,
newspapers,

14 magazines, books, conversations, and heard other people

15 discussing the case. I guess the only one that's
missing is

16 the Internet --

17 A. And on-line.

18 Q. Are those pretty much the same?

19 A. No, I haven't gone to them.

20 Q. Okay. But you pretty much sought out information
about the

21 case, I take it?

22 A. I don't think a person would really have to seek
the

23 information. Information was just exploding all over
place.

24 Q. I couldn't agree with you more, it's impossible to
avoid.

1021

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1 A. Right.

2 Q. But based on that publicity you've been exposed to,
you've

3 the

4 been very frank with the Court and said, "I've reached
opinion that Mr. Nichols is guilty"; is that right?

5 A. Yeah.

6 Q. And if you were on trial such as Mr. Nichols is,
would you

7 want somebody that was on the jury that had your
feeling about

8 the guilt in the case?

9 MR. MACKEY: Objection.

10 THE COURT: Sustained.

11 BY MR. WOODS:

12 Q. But is it true, as you've stated, that you've made
up your

13 mind about the guilt of Mr. Nichols in the case?

14 A. Have I made up my mind that he's guilty?

15 Q. No, have you made up your mind -- do you have an
opinion

16 based on everything that you've read that he is guilty?

17 A. I have an opinion --

18 MR. MACKEY: Judge, objection; we've covered
this

19 extensively.

20 THE COURT: Overruled. You may answer.

21 BY MR. WOODS:

22 Q. You may answer.

23 A. I have an opinion.

24 Q. And I take it it would take some convincing of you
to

25 overcome that opinion?

Juror No. 493 - Voir Dire

1 A. Yeah.

2 Q. All right.

3 MR. WOODS: Thank you very much, and we really
do

4 appreciate you being frank with us.

5 JUROR: Thank you.

6 MR. WOODS: It helps our job.

7 THE COURT: You're going to be excused now.
We're not

We're 8 making the decisions about people as we go along.

we'll be 9 talking to people, as you can understand here, and

you'll be 10 back to you with respect to the decisions and whether

assumption 11 asked to serve; but please conduct yourself on the

cautions that 12 that you will be, so continue to follow the same

Will 13 I gave you when you left out there at Jefferson County.

14 you?

15 All right. You're excused.

16 (Juror out at 3:15 p.m.)

just make a 17 MR. MACKEY: Excuse me, your Honor. May I

18 generalized objection? Mr. Woods' repeated

editorializing,

19 yesterday it was about facts concerning search
warrants, today

20 it's expressions of feelings of personal confidence,
and I

21 think it's inappropriate.

22 THE COURT: Yes, I agree, and the expressions
of

23 gratitude for their being honest and your -- you know,
that

24 involves your statement that they're honest. Please
avoid it.

25 MR. WOODS: Yes, your Honor, I will.

1023

1 before we THE COURT: I think we'll take the recess

2 go -- now, I have 699 next. Is that the right order to
go

3 here, I think?

4 MR. MACKEY: Yes.

5 minutes. THE COURT: 699, 945 and 484. Okay. 20

6 (Recess at 3:17 p.m.)

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

8 THE COURT: Be seated, please.

9 All right. 699.

10 If you'll please raise your right hand and

take the

11 oath from the clerk.

12 (Juror No. 699 affirmed.)

13 THE COURTROOM DEPUTY: Thank you.

14 THE COURT: Please be seated.

15 VOIR DIRE EXAMINATION

16 BY THE COURT:

17 Q. We've kept you waiting all day, and a long day to
wait.

18 A. Yes, it is.

19 Q. But we appreciate that, and I hope you understand
that we

20 know how can't go according to a certain schedule. We don't

21 long we'll be with particular persons.

22 A. I understand.

23 Q. You recall taking an oath like that earlier;
indeed, on

24 County September 17, when you and others came to the Jefferson

25 oath Fairgrounds' auditorium building and were given such an

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Juror No. 699 – Voir Dire

1 and filled out a questionnaire.

2 A. Yes, I do.

3 Q. And you have that questionnaire, your completed

4 questionnaire in front of you now?

5 A. Yes, I do.

6 Q. And here we are asking you to come back and answer
some

7 more questions, so -- but this will be it. I mean, the

8 questioning taking place here is that which we need
before

9 making the selection of the jurors for the trial of
this case.

Terry 10 And you understand this case is United States against

11 Lynn Nichols.

12 A. Yes.

building 13 Q. And that when you did come out to the auditorium

myself 14 there, I explained -- well, first of all, I introduced

And 15 and I introduced some other people who were with me.

people 16 they're here now, too. And I want to reintroduce the

17 who were present and some who weren't.

at the 18 You'll recall Mr. Lawrence Mackey right here

attorneys for 19 first table and Ms. Beth Wilkinson were there as

20 the Government.

are 21 Additionally appearing for the Government now

22 Mr. Patrick Ryan and Mr. James Orenstein.

23 You recall meeting the attorneys for the
defendant,
24 Mr. Michael Tigard, Mr. Ronald Woods; and Terry Lynn
Nichols,
25 the defendant, who was present and is again now.

1025

Juror No. 699 - Voir Dire

1 Now, I -- I'm going to repeat some of the
things that
2 were repeated out there, and it isn't because I don't
think you
3 can remember a couple of weeks ago, but I think to sort
of
4 establish the foundation for some of the questions that
we need
5 to ask you, I want to repeat the things about where we
are in
6 this case.
7 You'll recall that I outlined for you and the
other
8 members of the jury panel the background of the case;
that
9 there was an explosion in Oklahoma City, Oklahoma, on
April 19,
10 1995. A building was destroyed and people killed and
injured.
11 And then there was an indictment in Oklahoma City in
the
12 Federal Court charging Timothy James McVeigh and Terry
Lynn

13 Nichols -- Mr. Nichols here -- and then other persons
not named

14 in the indictment with a conspiracy to plan and carry
out such

15 a bombing and that charging Mr. Nichols and Mr. McVeigh
with

16 activities in connection with that and also with the
murders of

17 eight law enforcement agents in the building; that both

18 defendants pleaded not guilty; that the case was
transferred to

19 Denver from Oklahoma City and separate trials were
ordered so

20 that we would have separate juries considering the
evidence as

21 it may relate to Mr. McVeigh and another jury as the
evidence

22 may relate to Mr. Nichols; that Mr. McVeigh was already
tried

23 by another jury and what the results were; now we're
preparing

24 for the trial of Mr. Nichols and that the results of
the trial

25 of Mr. McVeigh have nothing to do with this case
because it's

1026

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- 1 to be separately considered. You recall all of that?
- 2 A. Yes, I do.
- 3 Q. And that I explained as a fundamental principle of

our

other person 4 Constitution that Mr. Nichols, just as much as any

be or 5 charged with any crime, no matter who that person may

that 6 what the crime may be, is presumed to be not guilty and

trial and 7 this presumption of innocence carries throughout the

unless 8 entitles him to an acquittal, a verdict of not guilty,

 9 the case against him is proved by evidence.

anything. 10 And it is not his duty or burden to prove

to 11 He doesn't have to call any witnesses, he doesn't have

as a 12 explain anything, and he doesn't have to take the stand

 13 witness himself.

up to the 14 The Government having made the charges, it's

they must 15 Government's lawyers to come in with the evidence, the
 16 witnesses and the exhibits to try to prove them. And

anything 17 not only prove the case in terms of probabilities or

minded 18 like that, they have to convince a jury of 12 fair-

what 19 persons that the evidence shows the defendant guilty of

 20 they say about him beyond a reasonable doubt.
Understand that

21 principle?

22 A. Yes, I do.

23 Q. And as I said, you know, not only does the
defendant not

24 have to explain anything or produce any evidence or be
a

25 witness, the jury may not in any way consider the fact,
if it

1027

Juror No. 699 - Voir Dire

offer 1 be a fact, at trial that a defendant doesn't testify or

what we 2 any evidence. They can't consider that. And in fact,

doesn't 3 tell juries regularly in cases where the defendant

about 4 produce any evidence or testify is you can't even talk

deciding 5 it, because it's not a relevant consideration in

reasonable 6 whether the evidence establishes the crime beyond a

7 doubt.

after 8 And "beyond a reasonable doubt" means that

among 9 hearing it all, considering it all and discussing it

whether 10 themselves, if the jurors have a reasonable doubt as to

11 the case is proved, they must give the defendant the

benefit of

12 that doubt and find him not guilty.

13 You heard all that before. It's not new to
you, I

14 take it.

15 A. No, it isn't.

16 Q. And do you accept that --

17 A. Yes, I do.

18 Q. -- as the law and agree to be bound by it and
follow it if

19 you were to serve on the jury?

