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1 APPEARANCES  
2 PATRICK RYAN, United States Attorney for the  
Western  
3 District of Oklahoma, 210 West Park Avenue, Suite 400,  
Oklahoma  
4 City, Oklahoma, 73102, appearing for the plaintiff.  
5 LARRY MACKEY, SEAN CONNELLY, BETH WILKINSON,  
GEOFFREY  
6 MEARNS, and JAMIE ORENSTEIN, Special Attorneys to the  
U.S.  
7 Attorney General, 1961 Stout Street, Suite 1200,  
Denver,  
8 Colorado, 80294, appearing for the plaintiff.  
9 MICHAEL TIGAR, RONALD WOODS, ADAM THURSCHELL,  
and  
10 REID NEUREITER, Attorneys at Law, 1120 Lincoln Street,  
Suite  
11 1308, Denver, Colorado, 80203, appearing for Defendant  
Nichols.

12

\* \* \* \* \*

13

PROCEEDINGS

14

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

15

THE COURT: Please be seated.

16

Good morning. We're ready, I think, for 945.

17

right

Good morning, sir, if you'll please raise your

18

hand and take the oath from the clerk.

19

(Juror No. 945 affirmed.)

20

THE COURTROOM DEPUTY: Thank you.

21

THE COURT: Please be seated.

22

VOIR DIRE EXAMINATION

23

BY THE COURT:

24

Q. And good morning to you.

25

A. Good morning.

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Juror No. 945 - Voir Dire

1 Q. We're sorry we -- you were left over from  
yesterday, so to

2 speak. We had you waiting all day yesterday and we  
apologize

3 for whatever inconvenience that may have caused you.  
But as

4 I'm sure you can appreciate, it is impossible for us to  
sort of

5 have a program where we know exactly how much time  
we'll spend

6 with each person in -- in these discussions.

7           You recall that, of course, you received a  
summons,  
8 notifying you that through a chance selection process,  
your  
9 name was -- came up as a possible juror for the trial  
of United  
10 States against Terry Lynn Nichols, the case that is to  
be tried  
11 and for which we are selecting the jury; and that after  
you  
12 completed an initial short-form questionnaire, giving  
us some  
13 information about you, you were asked to come out to  
the  
14 Jefferson County Fairgrounds' auditorium building on  
September  
15 the 17th and did with many others. And you were then  
-- well,  
16 I introduced myself to you, and there were other  
persons with  
17 me there on both sides of the case. I'd like to again  
18 introduce the lawyers participating in the case and Mr.  
Nichols  
19 so you know who's here with us this morning.

20           And at the first table here, we have the  
prosecutors,  
21 lawyers for the Government. You recall my introducing  
before  
22 Mr. Lawrence Mackey, who is the first one, then Ms.  
Beth  
23 Wilkinson. We have two additional lawyers, Mr. Patrick

Ryan,

24 and Mr. James Orenstein, who were not there.

25                   You do recall Mr. Michael Tigar and Mr. Ronald  
Woods,

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Juror No. 945 – Voir Dire

1 representing Terry Nichols. And Terry Nichols was  
there.

2                   Now, in addition to introducing the other  
3 participants, I did give you and the others some  
background

4 about the case, you'll recall, in describing that the  
case

5 arises out of an explosion that took place in Oklahoma  
City,

6 Oklahoma, on April the 19th of 1995, and that an  
indictment was

7 filed in Oklahoma City in the Federal Court there,  
charging a

8 man named Timothy McVeigh and also Terry Nichols and  
other

9 persons not named in the indictment with a conspiracy  
-- that

10 is, a plan or agreement -- to bomb that building as a  
federal

11 building and to kill and injure people in it and to  
carry out

12 that plan and also with the murder of eight law  
enforcement

13 officers or agents who were in the building.