20 A. Yes, I do.

21 Q. So as he sits here today, you look at Mr. Nichols,
you're

22 able to give him the presumption of innocence?

23 A. Yes, I can.

24 Q. Now, I want to go through some of the things that
are in

25 the questionnaire; but before doing so, I want to
reassure you

1028

Juror No. 699 - Voir Dire

is why 1 once again about our concerns for your privacy. That

courtroom 2 your name is not used here. You're in an area of the

out and 3 that's somewhat sheltered here. We brought you in and

can't 4 will take you out of the courthouse in ways so that you

a matter 5 be photographed or you be identified. And that's just

on. And 6 of, you know, so that your privacy is not encroached

public and 7 these answers that you gave us have not been made

you are 8 will not be; but, of course, you understand that now

in 9 answering questions that we ask of you here in the open

10 public.

may be 11 So as we go through some of these things, we

these 12 careful about, you know, asking you to explain some of

where 13 things but in ways that won't clearly identify anything

you. 14 it might be a matter of intense personal interest to

15 Understand?

16 A. Yes, I do.

your 17 Q. Then I want to ask you a few things beginning with

near 18 background. You were born and raised on a farm in Iowa

19 Sioux City?

20 A. Yes, I was.

21 Q. And you grew up on the farm?

22 A. Yes, I did.

do as 23 Q. And undoubtedly had some work to do, some chores to

24 you grew up, as most farm kids do?

25 A. Yes, I did.

1029

Juror No. 699 – Voir Dire

1 Q. And do you have family still on the farm?

2 A. I have a sister that lives on a farm in Iowa.

3 Q. A different farm?

4 A. A different farm.

5 Q. Is the farm you grew up -- is that still in the family?

6 A. No, it has been sold.

7 Q. Sold. Voluntarily?

8 A. Yes, voluntarily.

9 0. Okay.

10 A. My father retired.

11 Q. And what, did he move into Sioux City?

12 A. No, he moved into a small town in Iowa -- and my mother.

13 Q. All right. And your sister is -- you said your
sister.

14 didn't you?

15 A. Yes.

16 Q. Is she in the same county?

17 A. Yes, she is.
18 Q. The farm?
19 A. Yes, she is.
20 Q. And she and her husband are working the farm?
unable
21 A. They did. He is seriously ill right now, so he's
many
22 to.
23 Q. Oh, I'm sorry.
24 The farm that you grew up on: How big? How
25 acres?

1030

Juror No. 699 - Voir Dire

1 A. It was 240 acres.
2 Q. With cash crops like corn, soybeans?
3 A. Soybeans and wheat.
4 Q. Wheat.
5 A. And some corn.
6 Q. And some corn. I guess we think of Iowa, we think
of corn.
those
7 And you were out there with the tractor and
8 things as need be?
used to
9 A. I used to detassel corn, I used to hoe beans, I
the
10 pick up corn, we called it. I did a lot of work with

things 11 cattle. I helped my dad with his cattle and all the

12 that girls do on farms.

girls and 13 Q. Well, there aren't too many differences between

14 boys on farms anymore.

15 A. Not anymore.

answers, 16 Q. Okay. And you then, as I understand it from your

there for a 17 went to Sioux City, worked in a television station

18 year?

19 A. Yes, I did.

20 Q. Now, is that after high school? When was that?

didn't 21 A. I got married very shortly after high school and I

did 22 work for several years after I was married. And then I

23 take a job in the TV studio.

24 Q. What did you do there?

25 A. I was a secretary, a clerical-type person there.

1031

Juror No. 699 - Voir Dire

1 Q. So you -- and this was a local television?

2 A. Yes.

if you 3 Q. Did it have a connection with one of the networks,

4 remember?

5 A. I can't remember. I can't remember.

6 Q. You moved on to another job after that?

7 A. Yes, I did.

8 Q. And what did you go to work doing then?

9 A. I went to work for the Woodbury County Farm Bureau
as an

10 office manager.

11 Q. That is the county in which Sioux City is located?

12 A. Yes, it is.

13 Q. Now, talking about Sioux City, you have something
here that

14 I wanted to ask you about. Page 24. Actually, it may
also be

15 page 23. I'm looking at Question 104 and 105.

16 A. Okay.

17 Q. Are these related, this Question 104 and 105? Is
this

18 talking about the same event?

19 A. Yes.

20 Q. And this related to your husband?

21 A. Yes, it did.

22 Q. Were you married at this time?

23 A. Yes.

24 Q. Now, let's see. Is he from the same -- did you go
to high

25 school together?

Juror No. 699 - Voir Dire

1 A. Yes, we did.

2 Q. So were you going together when you were in high
school?

3 A. We didn't go to the same high school, but we
started dating

4 when I was 16.

5 Q. All right. And then you married shortly after high
school,

6 as you already said. And can you tell us in a general
way what

7 this was all about?

8 A. Yes. My husband became associated with some people
in

9 Sioux City that were not of good character; and
unfortunately,

10 he did get involved in a criminal activity there. He
was

11 charged with a crime. The FBI did interview me. We
12 successfully resolved the situation; but in a small
town like

13 Sioux City, we felt that we were harassed by -- not by
the FBI

14 but by the local police departments there.

15 Q. Was the charge in the local court, or the federal
court?

16 A. I can't remember for sure.

17 Q. Did it relate to a business -- his friendship, or

his

18 acquaintances? Were they business, or social?

and I
19 A. He was charged with conspiracy to commit a crime,

All I
20 don't remember whether it was a federal crime or not.

21 remember is the FBI. This has been over 20 years ago.

22 Q. Yes, I know.

23 A. It's kind of hard to remember.

can
24 Q. And we don't want to dwell on it, but obviously you

25 understand our interest in it.

1033

Juror No. 699 - Voir Dire

1 A. Absolutely.

2 Q. Well, you know, was it like a business deal or some
3 fraudulent matter, something like that?

want
4 A. I think, as I remember it, the people that he was

5 associated with stole some -- some kind of equipment or
6 something. And my husband knew about it, and he didn't

didn't want
7 to -- he didn't want to tell anybody about it. He

8 to tell on his friends.

9 Q. Right.

was moved
10 A. And so that's how this -- I think this equipment

11 across a state line.

12 Q. Was it farm equipment, or technical, electronic equipment?

13 Do you remember anything about the nature of the equipment?

14 A. It may have been farm equipment. I'm a little fuzzy on

15 exactly what it was now.

16 Q. You said it was resolved. Did he plead to something?

17 A. I think he pled guilty to conspiracy. And he was given a

18 sentence of probation.

19 Q. And maybe a fine, or order of restitution? Something like

20 that?

21 A. Well, there was no restitution because he didn't take

22 anything, but he just knew that the others had.

23 Q. And didn't -- didn't -- he helped them in the sense that he

24 helped them cover it up?

25 A. Yeah, I think -- that's a fair statement.

1034

Juror No. 699 - Voir Dire

1 Q. Okay. Well, let's move on. But you expressed the opinion

2 that he was abused or harassed by the police. And just

tell me

3 in what form that was.

4 A. They would follow him around the city. They would

--

5 Q. Stop him for any failure to signal or something?

police
6 A. Anything. They would stop him. They would send

down the
7 units out and they would sit in front of our house or

8 street.

9 Q. How long did that go on?

to
10 A. It went on for about a year. And in 1975, we moved

like in a
11 Denver. One of the reasons we moved was that we felt

from it.
12 small town like that that we just needed to get away

13 Q. Yeah.

14 A. So we moved.

problem.
15 Q. Because you just couldn't get away from the

16 A. Uh-uh.

acquaintances
17 Q. Did people in town, the people you knew, your

18 or church members or somebody, turn on you, too?

19 A. No. I never felt that.

of this?
20 Q. Or act differently in interacting with you because

changed their
21 A. There were some people who, I think, probably

22 attitude towards us, but not on the whole.

23 Q. Okay. So then you came to Denver.

24 A. Yes.

25 Q. And you've lived in the Denver area ever since?

1035

Juror No. 699 - Voir Dire

1 A. Yes, we have.

your
2 Q. And you, as I understand it -- and I'm looking at

9. And
3 employment here. You work for a large company. Page

coverage
4 in that company, you, what, supervise the insurance

that it?
5 for the risks that the company is involved with? Is

6 A. That's part of my responsibility, yes.

the
7 Q. And so you sort of make sure there is coverage for

among the
8 things that need coverage and do a little shopping

deal?
9 carriers to see where you can get the best cost-benefit

10 A. Yes, I do.

what their
11 Q. And to do that, you have to know something about

the
12 risks are and what kinds of coverage is available in

13 industry.

14 A. Yes, I do.

15 Q. And have you learned that by doing it -- I mean on
the

16 job -- or did you have some special training in that?