14                    You recall all that, I'm sure. And the reason  
that  
15                    I'm repeating it now is to sort of set a baseline here  
for the  
16                    questions that we have for you this morning. So it  
isn't  
17                    because I think you've forgotten all of it. It is just  
by way  
18                    of, again, setting the foundation for what we want to  
talk  
19                    about.

20                    Then, of course -- excuse me -- I described  
how the  
21                    case was moved from Oklahoma City to Denver for trial  
and also,  
22                    how the cases, the charges were separated so there  
would be two  
23                    separate trials, one of Mr. McVeigh and one of Mr.  
Nichols,  
24                    because the evidence is expected to be considerably  
different  
25                    and the circumstances of each person are different. So

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Juror No. 945 - Voir Dire

1                    fairness requires that there be a separate trial and a  
separate  
2                    jury to decide on that evidence. You know that there  
has been  
3                    a trial already of Timothy McVeigh and the outcome.

4                    Now, of course, that is not something that we  
can  
5                    consider at this time because that's the very reason  
that  
6                    separate trials were ordered, so that whatever the  
evidence may  
7                    be against Mr. Nichols, it can be separately considered  
without  
8                    regard for whatever evidence was introduced in the  
trial of  
9                    Timothy McVeigh. Understood?  
10                  A. Yes, sir.  
11                  Q. And in addition to that, I explained a little about  
the  
12                  basic principles of law that govern in this case, as,  
indeed,  
13                  they govern in any criminal case under the United  
States  
14                  Constitution, and that is, of course, that by his pleas  
of not  
15                  guilty, Mr. Nichols has placed into issue, challenged,  
all of  
16                  the Government's allegations about him and requires  
then of the  
17                  Government -- the law requires of the Government that  
it come  
18                  in and try to prove these charges by legally admissible  
19                  evidence. And the proof, of course, is submitted to a  
jury.  
20                  It is not up to Mr. Nichols or any other defendant  
charged with  
21                  any kind of crime to prove himself not guilty. It is  
not

any 22 incumbent upon him to call any witnesses or introduce  
take the 23 evidence, and there is no requirement that he have to  
explain 24 stand as a witness and say anything at this trial or  
25 anything. You understand that, I'm sure?

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Juror No. 945 - Voir Dire

1 A. Yes, sir.  
2 Q. And that can't be held against him in the event  
that that 3 should happen. In fact, what we say -- we judges say  
to jurors 4 in situations where a -- a person accused at trial does  
not 5 testify or even does not put on any evidence, the jury  
cannot 6 consider that as some kind of admission or inference.  
In fact, 7 what we tell the juries, you can't even discuss it in  
your 8 deliberations. Your job is to consider the evidence  
that you 9 did hear, not something that you didn't. Okay.  
10 Now, the -- a part of that is, of course, that  
11 Mr. Nichols, as any other person accused, is presumed  
to be 12 innocent of the charges made against him. And he sits



in this

13 room with us this morning presumed to be innocent of  
these

14 charges that have been made against him in Oklahoma.

Do you

15 understand that?

16 A. Yes, sir.

17 Q. Do you accept that?

18 A. Yes.

19 Q. And that presumption carries throughout his trial  
and

20 entitles him to a verdict of not guilty unless twelve

21 fair-minded people, considering only the evidence that  
they saw

22 at trial, determines that the charges have been proved  
and not

23 just probably proved, but proved beyond a reasonable  
doubt,

24 which means, stated a different way, that if, after  
hearing it

25 all, at the end of the trial and the jury discusses the  
case,

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1 there is a -- in the minds of the jurors, a reasonable  
doubt

2 about whether the evidence shows guilt, then they must  
give

3 Mr. Nichols, as they would any other defendant, the

benefit of

4 that doubt and find him not guilty. Do you follow us  
on that?

5 A. Yes, sir.

6 Q. And again, are you willing and able to accept that  
as a

7 fundamental principle in this case if you were to serve  
in this

8 case?