17 A. I learned it on the job.

18 Q. And this company has sort of had its ups and downs,
as many

19 companies have, particularly in the line of work this
is, the

20 industry.

21 A. Yes, they have.

22 Q. So they've had layoffs and they've added people.

23 Now, I take it from what you say here, you
weren't the

24 subject -- you weren't involved in any of those
layoffs. They

25 kept you on?

1036

Juror No. 699 - Voir Dire

1 A. That's correct.

2 Q. And you've been there continually, then, for 16
years?

3 A. Yes, I have.

4 Q. In the same part of the business?

5 A. My original position when I went to work there was

6 secretarial, and I advanced beyond that into my present

7 position.

8 Q. Okay. The -- before you went to work in that
company, you

9 were a realtor.

10 A. Yes, I was.

11 Q. And did you have a license to buy and sell real
estate as

12 an agent?

13 A. Yes, I did.

14 Q. Were you in commercial, or residential, or both?

15 A. Residential.

16 Q. In the Denver metropolitan area?

17 A. Yes.

18 Q. Now, your husband has his own business?

19 A. Yes, he does.

20 Q. And this is restoration of older vehicles and also
parts --

21 A. Yes.

22 Q. -- where the vehicle -- it's hard to get parts for
some of

23 these older vehicles.

24 Are these mostly pickups, that type of truck?

25 A. That's his specialty, is old trucks.

1 Q. But like --

Page

2 A. Pickups.

3 Q. As opposed to larger trucks.

4 A. Right. That's correct.

5 Q. You were on a jury before out in Jefferson County.

6 26. The -- this was back in '78 or '79.

7 A. That's correct.

guess.

8 Q. And so it was shortly after you got to Colorado, I

9 A. Yes, it was.

10 number came

11 up. You went into the courthouse and you got -- went

through a

12 process something like this --

13 A. Yes.

was

14 Q. -- of questioning and then you served. The charge

15 drunk driving?

16 A. Yes, it was.

know,

17 Q. Were there any injuries or accidents -- any -- you

18 was it a stopping a motorist or was there an injury or

19 accident --

were

20 A. There was an accident. I don't remember if there

21 injuries.

took

22 Q. Okay. And you remember that the trial, of course,

23 place with lawyers on both sides and witnesses called
and the

24 like?

25 A. Yes.

1038

Juror No. 699 - Voir Dire

1 Q. So you've been directly exposed to these things
that I

2 talked about in generality about the burden of proof
and --

3 A. Yes.

4 Q. -- and all that.

5 And you remember something about the
instructions, no

6 doubt.

7 A. Yes, I do.

8 Q. Not in detail, but these fundamental things.

9 And then the jury reached a verdict. What was
the

10 verdict?

11 A. Guilty.

12 Q. Of drunk driving?

13 A. Yes.

14 Q. Were there several levels of that? Was it like
driving

15 under the influence, too, as something you could
consider or

16 was it just yes or no on drunk driving? Do you
remember?

17 A. I believe it was yes or no on drunk driving.

beyond a
18 Q. It was just one charge to consider either proved

19 reasonable doubt or not guilty.

20 A. Yes.

You
21 Q. Were you -- you weren't selected as the foreperson.

22 know what we mean here by foreperson?

23 A. Yes, I do. No, I was not.

whatever.
24 Q. Sometimes called the chairman or the foreman or

25 A. No, I was not.

1039

Juror No. 699 - Voir Dire

1 Q. Well, we're not going to ask you about
deliberations

2 because we respect the secrecy of the jury deliberation
process

3 no matter where it takes place. But do you recall how
long the

4 trial was?

5 A. Essentially, it was one day.

6 Q. And how long the jury deliberated?

7 A. About an hour.

8 Q. Pretty clear-cut case?

9 A. It was very clear-cut.

10 Q. And any major disagreement among the jurors?

11 A. None.

12 Q. As these lawyers have heard me before with people
who have

13 been on jury service, I'm always tempted to ask how you
picked

14 a foreperson, but I'm not going to ask that.

15 Now, anything from that jury experience that
you in

16 any way see as carrying over to service again on a jury
in this

17 case?

18 A. It would seem to me that they would be very
different in

19 what would be considered. The principles would be the
same.

20 Q. Exactly. The principles are the same, as I was
saying, no

21 matter what the charge is or who the accused is.

22 Page 16 tells us that you have just read a
book or

23 recently read a book called Runaway Jury.

24 A. Yes. It's been several months.

25 Q. Several months. You remember the story line of
that book?

1 A. As I recall it, I believe it has to do with the
tobacco

2 industry. It's a John Grisham book, but it has been
several

3 months since I read it.

4 Q. Okay. Well, this isn't a test about what you
remember.

5 I've never read it, so what do I know about it? But
I've heard

6 it mentioned before; and of course, the title intrigues
me when

7 we're talking about picking a jury that's supposed to
follow

8 the law and not run away with it.

9 A. Of course.

10 Q. Have you read other John Grisham books?

11 A. Yes, I have.

12 Q. Let's see where the -- well, mystery novels are
something

13 that attract you for reading.

14 A. Yes. I love mysteries.

15 Q. Okay. Now, the -- back to your husband's body shop
for a

16 moment. Does he have employees with him, too?

17 A. Yes, he does.

18 Q. And varies according to how much business he has?

19 A. And who shows up for work.

20 Q. Okay. I understand that.

21 On page The -- yeah. Here's what I was looking for.

22 18, you -- Question 83 is asking you about reading
books, and

23 you show books by John Grisham and also by an author
named

24 Scott Turow.

25 A. Yes.

1041

Juror No. 699 - Voir Dire

1 Q. And have you read many of his books?

2 A. I think I've read two books by Scott Turow.

3 Q. Do you remember what they are? Titles?

4 A. Something about innocence -- I can't remember.

5 Q. Okay. And is it because these books are about
lawyers and

6 courts, or because they're about mysteries, or just
good reads?

7 What attracts you?

8 A. Usually, I read books that are recommended by
friends, and

9 I have a friend that gives me paperback books, and this
person

10 seems to like this kind of book, so I --

11 Q. You follow along?

12 A. I guess. I don't have a lot of time to read.
That's the

13 problem.

14 Q. Okay. Also, in addition to your having been on the

jury in

we 15 that case out in Jefferson County, on pages 22 and 23,

some 16 got -- let me go to 23 first, Question 103. You've had

collecting 17 cases in some claims court where your husband was

18 bills. Is that what that's about?

19 A. Yes.

20 Q. And it says you've been a witness there. Do you do

something 21 anything with his business, like keep the books or

22 like that?

a 23 A. At one time, I did keep his books. And when I was

at that 24 witness for him, it involved the bookkeeping procedure

25 time.

1042

Juror No. 699 - Voir Dire

1 Q. To prove the bills --

2 A. Exactly.

3 Q. -- that were being collected.

4 A. I no longer keep his books.

you're 5 Q. And this -- when it says "small claims court,"

the 6 talking about a court where lawyers are not involved;

7 people just come in and present their problem and their
8 relative positions on a dispute to a judge or a
referee.

9 A. That's correct.

10 Q. You got on page -- on page 22 -- excuse me -- and
Question
was that

11 102, A and B there, the first one is this robbery --

12 your husband's business?

13 A. When we first moved to Denver, he worked for a gas
company,

14 a gas station.

15 Q. Uh-huh.

16 A. And he was working in the gas station and he was
robbed and

17 injured at the same time.

18 Q. By somebody who came into the station?

19 A. Yes.

20 Q. Well, I'm a little confused because under Item 5
there,

21 it's talking about a car broken into.

22 A. Okay. I see that.

23 Q. I'm confused about whether this is two things --

24 A. Well, I remembered the robbery situation after I
had

25 completed this. I had forgotten about it at the time I

Juror No. 699 - Voir Dire

1 completed it.

2 Q. All right. So there were two events?

3 A. Exactly.

4 Q. What kind of injury did your husband sustain?

5 A. The person hit him over the head or tried to hit
him over

6 the head and hit his shoulder instead.

7 Q. With a weapon?

8 A. We presume it was a weapon. He doesn't know what
it was.

9 Q. Was he rendered unconscious?

10 A. He fell to the floor, as I remember it. I wasn't
there --

11 Q. No, I understand you weren't there. It's what you
12 understand from what you've heard?

13 A. He fell to the floor. He was injured. The person
did get

14 some money and escaped from the station.

15 Q. To your knowledge, was there a person ever caught
and

16 charged?

17 A. Not to my knowledge.

18 Q. Okay. And then with respect to this break-in of
the car,

19 something separate --

20 A. Yes.

21 Q. And as far as you know, nobody ever charged with

that.

22 A. We never found out who did it.

23 Q. How long ago was your husband working at this
station, gas

24 station?

25 A. It was right after we moved to Denver. It was
probably

1044

Juror No. 699 - Voir Dire

1 1975 or '6.

2 Q. 20 years ago. And then you had an incident here
where

3 somebody pointed a gun at you and your husband out on
the road?

4 A. Yes. It was very frightening.

5 Q. When did that happen?

6 A. That happened about four years ago.

7 Q. Were you on a highway? Where were you?

8 A. We were on U.S. 36 going south into the Westminster
area,

9 and a van pulled up alongside of us; and the person in
the

10 wildly at front seat on the passenger's side started gesturing

11 wrong or why us and yelling at us. And we didn't know what was

12 pointed he was doing that. And then he pulled a gun out and

13 the gun at us.

14 Q. Handgun?

15 A. It was a very large gun. That's all I remember.

16 Q. But I mean one you would hold in your hand?

17 A. Yes, it was a handgun. My husband speeded up, and
the van

18 chased us all the way into Westminster; and we pulled
in -- we

19 got off the road and went to the Westminster Police
Department

20 and the van got away.

21 Q. The van didn't come in behind you to the police
department?

22 A. No. No.

23 Q. Well, I'm not making fun of it. That would be a
very

24 frightening experience.

25 A. It was very frightening.

1045

Juror No. 699 - Voir Dire

1 Q. And was this in the daylight? Daytime?

2 A. It was early evening.

3 Q. Very light yet?

4 A. It was very light, yes.

5 Q. How many people appeared to be in the van, if more
than

6 one?

7 A. We know that there were at least three people.

8 Q. Did you make an estimate of their age -- ages?

9 A. They were young people.

10 Q. Like teenagers, or --

11 A. I would have guessed maybe 17 or 18 years old.

I've
12 Q. Okay. And that was -- I'm sorry; if you told me,

13 forgotten. About how long ago?

14 A. I think it was about four years ago.

this to
15 Q. So would it be that you then went in and reported

16 the police?

17 A. Yes, we did.

jury, of
18 Q. All right. Let's talk a bit about the role of the

but
19 course, you know, not only from what we've talked about

20 from your own experience in a case.

21 A. Yes.

jury on
22 Q. And do you know in the case in which you -- the

driving, what
23 which you served found somebody guilty of drunk

24 the sentence was?

extended
25 A. The gentleman lost his driver's license for an

Juror No. 699 - Voir Dire

1 period of time, and he was given a fine.

2 Q. How did you find that out? I mean, did the judge
sentence

3 him right then and there?

4 A. I think so. Because I knew what his sentence was.

5 Q. I mean, with you there? I mean, with the jury in
the box?

6 Sometimes it happens that way.

7 A. We must have been, because I do remember that he
lost his

8 license.

9 Q. Well, now, ordinarily sentencing decisions don't
involve

10 jury has the jury, as I trust you may be aware. And when the

11 that's reached its decision -- of course, if it's not guilty,

12 matter the end of it. But if it's guilty, then ordinarily the

13 The jury is turned back to a judge for deciding the sentence.

14 sentence goes home. And then before the judge determines the

15 is appropriate to the particular person, more information

16 also about 16 collected about the circumstances of the offense and

17 defendant 17 the defendant, things that relate uniquely to the

18 concerning his or her life, where born and raised,

general

same 19 background, employment history, actually some of the
 20 things we ask of jurors and -- because all of us have
 21 differences and those things that make us unique
individual 22 human beings.

along with 23 And then all that is presented to the court
 24 arguments by the prosecution and the defense, and the
judge 25 makes a decision that is particular to that person and
that

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offense. And that becomes the sentence.
And as I say, the jury is not involved in that
normally in criminal trials. The jury is told that you
may not consider punishment in any way in deciding whether the
evidence shows guilt beyond a reasonable doubt. You follow me
on that?
A. Yes, I do.
Q. Now, it is different in a case under federal law --
and
federal that's where we are here, in the Federal Court, under
statutes, because with the crimes charged in this case

under

sentence 10 the statutes that are involved, the possibility of a

that's a 11 to death or a sentence to prison for life without the
12 possibility of ever being released is available. And

decision that 13 decision that we don't leave to judges. That's a
decision that

14 goes to juries under the Federal Court system.

in 15 But, of course, the jury can't consider that

guilt 16 deciding the question of whether the evidence shows

like it 17 beyond a reasonable doubt, because this case and cases

guilt. 18 are no different in that respect. You can't consider
19 punishment in deciding whether the evidence proves

20 Accepted?

21 A. I do.

punishment 22 Q. Okay. But then if there is a guilty verdict,

it is 23 has to be considered and even decided by the jury. And

questionnaire 24 for this reason that we ask you questions in the

possible 25 about your attitudes and opinions concerning the

Juror No. 699 - Voir Dire

of 1 punishments of life in prison without the possibility

you will 2 release and death, and that's on pages 28 and 29. If

3 turn to those pages and please review what you wrote.

4 Do you have it in mind?

5 A. Yes.

answer to 6 Q. And there is -- page 29, there is your one-word

7 the question over there.

you a 8 Okay. Now, I want to review with you and ask

want to 9 few questions to expand on these answers; and then I

talking with 10 talk with you about the procedure that's involved in a
11 punishment decision, penalty decision. But before

what you 12 you about the law at all, we want to talk a bit about

first 13 think coming in, so to speak. And as I understand it

religious 14 because of the answer on page 29, you don't have any

your 15 beliefs or political or moral beliefs that would affect

life in 16 ability to make a decision about the death penalty or

17 prison.

18 A. That's correct.

19 Q. And then we asked you on page 28 in these four

questions, A

when the 20 through D, to tell us something about your view about

release 21 penalty of life in prison without the possibility of

"Depending 22 should ever be imposed. And you gave us an answer,

23 on the crime."

24 A. Right.

are your 25 Q. Now, tell us what you mean. Well, first of all,

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about this 1 answers today the same here? Maybe you've thought

you're 2 some more since that time, but is this essentially what

3 thinking right now?

4 A. I still feel the same.

are 5 Q. Okay. And where you say, "depending on the crime,"

should be 6 there certain categories of crime that you believe

7 punished with such a sentence to life without release?

8 A. Yes, I do.

types of 9 Q. And what -- please tell us in your own words what

10 crime you think about for that sentence.

life 11 A. For punishment -- you're speaking of punishment for

 12 without possibility of release?

 13 Q. Yes. That's the question.

or 14 A. I think when a criminal has a long record of crimes

could hurt 15 multiple crimes where the person is -- could be --

Perhaps 16 someone in society that they should not be released.

I 17 the death penalty is not appropriate in that case, but

 18 believe that life sentence without parole is
appropriate in

sexual 19 certain instances. I think some predatory people,

 20 offenders, possibly --

from a 21 Q. So that you're thinking about protection of society

 22 repeat crime by the same person. Is that --

some people 23 A. That is a lot of my thought process. There are

prison. 24 that a fair punishment is that they should stay in

answers to 25 Q. Okay. Well, please understand when I suggest

2 A. I understand.

3 Q. I'm trying perhaps to help you express yourself in
ways

4 that we can understand and appreciate.

5 Well, let's move down to the next one, because
the

6 next one asked about sort of the same type of thing but
about

7 when the penalty of death should be imposed.

8 A. Yes.

9 Q. And you tell us here, "It is appropriate again for
certain

10 crimes," and then you say, "where there are no
mitigating

11 circumstances."

12 Now, is that an important qualification?

13 A. It's very difficult to answer. I would not easily
impose

14 the death penalty, but I could do it if I felt that the
person

15 or persons had done this very deliberately, with a long
thought

16 process or even a short thought process; that terrorism
might

17 be involved. I guess when I say mitigating
circumstances, I

18 think of situations like crimes of passion, maybe,
where there

19 is some sort of mitigating circumstance involved.

20 Q. And then C and D, I think, simply expand on that;
but it's

21 basically the same concept: You're looking at kinds of
crimes

22 and also whether there is anything which you say can
mitigate

23 it.

24 A. Exactly.

25 Q. Well, let's talk about what the law is.

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1 A. Yeah.

2 Q. And the procedure that is followed in a case where
the jury

3 is asked to make a life-and-death -- -or-death
decision. And,

4 you know, it's awkward to talk about this when we're
also

5 talking about the presumption of innocence; but I hope
you

6 understand the need to do it, because we can't do this
at some

7 later time. We have to select the people for the jury
for the

8 whole trial even if there is a not guilty verdict.

9 A. I understand.

10 Q. All right. So if there is a guilty verdict in a
case like

11 this, then the jury is asked to participate in another
hearing,

12 a second trial, a penalty phase hearing or trial; and

it

13 proceeds much like the trial itself, in that the
lawyers for

14 the Government, the prosecutors, bring in information
about the

15 circumstances of the crime, things that -- and its
effect on

16 people, things that the Government lawyers rely on to
suggest

17 to the jury that death is the deserved punishment for
the

18 defendant for the crime.