9 A. Yes, sir.

10 Q. Now, we asked you for a good deal of information in  
a

11 questionnaire and you provided it, and we appreciate  
that. And

12 of course, we recognize that within these questions are  
matters

13 that are personal in nature; and we, in all respects,  
will

14 respect your privacy to the extent that it is possible  
to do so

15 with a public trial. And it is for that reason that  
you are

16 not identified here by name, but simply by the juror  
number

17 that was assigned to you. And also, these answers that  
you

18 have provided in your questionnaire are not made  
public. They

19 have been provided, as I said we would, to do -- just  
to the

20 lawyers and to me so that we can -- and their  
assistants, so

were 21 that we can have some information about you before you

22 called in.

23 Now, of course, you are in a public courtroom  
now, and

24 the answers that you give here in public are that. But  
I think

25 that we will be able to proceed here in ways that will  
still

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Juror No. 945 - Voir Dire

And of 1 recognize that there are some things that are private.

2 course, we've also attempted to protect your privacy by  
the

3 manner in which you've come and will go from the  
courthouse, so

4 people can't see or recognize you or photograph you,  
and that's

5 the reason for all of those procedures, to ensure your  
privacy.

6 Now, upon a review of your answers to the  
7 questionnaire, I have a few questions I'd like to ask  
of you to

8 sort of extend our information. As I understand it,  
you now,

9 of course, live in Colorado, in a part of Adams County.  
Yes?

10 A. Yes, sir.

11 Q. And you were born and spent the first nine years of

your

Congo? 12 life, as I understand it, in what then was the Belgian

13 A. That is correct.

parents 14 Q. And I take it that's because that's where your

15 were?

16 A. Yes.

17 Q. And what were they doing there?

18 A. My parents were missionaries in Africa.

years 19 Q. And their period of service there was for the nine

20 of -- the first nine years of your life anyway?

years. 21 A. Well, all together, they have served almost 30

22 Q. In Africa?

23 A. Yes.

24 Q. In differing parts of Africa?

25 A. Yes.

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Juror No. 945 - Voir Dire

was, it's 1 Q. But as far as your personal experience with them

2 these first nine years of your life; is that right?

3 A. Yes.

4 Q. And are your parents living?

5 A. Yes, they are.

6 Q. Here in Colorado now?

7 A. Yes, they live here.

8 Q. And I take it they're missionaries in the same  
faith in --

9 which is your church?

10 A. Yes, sir.

11 Q. Okay. And is that within the doctrines of that  
church --

12 is everybody required to go on a mission or just those  
who

13 become -- you know, called to missionary service as  
sort of a

14 career?

15 A. They go if they feel the call. It's not an  
obligation.

16 Q. All right. Have you performed any missionary  
service in

17 your life?

18 A. I --

19 Q. I don't mean, you know, occasionally, but where you  
were

20 called and went and did that service exclusively of  
other

21 things?

22 A. No.

23 Q. You're married?

24 A. Yes, sir.

25 Q. And you went to the University of Colorado, as I  
understand

1 it?

2 A. That's correct.

3 Q. And physical therapy was the major course of your  
study?

4 A. That's correct.

5 Q. And that's what you do?

6 A. Yes.

7 Q. And you now work at a health care facility or  
hospital that

8 also is sponsored by your church?

9 A. I left there two years ago.

10 Q. Oh, that's right. I'm sorry. And now, you work  
with

11 elderly persons?

12 A. That is correct.

13 Q. And persons in nursing-home-type facilities.

14 A. Yes, sir.

15 Q. Is it almost exclusively elderly?

16 A. Yes.

17 Q. Okay. And these are -- are these private --  
privately

18 owned facilities, these homes?

19 A. It was purchased about a year ago by a nursing home

20 corporation. They own several nursing homes around the  
21 country.

22 Q. Do you work in just one of them?

23 A. Yes.

24 Q. Okay. And turning to page 9, please. And feel  
free, when

25 we ask you to look at particular parts of your  
questionnaire,

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Juror No. 945 - Voir Dire

1 to expand on your answers or give further explanation  
if you

2 think it's necessary, even if we don't ask you. All  
right?

3 You have identified here under Question 42  
some

4 reasons that you did change from the hospital.

5 Yes?

6 A. Yes.

7 Q. You have to answer out loud so we can make a record  
of your

8 answers. I know it seems awkward because we see you  
nod your

9 head, but . . .

10 And that was a couple of years ago.

11 A. Yes, sir.

12 Q. And did the stress or friction or so forth relate  
to an

13 interpersonal relationship here between you and some  
person who  
14 had supervisory authority? I mean, is that the kind of  
15 situation?  
16 A. Partly. I also left because they had changed the  
way that  
17 they were allowing physical therapy to be practiced  
within the  
18 hospital, itself. My primary responsibilities were for  
19 evaluation of new patients, which I then would write  
the  
20 program up, and they -- what they called a physical  
therapy  
21 tech or rehab tech would then perform the actual  
physical  
22 therapy from then on. So my role was relegated to  
seeing eight  
23 to twelve new evaluations per day, and I would never  
see the  
24 patient again unless there arose a problem that  
required my  
25 attention.

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Juror No. 945 - Voir Dire

1 And that's not what I went into physical  
therapy to  
2 do.  
3 Q. So you had a professional disagreement?



4 A. Yes.

wife 5 Q. In part. Okay. Now, you -- let's see. Is your  
6 working now outside your home?

7 A. No. I have a handicapped child at home which  
requires her 8 time.

9 Q. Her care. And you -- you've told us something  
about your 10 views and some organizations. I'd like to turn, first,  
to the 11 organizations. And I'm referring you now to page 18  
and 12 Question 84. And you see under Question 84, we listed  
a number 13 of groups or movements or organizations and asked you  
to check 14 those with which you have any familiarity, and you did  
that.

15 A. Yes, sir.

16 Q. Let me ask whether your answers here are based  
simply on -- 17 well, you've heard of them or with respect to any of  
them. 18 Does it go farther than that, where you've participated  
in some 19 way by paying dues or subscribing to materials? Do you  
20 understand the difference here?

21 A. I have not participated with any of these  
organizations.

22 Q. What -- when you see New World Order, what does  
that mean

23 to you?

World Order 24 A. There are some out there that describe the New

25 in a conspiracy theory for world government or world

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Juror No. 945 - Voir Dire

1 domination.

and -- 2 Q. And you're aware generally of that point of view

3 A. Yes.

Movement. 4 Q. Then there's another identified as Patriot What

5 does that mean to you?

6 A. What does that mean to me?

Patriot 7 Q. Yeah. I mean, what do you identify with the title

8 Movement?

9 A. They have been classified as a -- an extreme right  
10 political movement.

that 11 Q. And what's the source of your information about

12 organization?

13 A. Just what I've heard in the news.

14 Q. General news?

15 A. Yes.

16 Q. Newspapers and --

17 A. Yes.

18 Q. And how about the American Agriculture Movement?

19 A. That was more prevalent back when I was younger, to  
do with  
because  
20 saving the farms when they were losing them years ago  
21 of inflation and the cost of equipment and stuff.  
That's all I  
22 know.

23 Q. Okay. You have shown -- let's go over to the next  
page,  
24 page 19, and Question 89, which goes on over to the  
next page.  
25 Showing a dispute concerning a -- I guess this is a  
denial of a

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Juror No. 945 - Voir Dire

1 claim of loss for an investment in your -- your tax  
returns?

2 A. Yes.

3 Q. And how long ago was this matter?

4 A. I'm thinking approximately five years.

5 Q. And your ultimate, I guess, conclusion is, or final  
view,  
6 that this wasn't fair.

7 A. That is correct.

8 Q. Now, was this on tax returns for you or you and  
your

9 spouse?