19 The defense, on the other hand, produces
information

20 for the jury's consideration in -- and suggests that
death is

21 not deserved, is not a justified punishment for this
defendant

22 for this crime. We call the things, on the one hand,

23 aggravating factors and the things on the other side
mitigating

24 factors, a word that you've already used here,
"mitigating."

25 And the mitigating factors, of course, will
include in

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1 any case where this is an issue, the punishment, the
things

2 that are unique to the defendant, same kinds of things

that I

3 mentioned that a judge considers in deciding a
punishment in a

4 case that doesn't involve a life-or-death decision, so
things

5 about the individual's background, beliefs, conduct as
separate

6 and apart from the particular offense involved, what
value he

7 may have contributed to society, family relationships,
all

8 those things, so that the jury can judge him as a human
being.

9 And then the jury is told in instructions from
the

10 court after all this is submitted that they must
consider the

11 aggravating factors that have been presented and all of
the

12 mitigating factors that have been presented and weigh
them not

13 in the sense of a scale or not in the sense of an
arithmetic

14 value or even any sort of equation. There is no
formula for

15 this, but to decide with open minds and then
considering what

16 they've heard and seen whether the defendant should
live or

17 die. And the issue really is at bottom for each
individual

18 juror a moral judgment as to the defendant and the
crime.

19 Do you follow me?

20 A. Yes, I do.

21 Q. I know you've listened carefully. The question is:
Can

22 you do that in this case?

23 A. Yes.

24 THE COURT: Then we have some questions to be
asked of

25 you by the lawyers. Please listen to their questions
and

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1 respond to them as you have to me.

2 We'll proceed with Mr. Ryan for the
Government.

3 MR. RYAN: Thank you, your Honor.

4 VOIR DIRE EXAMINATION

5 BY MR. RYAN:

6 Q. Good afternoon.

7 A. Hello.

8 Q. Are you tired?

9 A. A little.

10 Q. Hang on for another half hour or so?

11 A. You bet.

12 Q. I understand that you grew up on a farm. You have
an older

13 sister and a younger brother.

14 A. Yes, I do.

15 Q. And he lives in Minneapolis?

16 A. Yes.

Sudden
17 Q. And one of the books you've read recently is called

name
18 Prey?

19 A. Yes.

20 Q. Is that the series of books that all have the last

name
21 "Prey"?

22 A. Yes.

23 Q. Lucas Davenport is the detective from Minneapolis?

24 A. Yes.

25 Q. Did your brother give you that?

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you made
1 A. No. The friend who gave me all the others.

you
2 Q. Now, in the course of your employment, I take it

you
3 decisions with respect, among other things -- I realize

assessments for
4 have many roles, but among other things, risk

5 your company?

6 A. Yes.

7 Q. Are those primarily liability risks?

8 A. They're all kinds of risks, not just liability.

9 Q. What other types of risks are there that you would
deal

10 with?

11 A. I deal with employment risks, employment practices,
12 discriminatory risks. I deal with any kind of risk
that

I don't
13 affects the corporation that can produce a pure loss.

risks,
14 get into the benefits side and I don't assess financial
15 such as hedging.

you
16 Q. When claims are made that involve your employer, do

17 become involved with that process?

claims, I do
18 A. It depends upon what the claim would be. Some

insurance
19 get involved in; others are -- are handled by our
20 companies.

the claim
21 Q. If it were an insured risk, you would simply send

22 over to them for handling?

insurance
23 A. Generally, we would send the claim into the

requested.
24 company for handling. We might provide documents as

personally
25 Q. If it were an uninsured risk, you would be more

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1 involved?

2 A. I would be, yes.

3 Q. I'm not to -- I'm not nearly as familiar, as I can
tell his

4 Honor is, with the company, and I don't want you to say
the

5 employees are name of your company; but approximately how many

6 employed there?

7 A. About 8,000 worldwide.

8 Q. All right. Now, you grew up on a farm and you met
your

9 husband -- did you meet your husband at the feed store?

10 A. Not exactly.

11 Q. Okay. You knew him before. I saw where you had
mentioned

12 in the questionnaire that he worked at a feed store
when he was

13 in school.

14 A. Yes. And right after we got married.

15 Q. Now, I know that there are a couple of topics here
that are

16 a little sensitive, and I'll apologize to you in
advance; but I

17 would like to touch on just a little bit more, if
you'll bear

18 with me.

19 In the matter that you spoke of involving your
husband

20 some 20 or so years ago, you said the FBI was the
investigating

21 agency?

22 A. That's correct.

23 Q. Am I correct in my understanding?

24 A. Yes.

25 Q. Do you have any judgment about whether they acted

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1 appropriately or inappropriately?

2 A. I think at the time, I thought it was
inappropriate; but as

3 time has passed and I have looked back on it, I realize
that

4 they were doing their job.

5 Q. What was it that happened back at the time that
caused you

6 to think that maybe they had done something
inappropriate?

7 A. Well, no one ever likes to have their husband
accused of

8 anything.

9 Q. Of course not.

10 A. And so that was an issue for me at the time. I
felt

were 11 that -- I didn't think that he was guilty of what they

matured, I 12 accusing him of; and in retrospect and as I have

13 understand that he was.

in that 14 Q. All right. Did he cooperate with law enforcement

15 case?

did. 16 A. Initially, he did not want to. After a time, he

the 17 Q. Did he provide information to law enforcement about

with his 18 crime and about his role in the crime in connection

19 guilty plea?

20 A. I think so. It's hard to remember that far back.

21 Q. I understand. I take it the FBI was not in any way
22 involved with this harassment that took place for a
year or so

23 following this event?

24 A. No, I didn't feel that they were.

25 Q. And did all of this harassment occur after the
events we've

1 been speaking of?

2 A. I'm sorry? After?

3 Q. Did this harassment by the local police occur after

the

4 event involving your husband?

5 A. Yes, it did occur after.

6 Q. Now, would you be kind enough to turn to page --
Question

7 96 -- it's on page 21.

8 A. I beg your pardon?

9 Q. Page 21.

10 A. Okay.

11 Q. I don't want to mention any names here, so I want
to try to

12 be as circumspect as I can. But you indicate there a
certain

13 specialization of this lawyer. Do you see what I'm
referring

14 to?

15 your I take it he does not do that type of work for

16 husband.

17 A. No.

18 Q. He represents your husband in his business affairs?

19 A. Yes, he does.

20 Q. Okay. You've also related an event about four
years ago,

21 you've expressed, that was very frightening for you.

22 A. Yes.

23 Q. And I take it your husband was with you in the car?

24 A. Yes, he was.

25 Q. Was anyone else in the car?

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1 A. No.

cause 2 Q. Is there anything about that experience that would

3 you to not be in a position to judge this case fairly?

4 A. No.

various life 5 Q. Would that be true with respect to all of the

here 6 events that you've -- many of which you have expressed

-- do you 7 today but perhaps some we haven't talked to you about

some 8 see anything in your background that would cause you

United States 9 concern about your ability to be fair to both the

10 and to Terry Nichols?

I have 11 A. It might cause me to be more fair because I have --

it 12 been through some of the process, so I -- I think about

13 maybe more carefully.

14 Q. And you're speaking of your prior jury service?

15 A. I'm sorry? My prior --

16 Q. Are you speaking of your prior jury service?

17 A. And my prior experiences with the FBI, with -- with

the

18 police department in Sioux City.

19 Q. And when you say "be more fair," could you explain
to me

20 what you mean?

whole
21 A. Well, I think I would have to think about this

been
22 situation very carefully and weigh it, because having

are not
23 through some of my past experiences, I know that things

have
24 always as they appear on the surface; so you really do

25 to -- you have to think about it and you have to listen

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it --
1 carefully, you have to understand what's happening. So

2 it could be beneficial to me.

party
3 Q. Do you see any of these experiences as favoring one

4 or the other?

5 A. I really don't think so.

6 Q. All right. Thank you.

7 Now, if I could, I'd like to talk to you a bit

Matsch
8 about -- about the death penalty in this case. Judge

9 has already gone over it some, and I'm not going to

belabor the

types of 10 point; but you've expressed in your questionnaire some

11 crimes in which the death penalty might be appropriate.

12 A. Yes.

13 Q. I'm paraphrasing a bit: Crimes of terrorism or

14 premeditated or serial murders.

15 A. Yeah.

that 16 Q. But you've also indicated that -- you have a belief

alter a 17 there are times in which mitigating circumstances can

18 decision in a case and make the punishment less harsh.