10 A. For me and my spouse.

11 Q. Okay. Was the matter just -- I don't want to get  
into

12 detail on this, but was this done through an  
administrative

13 audit and back and forth on that, or did it go into tax  
court

14 or district court?

15 A. I don't mind explaining it, if you don't mind.

16 Q. Okay. Go ahead. That's the easiest thing. If you  
don't

17 object, that'll -- tell us.

18 A. I had bought shares in an ancient coin fund and the  
coins

19 were stored in a vault at the dealership, coin dealer,  
and they

20 were stolen. And I submitted my loss as a theft, which  
the IRS

21 denied.

22 Q. Now, sometimes, these things are done through an  
23 organization that deals in coins. I don't mean just a  
store

24 coin dealer, but I've heard of organizations that -- in  
which

25 you sort of buy shares. And it's sort of a cooperative  
or

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precious  
with a  
the coins.  
property  
this was  
have  
between you  
our  
loss, and

1 mutual organization where someone else buys and sells  
2 minerals and coins as opposed to your dealing directly  
3 dealer buying coins. Which was it in your case?  
4 A. The dealer was responsible for the management of  
5 Q. You weren't in any group or organization --  
6 A. No.  
7 Q. -- doing that?  
8 And so the nature of the dispute was it was  
9 loss to you?  
10 A. Yes.  
11 Q. And to the Government, the IRS, they said that no,  
12 an investment loss? Like stock market?  
13 A. I said it was an investment loss because I did not  
14 personal possession of them.  
15 Q. Yeah.  
16 A. And they denied it.  
17 Q. Well, was this something just back and forth  
18 and an IRS agent?  
19 A. It was done by mail. They sent back a letter on  
20 return, just stating that this was not an allowable

21 they changed my -- the figures to --

a 22 Q. And then you put some explanation back saying, Wait

23 minute, yes, it is?

24 A. I didn't respond.

25 Q. Oh, you didn't?

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Juror No. 945 - Voir Dire

1 A. No.

2 Q. So you just --

3 A. I just took the loss.

it 4 Q. Took what they said and -- but you don't think that

5 was -- they were right?

6 A. No, I don't.

respect 7 Q. And so the unfairness aspect of it is simply with

8 to the conclusion rather than the process? That --

9 A. Correct.

10 Q. Is that a fair statement?

I was 11 Okay. That's the distinction we were look --

12 looking for.

places 13 You have in this material in a couple of

14 mentioned that you would classify yourself as a

pacifist?

15 A. Yes, sir.

16 Q. And this is true in part at least, I take it,  
because of

17 your religious faith?

18 A. Yes, sir.

19 Q. And was there a time -- I can't remember exactly  
here

20 whether you were subject to the draft.

21 A. Yes, I was.

22 Q. You were. And did you seek to be excluded from the  
draft

23 on the basis of your conscience?

24 A. No, sir. I was listed as 1A0, which is  
conscientious

25 objector status but willing to serve in some capacity.

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1 Q. Alternative service, I think sometimes called.

2 A. Yes.

3 Q. But you never got called in --

4 A. Our church had an agreement with the government  
that those

5 who desired to be objectors would go into the medics or  
6 something like that.

7 Q. Uh-huh.

8 A. And that was my status.

9 Q. But were you ever called for alternative service?

10 A. The year I lost my college deferments, they started  
the  
288.

11 lottery and my number -- my birthdate came up as No.

12 Q. Okay. It was different on that lottery from this  
one where  
13 your number did come up as a juror?

14 A. That's correct.

15 Q. All right. Now, that's relevant here because we  
asked you

16 views with respect to the sentence of death, capital  
17 punishment. And you recognize, of course, because of  
what you

18 know, I think in -- and what you've been told already,  
that the

19 statutes that are involved here provide for the  
possible

20 punishment of death or life in prison without ever  
being

21 released if there is a conviction. And of course,  
that's a big

22 "if" because here, we're starting with a presumption  
that there

23 will be no conviction of Mr. Nichols. You understand  
that?