19 A. Yes.

20 Q. Am I correct?

21 A. That's correct.

difference 22 Q. And you understand -- did you understand the

DUI trial 23 between the way this trial would be conducted and the

we're going 24 that you had, in that after the guilty verdict here

25 exhibits will to a whole new trial, where new witnesses and new

we're

2 MR. WOODS: I object to the statement that

3 "going to" do that.

4 THE COURT: Yes. Sustained.

5 MR. RYAN: Excuse me.

6 BY MR. RYAN:

7 Q. If there is a guilty verdict, that would be the
process.

8 A. Yes, I understand that.

9 Q. And you used the word "mitigating circumstances" in
your

10 questionnaire, and I was wondering -- I mean one of the
11 examples you gave was a crime of passion. Did you have
in mind

12 any other types of mitigating circumstances?

13 A. No, not right now. I can't think of anything, I
guess.

14 Q. But of course, one of the problems with that is
that you

15 haven't been instructed on what they are.

16 A. No, and that's my problem. I don't know what that
is.

17 Q. Can you envision that there might be any number of
18 different types of mitigating circumstances that could
come

19 into play in the case?

20 A. Yes.

21 Q. I believe you indicated in the situation about 20
years

22 ago, your husband was involved in an event in which he

had a

23 relatively minor role?

24 A. That's correct.

25 Q. So can you envision a situation where one
mitigating factor

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1 might have to do with the type of role the person had?

2 A. Yes.

3 Q. Might have a very major participation or relatively
minor

4 participation.

5 A. Yes.

6 Q. Can you envision mitigating circumstances that
might deal

7 with one's mental capacity?

8 A. Yes.

9 Q. Or his family life?

10 A. Yes.

11 Q. His remorse?

12 A. Yes.

13 Q. Can you see that it would be almost impossible to
determine

14 what a sentence should be in any given case before
hearing any

15 of the evidence?

16 A. Oh, absolutely.

17 Q. Because you don't know what that mitigation will
be, do

18 you?

19 A. No, I don't.

20 Q. And one of the things that has been said in this
courtroom

21 people at before you came in are that there are people -- some

22 death one extreme who would say, I'm going to impose the

23 care penalty on a person if they commit murder, and I don't

I don't 24 what the facts are, I don't care what the evidence is,

25 care what the mitigation is. Okay. That's one
extreme. Would

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1 you recognize that as an extreme view?

2 A. That would be an extreme view to me.

3 Q. On the other hand, there are people who say, I'm
not going

4 to impose the death penalty, I don't care what it is.
And

5 that's another extreme?

6 A. Yes, it is.

7 Q. And as I understand where you are, is you're
somewhere here

8 in the middle?

9 A. I think that's a fair assessment.

10 Q. Okay. So no matter how heinous the crime, no
matter how

11 many people were murdered, you've got to wait and
listen to all

12 the evidence, both the evidence of aggravation that the

13 Government will introduce but also the evidence of
mitigation

14 that the defense might introduce. Do you see that as

15 important?

16 A. Yes.

17 Q. And can you do that?

18 A. Yes.

19 MR. RYAN: Thank you for answering my
questions.

20 THE COURT: Mr. Woods?

21 MR. WOODS: Thank you, your Honor.

22 VOIR DIRE EXAMINATION

23 BY MR. WOODS:

24 Q. Good afternoon.

25 A. Good afternoon.

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1 Q. As the Court introduced me, my name is Ron Woods,
and I'm

represent

2 one of the attorneys that was asked by the court to

out at

3 Terry Nichols in this case. We met a couple weeks ago

4 Jeffco Fairgrounds. Is that correct?

5 A. Yes, we did.

to take

6 Q. You grew up on a farm, and you continued apparently

have

7 magazines like Farm and Ranch, Country Living. Do you

8 some desire to return to the farm?

Those

9 A. No, I don't have a desire to return to the farm.

10 magazines are given to me by my parents --

11 Q. Okay.

12 A. -- as birthday and Christmas gifts.

13 Q. Okay. So you're in the city to stay, I take it?

14 A. I think so, yes.

15 Q. Okay. Now, you worked at the farm bureau, the

county farm

16 bureau for a short while. Well, actually several

years; right?

17 A. Yes. Eleven years.

bureau

18 Q. Right. Were part of your duties there at the farm

the

19 assisting the local farmers by providing them with all

20 information that the government provides, the

publications and

21 things like that? Was that one of the natures of the

farm

22 bureau duty?

the
23 A. No. My responsibilities really centered more on

24 insurance side.

25 Q. Okay.

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pure
1 A. And also, I did help with the administration on the

2 farm bureau side.

3 Q. All right.

all.
4 A. But I don't remember the government publications at

in giving
5 Q. That wasn't part of that farm bureau's activities

anything
6 publications to the farmers who might inquire about

7 farm-related?

that, so I
8 A. That's the county extension that normally does

9 wasn't involved in that.

have any
10 Q. Okay. Okay. When you were on the farm, did you

as I
11 familiarity with fertilizer, growing corn and soybeans,

12 understand it, wheat?

13 A. Only that I knew they put fertilizer on. That was

my total

14 extent.

15 Q. Okay. Was it purchased and brought out in trucks,
or was

16 it -- what kind of fertilizer was used, if you recall?

17 A. I don't recall.

18 Q. Okay. You say you raised cattle?

19 A. Yes.

20 Q. Was the fertilizer from the cattle, or was it
commercial

21 fertilizer?

22 A. I think it was commercial.

23 Q. Okay. Do you know if it was liquid, or solid?

24 A. I honestly don't remember.

25 Q. Okay. Good. It's been a while.

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1 A. Yes.

any
2 Q. All right. When you were on the farm, did you have

or anyone
3 experience with either your parents or the hired help

or
4 using small explosives to clear the land of tree stumps

5 rocks or anything of that nature?

6 A. No.

7 Q. All right. Have you heard of that being done in
farm

8 country?

9 A. I'm sure it has.

10 Q. Or perhaps laying irrigation ditches? Have you
heard of

11 explosives being used for that in farm country?

12 A. It wasn't on our farm.

13 Q. Okay.

14 THE COURT: They don't do a lot of irrigation
in Iowa,

15 you know. They've got rainfall out there.

16 JUROR: We dug wells.

17 BY MR. WOODS:

18 Q. So then were perhaps ponds built by using
explosives to

19 ever clear land to gather water for forming ponds? Did you

20 on the hear of that in your experience at the farm bureau or

21 farm?

22 A. No.

23 wasn't MR. WOODS: Okay. Thank you, your Honor. I

24 familiar with Iowa.

25 BY MR. WOODS:

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1 Q. I'd like to talk to you now about the publicity
concerning

2 this case. And on page 33 of your questionnaire,
you've

3 indicated on Question 144 -- "If you've heard or read
anything

4 about the Oklahoma City bombing, please indicate where
you

5 heard or read about it."

6 And you gave the sources as TV news and radio
news and

7 newspaper, conversations, and heard other people
discussing the

8 case?

9 A. That's correct.

10 Q. Okay. Can you give me an idea about who you've had
11 conversations with concerning the case?

12 A. Well, I don't know if I can give you anyone
specifically.

13 I mean, this has been going on for a long time. Are we
talking

14 about the whole thing --

15 Q. I don't need names. Right, it's been going on for
16 two-and-a-half years. I don't need names. Was it co-
workers

17 or family or friends?

18 A. I think all of that at sometime was discussed.

19 Q. In your work situation, do you work in an office by
20 yourself, or are you in sort of an area where other

people are

21 around you in cubicles or desks?

22 A. I'm in an office, but I have employees that report
to me

23 that are in cubicles.

24 Q. Okay. Do you recall hearing the verdict on the
McVeigh

25 trial?

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1 A. Yes, do I.

2 Q. Where were you when you heard the verdict?

3 A. I think I was in my office.

4 Q. And how did you hear about it?

5 A. Someone came into my office and told me that the
verdict

6 had been rendered.

7 Q. Do you have a radio or television in your office?

8 A. I have a radio. It's rarely on.

9 Q. Did you happen to tune into the radio or TV
anywhere else

10 in the office that day to watch the return of the
verdict and

11 the reaction of the people outside the courthouse?

12 A. No, I didn't.

13 Q. Okay. Do you recall seeing the newspaper accounts
the next

14 day and showing all the photos surrounding the
courthouse?

15 A. I remember seeing that -- I don't remember if it
was on TV

16 or if it was on the news, but I did see the
photographs.

17 Q. What do you recall about that?

18 A. I remember the families being jubilant about the
verdict.

19 I remember -- I don't know if it was a jury member. I
remember

20 someone -- I remember the lady had a pink dress on and
she was

21 don't very happy about the verdict. And other than that, I

22 recall a lot more than that.