24 A. That's correct. Yes.

25 Q. But we have to explore this with you because we  
don't get a



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1 chance to do it again and, of course, you and all other  
jurors  
2 would be required, in considering the evidence at  
trial, to  
3 disregard possible punishment. But since we can't do  
it at a  
4 later stage, if there were to be a conviction, we need  
to talk  
5 with you a bit now; and that's why on page 28, we asked  
you to  
6 tell us your views. And what I -- just take a moment  
to review  
7 what you wrote. I don't want to -- you probably  
remember it  
8 well, but I want to make sure you have it in mind.  
9           And the next page is your -- I guess your  
ultimate  
10 statement on it, final statement on it.  
11 A. Uh-huh. That's correct.  
12 Q. And what -- what it says to me -- and I just want  
to make  
13 sure I understand what you've said here -- is that you  
believe  
14 that it may be appropriate for the law, the state,  
meaning the  
15 government, to impose capital punishment under  
appropriate  
16 circumstances, but you could not participate in doing  
that. Is

17 that what you're saying?  
18 A. That is correct.  
19 Q. And this is a view that is rooted in your religious  
faith,  
20 is it?  
21 A. It has been my view since I came of age.  
22 Q. And in your mind, it's consistent, is it, with your  
23 pacifist -- the pacifist aspect? You couldn't take  
life even  
24 in military conflict?  
25 A. That is correct.

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1 Q. So that if we were to talk further about what a  
jury has to  
2 do and how the death penalty has to be considered, what  
the  
3 process is, and what the ultimate responsibility of  
jurors is  
4 to consider aggravating, mitigating factors and so  
forth, what  
5 I hear you saying is I could not follow the law because  
of my  
6 religious faith and conscience.  
7 A. You would be asking me to vote against my  
conscience, yes.  
8 Q. In the same way, in a sense, as your position with  
respect

9 to military service where you were called upon to take  
up arms.

10 A. Yes.

11 THE COURT: Okay. Does the Government have  
any  
12 questions?

13 MR. MACKEY: No, your Honor.

14 THE COURT: Mr. Tigar, do you have any  
questions?

15 MR. TIGAR: Yes, your Honor, briefly, if I  
may.

16 THE COURT: All right.

17 VOIR DIRE EXAMINATION

18 BY MR. TIGAR:

19 Q. Good morning again, sir. I'm Michael Tigar. I've  
been

20 asked by the Court to represent Terry Nichols.

21 Very briefly, sir, I wanted to talk a little  
about

22 your parents' service in what was then the Belgian  
Congo.

23 After you left Africa at the age of, I think, nine, did  
you

24 ever go back?

25 A. No. My sisters took a vacation one year back, but  
it was

1 too much money for me.

2 Q. In what other parts of Africa did your parents  
serve other

3 than what then became Zaire?

4 A. They have served quite a few years in a little  
country

5 called Rwanda and Burundi, which have been in the news  
lately.

6 Q. Yes. And have you had the chance to talk to them  
about

7 their service?

8 A. Yes.

9 Q. Now, you mentioned in your questionnaire that  
you've read

10 something about the Oklahoma City bombing case. And if  
you

11 could turn to page 37, please, Question 163. You say,  
"I would

12 only make an assumption that the lawmen are competent  
and have

13 the correct person."

14 If you were selected as a juror -- we're  
talking about

15 the first phase where a jury is -- considers the  
evidence

16 presented by the Government and, if the defense  
presents it,

17 then other evidence on this question of is Terry  
Nichols

18 innocent or guilty of the charges against him. If you  
were a

19 juror in that sort of a situation, would you be able to

set

20     aside your assumption?

21     A. I meant that I would make an assumption that the  
lawmen, or

22     the court, whatever you want to call them, have the  
correct

23     person in their opinion.