23 happen to Q. All right. When you mentioned a juror, did you

24 see the news conferences that the jurors held after the

25 verdict?

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1 A. Yes, I did.

2 Q. All right. What impression did you get from that?

3 deliberated A. The impression that I got was that they had

4 that, I very carefully to reach their decision. Other than

5 don't remember any other impressions.

with
6 Q. All right. When you had discussions either at --

any
7 co-workers or with your family or friends, was there

appropriate
8 general consensus as to the propriety or the

9 verdict there as to the punishment?

10 A. You mean after the verdict was rendered?

11 Q. Yes, ma'am.

12 A. As to the appropriateness of the sentence?

13 Q. Yes.

was
14 A. Many of my colleagues felt that the -- the sentence

15 appropriate.

of
16 Q. Okay. Did you ever hear anybody within your circle

the
17 co-workers or friends or family say that that was not

18 appropriate verdict?

19 A. Yes.

20 Q. Okay. And was it amongst your co-workers?

21 A. Yes, it was.

22 Q. Anybody in your family have that opinion?

23 A. Yes.

24 Q. That it was not the appropriate verdict?

25 A. Yes.

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got 1 Q. All right. Anybody in your friends, your -- we've

anybody in 2 co-workers, we've got family and friends. Was there

not the 3 your friends' group that had the opinion that it was

4 appropriate verdict?

was not 5 A. I don't recall that any of my friends felt that it

6 appropriate.

Monday -- the 7 Q. Okay. Did you happen to see on the following

following 8 verdict came in like on a Friday; and then on the

shows, you 9 Monday, some of the jurors were on the national talk

you 10 know, those shows that come on at 7 in the morning. Do

getting up 11 watch television then, in the morning when you're

12 and ready to go to work?

13 A. I rarely have time.

America," 14 Q. I think it's the "Today" show and "Good Morning

morning? 15 those type of shows. Do you watch those at all in the

listening, 16 A. I turn them on, but I don't watch them. I'm

17 usually.

18 Q. Right. Right. Do you recall hearing -- or appearances by

19 the jurors on those programs that following Monday?

20 A. I don't know if it was the following Monday, but I know

21 that there was a juror that did appear on a -- some kind of a

22 news show. I remember seeing that person, and it was a woman.

23 Q. What do you recall was the substance of her discussion?

24 A. I remember that she felt that the preponderance of evidence

25 was clear and that they were very comfortable with their

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1 verdict. And I don't remember much more than that.

2 Q. Okay. From your exposure over these past two years, do you

3 recall the number of people that were killed in the bombing?

4 A. The number 168 is in my mind, and I don't know if that's

5 correct or not.

6 Q. All right. Do you recall whether or not there were any

7 children killed?

8 A. Yes.

9 Q. In the bombing?

10 A. I recall that.

11 Q. And do you recall that was -- why there were
children

12 involved?

13 A. There was a day-care center, I believe, in the
building.

14 Q. All right. Do you recall the number of children
that were

15 killed?

16 A. No.

17 Q. Do you recall what type of bomb that it supposedly
was?

18 A. I think it was a bomb made of fertilizer or the
ingredients

19 that make up fertilizer.

20 Q. And you recall how that bomb supposedly was placed
at the

21 building?

22 A. Yes, I think so.

23 Q. What's your recollection from that?

24 A. My recollection is that it was in a Ryder truck.

25 Q. Do you recall anything about the arrest of Tim
McVeigh?

1 A. He was arrested on a highway. That's -- that's all

I

2 really remember.

federal
3 Q. Do you recall any TV images of him being placed in

4 custody?

suit on
5 A. Yes. Leaving something, somewhere with an orange

have in my
6 surrounded by people. That's the only vision that I

7 mind.

any
8 Q. Okay. And surrounded by people: Did you notice

9 insignia on these people indicating who they were?

10 A. No.

heard and
11 Q. What do you recall from the publicity that you

bombing?
12 read about where Mr. Nichols was on the day of the

13 A. I haven't got a clue.

read
14 Q. Okay. Do you have any information from what you've

he became
15 and heard as to how he went into federal custody, how

16 in the custody of the federal authorities?

17 A. I don't know.

146,
18 Q. Now, you indicated on the same page there, Question

criminal
19 about how closely you followed news reports about any

you
20 trials or criminal cases or in the last five years; and

how

21 just gave O. J. Simpson's case. What's your opinion of

22 that one was handled?

23 A. Poorly.

24 Q. In which -- in what manner?

25 A. I felt that the judge didn't have control over the

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Juror No. 699 - Voir Dire

a trial

1 courtroom, and I didn't feel that -- I felt that it was

-- I

2 that was conducted for publicity, rather than for maybe

but

3 don't think a fair verdict is the right way to say it,

it.

4 there was way too much entertainment associated with

as to

5 Q. Did you assess any responsibility for that judgment

side?

6 either side, either the government side or the defense

7 A. I felt it was the judge's responsibility.

you like

8 Q. All right. Now, you've related to the Judge that

Jury;

9 to read John Grisham books and you listed one, Runaway

10 and I think you've read other ones, too, you mentioned.

11 A. Yes, I have.

12 Q. What opinion have you gotten from those books as to

13 lawyers?

14 A. I think I regard those books as purely
entertainment. I

15 don't think I try to decide anything about an attorney
from

16 reading those books.

17 Q. Not about any particular attorney, but I'm just
speaking of

18 lawyers in general. Have you formed any opinion based
on

19 having read the Grisham books?

20 A. No.

21 Q. Okay. Have you formed any opinion after seeing the
O. J.

22 that Simpson trial and watching the lawyers on both sides in

23 general? Have you formed any opinion about lawyers in

24 A. Lawyers in general?

25 Q. Uh-huh.

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Juror No. 699 - Voir Dire

1 A. Well, I have an opinion about those lawyers in
particular

2 but not lawyers in general.

3 Q. Okay. When you say lawyers in particular, I don't
4 particularly want to address individual names; but do
you have

you saw 5 any particular opinion about prosecutors based on what

 6 in the O. J. case?

 7 A. Not in general.

you have 8 Q. And the same question as to defense attorneys: Do

what 9 any particular opinion about defense attorneys based on

 10 you observed in the O. J. case?

 11 A. No.

questions 12 Q. What I'd like to address with you finally is the

And the 13 concerning the death penalty, and that's on page 28.

 14 Judge touched briefly on letter B.

 15 A. Yes.

 16 Q. But he stopped right after "mitigating
circumstances." As

premeditation 17 I understand, you went on to explain that where

that is 18 exists or there is heinous crimes or serial killers --

penalty of 19 in answer to, "What is your view as to whether the

for any 20 death should ever be imposed as a form of punishment

 21 crime?"

 22 A. Yes.

exists"? 23 Q. Now, what do you mean by "when premeditation

24 A. I feel as though if someone has very carefully
thought out

25 the process and intends deliberately to murder somebody
or more

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Juror No. 699 - Voir Dire

1 than one person that that is premeditation very clearly
and

2 that the death penalty should apply to that.

3 Q. All right. And you went on to further define
"heinous

4 crimes" or "serial killers." And I take it "serial
killers"

5 means more than one killing?

6 A. Yes.

7 Q. And would that apply to multiple murders, also,
where there

8 is more than one person killed at one time?

9 A. Yes.

10 Q. Okay. Now, you then distinguish in C and D, "In
what kind

11 a of cases is it appropriate," in C, "if ever, to impose

12 ever punishment of life in prison without the possibility of

13 being released?"

14 has a And you explained that about where the person

15 long record; that is, repeat crimes. But you also say,

"In

are 16 murder but," parentheses, "(not premeditated)." So you

murders, where 17 making that distinction, there, where there are

18 there is not premeditation.

19 A. Yes.

like 20 Q. Now, was that what you were speaking of earlier,

21 crimes of passion?

22 A. Yes.

done 23 Q. Where someone becomes inflamed because someone has

24 something to them, they lash out and there is a murder?

25 A. Yes.

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Juror No. 699 - Voir Dire

1 Q. Okay. Sexual offenders, those who cannot be
rehabilitated

2 and are of danger to the public. Those are the kinds
that you

3 feel that life in prison is the appropriate sentence.
Is that

4 correct?

5 A. It could be the appropriate sentence, yes.

6 Q. And then in D, "In what kinds of cases is it
appropriate,

7 if ever, to impose a punishment of death?"

8 And you state, "Terrorism, premeditation
murder, and

9 serial killers."

10 Now, what do you define as terrorism?

11 A. I think of the bombing of the World Trade Center in

12 New York, where there was an obvious intent to murder
people or

13 hurt people.

act of 14 I would say the Oklahoma bombing would be an

me, the 15 terrorism in my mind, where if the case was proven to

 16 death penalty would be appropriate.

"Premeditation 17 Q. All right. And then you go further and say,

 18 of murder or serial killers."

 19 A. Right.

 20 Q. Serial killers being more than one.

premeditation 21 Are you saying that where there is

thought 22 involved -- that is, somebody intended the crime, they

you 23 about it, they planned it and it was deliberate -- are

the 24 saying that in those crimes that the death penalty is

 25 appropriate verdict?

Juror No. 699 - Voir Dire

1 A. I believe it is.

2 Q. And not life in prison for those type of murders;
is that

3 correct?

4 A. That's a difficult question to answer, because I
think you

5 have to hear the evidence and you have to understand
that. And

6 for me to just say yes or no, it's very difficult.

7 Q. Right.

8 A. But as a short answer, I would say that I believe
it is.

9 Q. That it is the appropriate sentence for those
crimes where

10 involved? there is premeditation involved or there is terrorism

11 A. Yes.

12 Q. And you gave the example of the New York Trade
Center and

13 the Oklahoma City bombing case, where there is more
than one

14 person killed, obviously.

15 A. Well, and if it's premeditation and only one person
is

16 killed, I think that still that would be an appropriate
17 sentence.

18 Q. Okay. The death penalty for that case but not life
in

19 prison for that case, where there was premeditation and

just

20 one killed?

I think
21 A. I -- again, I would have to hear the evidence; but

the
22 that if it was premeditated and the intent was to kill

is
23 person and it happened, then I think the death sentence

24 appropriate.

there
25 Q. All right. Let me hit it one further question: If

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Juror No. 699 - Voir Dire

1 is a case where it is proven that there was
premeditation and

and it
2 that there was intent and deliberateness in the murder

telling us
3 happened to be more than one person killed, are you

opposed
4 that the death penalty is the appropriate verdict, as

5 to the sentence of life in prison?

6 MR. MACKEY: Judge, objection.

7 THE COURT: Overruled.

please.
8 JUROR: Could you give me your question again,

9 BY MR. WOODS:

10 Q. Sure. Are you saying that in a case where it's
proven that

11 the defendant intentionally meant to kill someone,
there was

12 premeditation, intent, and deliberateness and there was
more

13 than one person killed -- and you gave the examples of

14 terrorism -- where it's been proven and you're in a
punishment

15 hearing of those kind of cases, are you telling us that
you

16 feel that the death penalty is the verdict -- the
appropriate

17 verdict for that type of crime and not life in prison
without

18 release?

19 A. You said that it was proven.

20 Q. Yes.

21 A. Then I believe the death sentence is appropriate.

22 Q. All right. Now, is that to the exclusion of life
in prison

23 without release on those type of crimes?

24 A. If I had to choose between the two and it's been
proven all

25 of the things that you just said, then I believe that
the death

3 BY MR. WOODS:

4 Q. And then one further question. In those type of
cases

5 where there is terrorism involved -- and we've defined
6 terrorism -- would you be able to consider the
defendant's

7 background and would that enter into your decision
about the

8 punishment?

9 A. We're speaking again where it's proven?

10 Q. Yes, ma'am.

11 A. I would certainly listen to what was presented to
me in the

12 sentencing; but if there wasn't a circumstance there
that said

13 say that to me that I should change my mind, then I would still

14 the death penalty is appropriate.

15 Q. All right. And when you say if there is not a
circumstance

16 there to change your mind, of course, we're
theoretically --

17 we've already gotten past the guilt or innocence. The
jury has

18 found the person guilty of that type of crime,
premeditation,

19 intent, deliberateness, and it's an act of terrorism.
What

20 kind of circumstances are you referring to that might
change

21 your mind away from a death penalty as the appropriate

verdict?

22 A. That's very difficult to answer, because I don't
know what

23 I'm going to hear.

24 Q. Okay.

25 A. I need to hear what it is that you would say to me
to make

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Juror No. 699 - Voir Dire

1 me change my mind; but my attitude would be that with
2 everything that's been proven to me and it is proven,
my

3 sentence would be the death penalty.

4 Q. All right. And can you imagine any type of
circumstance

5 that theoretically someone could bring to you to get
you off of

6 that opinion as to that appropriate punishment?

7 MR. MACKEY: Judge, objection.

8 THE COURT: Let me offer a question or two
that may

9 help.

10 MR. WOODS: Thank you, your Honor.

11 VOIR DIRE EXAMINATION

12 BY THE COURT:

13 Q. You keep saying "if it was proven," and then
"change your

One 14 mind." Remember, I talked about two different trials.
about 15 would be if it's proven; and by the "it," we're talking
are 16 whether the defendant participated in the events that
 17 charged in the indictment.
 18 A. Yes, sir.
 19 Q. And that's, you know -- you don't ever talk about
doubt. 20 punishment until that's proven beyond a reasonable
 21 Then when you say about changing your mind,
are you 22 talking about changing your mind about the guilty
result? 23 A. No. As I understood his question, he was asking me
if I 24 would change my mind about the death penalty after we
had gone 25 through the first phase of the trial.

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Juror No. 699 - Voir Dire

1 Q. Yes.
2 A. And it was proven that the person was guilty.
3 Q. Yes.
4 A. My opinion would be if this person was proven
guilty of 5 these crimes that we just talked about, I would impose
the

6 death penalty; but then he's starting to talk about,
well, what

7 could change my mind; and I'm trying to be fair and
say, well,

8 I would listen, but I really can't think of anything
right now

9 that would change my mind, not having heard it.

10 Q. Well, you know, it is -- we have to be talking in
what-ifs

11 and all that because we don't know what the evidence is
going

12 to be.

13 A. I understand.

14 Q. Even on the guilt phase of the case. And you
recognize

15 that there can be -- you mentioned Oklahoma bombing as
a -- in

16 your view, a terrorist crime.

17 A. Yes.

18 Q. And the kind that justifies death as the
appropriate

19 sentence. That's what you've been saying.

20 A. Yes.

21 Q. And I guess the question is, then, would you -- you
play in
22 recognize there can be differences in roles that people

23 an event like that?

24 A. Yes.

25 Q. Yes?

Juror No. 699 - Voir Dire

1 A. Yes, I do.

role a
2 Q. Is that a factor at all in your mind as to what

death
3 person played in an event that resulted in that kind of

--
4 and destruction in terms of a major role, a minor role

5 A. Yes.

the case?
6 Q. -- delivery of the bomb vs. some other aspects of

there
7 A. Yes.

8 Q. Would that affect your sentence?

9 A. Yes, it could.

going
10 Q. And, you know, I guess what we're asking is -- and

a jury
11 isn't -- maybe we ought to just go to it instead of

the
12 around about it all the time. If you -- if you were on

there should
13 and the jury found Mr. Nichols had some role to play in

14 Oklahoma City bombing, would you say automatically

15 be a death sentence on him?

16 A. Automatically?

and
17 Q. Yes. I mean, that that's enough -- that crime --

18 you've been talking about categories of crime -- that
crime

19 deserves the death punishment regardless of his
background or

20 circumstances or the role that he played. Is the
question

21 clear to you?

22 A. I'm thinking about it.

23 Q. Okay. Well, I just wanted to make sure you
understood what

24 I asked you.

25 A. You're saying to me if Mr. Nichols is proven
guilty,

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Juror No. 699 - Voir Dire

1 irrespective of what percentage of his involvement was
there,

2 would I find him -- would I impose the death penalty?

3 Q. Yes.

4 A. Yes.

5 THE COURT: All right. You answered the
question.

6 MR. WOODS: Thank you, your Honor.

7 Thank you very much. We appreciate your
answering the

8 questions.

9 THE COURT: We're not deciding as we go along
on

bit

10 people and their service in the case, so bear with us a
11 longer, if you will.

12 JUROR: I will.

getting
13 THE COURT: You're excused for now, and we'll

going to
14 back in touch with you with respect to whether you're

understand
15 be asked to serve in the case; and of course, please

the
16 that this means that you have to conduct yourself on

to do
17 assumption you'll have the responsibility. So continue

watching
18 that which you've been doing, being careful about

case and
19 anything, news or otherwise, that could relate to the

20 in your discussion with others.

21 Will you do that for us?

22 JUROR: I will.

23 THE COURT: Thank you. You are now excused.

24 JUROR: Thank you.

25 (Juror out at 5:02 p.m.)

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resume
1 THE COURT: All right. We're at 5:00. We'll

2 at 9:00 tomorrow morning.

3 (Recess at 5:02 p.m.)

4 * * * *

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REPORTERS' CERTIFICATE

19 We certify that the foregoing is a correct
transcript from

20 the record of proceedings in the above-entitled matter.
Dated

21 at Denver, Colorado, this 2d day of October, 1997.

22

23

24

Paul Zuckerman

25

Kara Spitler