24     Q. I see. But you -- you'd start with a clean slate?

25     A. Yes, sir.

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1     Q. And you wouldn't be inclined to give -- if there  
were some

2     lawmen that took the oath up there and testified, would  
you

3     give them any more credibility than any other witness?

4     A. No.

5     Q. Okay. Well, now I'd like to get directly to the  
question

6     that his Honor was asking you. And I'm sorry that we  
inquire

7     into what are matters of deeply held belief for you,  
but I hope

8     you understand that that's a part of the process.

9     A. I do.

10    Q. You were classified 1A0 by your selective service  
board; is

11    that correct?

12 A. Yes, sir.

13 Q. And all members of your faith are classified 1A0?  
Is

14 that -- if they seek that?

15 A. They do not have to be, no.

16 Q. So that -- well, I assume that -- when -- when were  
you

17 first -- when did you first go in to be classified by  
the

18 board? At 18?

19 A. Approximately. 17. Going on 18.

20 Q. All right. And you then had an option: You could  
simply

21 accept a 1A classification; is that right?

22 A. That's correct.

23 Q. And as a 1A, you would be eligible for service  
either under

24 the oldest first notion or when the lottery came in  
under the

25 lottery?

1106

Juror No. 945 - Voir Dire

1 A. Yes, sir.

2 Q. Now, you could also seek a student deferment, a 2S;  
is that

3 correct?

4 A. Yes.

Military 5 Q. And were you then -- did you benefit from the  
as an 6 Selective Service Act, automatic student deferment 2S  
7 undergraduate?  
8 A. I had four years of deferment.  
law; 9 Q. Four years. Did you understand that was under the  
10 that if you were going to college, you got that?  
11 A. I -- yeah. Yes.  
mouth and 12 Q. Okay. Well, I'm not trying to put words in your  
could 13 it's a long time, but -- ago, but then, of course, you  
10 14 have selected -- you could have asked the board for a  
15 classification instead of 1A0?  
16 A. I'm not against service to my country.  
between 17 Q. Okay. And what did you understand the distinction  
got to 18 the 10 that you could have sought and the 1A0 that you  
19 be?  
serve my 20 A. The conscientious objector that I chose was to  
saving 21 country, and I chose to serve my country in the role of  
22 life, not taking it.  
was 23 Q. Right. So an -- a 10, as you understand it, that

24 somebody who would do what was called in those days  
alternative

25 service; that is, they would be assigned to a civilian  
hospital

1107

Juror No. 945 - Voir Dire

1 that had no military connection whatever; right?

2 A. Yes.

3 Q. Okay. Now, the -- the kind you chose meant that  
you would

4 have been willing then, if called, to don the uniform  
of your

5 country?

6 A. Yes, sir.

7 Q. And having donned the uniform of your country, you  
would

8 have taken the same symbolic step forward at the  
induction

9 center as other people who had also chosen to don the  
uniform?

10 A. Yes, sir.

11 Q. Now, having chosen to don the uniform of your  
country under

12 those circumstances, you might have been sent to a  
theater of

13 combat; right?

14 A. Yes, sir.

15 Q. Now, you would not have been armed under those



16 circumstances; right?  
17 A. Some of the medics were allowed to carry sidearms  
if they  
18 wished.  
19 Q. All right. And had you thought about whether you  
would  
20 have carried a sidearm under those circumstances?  
21 A. Yes, sir.  
22 Q. And what -- what decision had you reached in your  
own --  
23 A. I would choose not to.  
24 Q. And in a -- in a combat situation then, you would  
have  
25 the -- the internationally recognized Red Cross  
insignia, which

1108

Juror No. 945 - Voir Dire

1 is supposed to protect people in that situation? Is  
that what  
2 your understanding --  
3 A. That's supposed to be what happened; but in  
Vietnam, it was  
4 usually the target.  
5 Q. I understand that, and you -- you understood that  
at the  
6 time; right?  
7 A. Yes, I did.  
8 Q. That you might be involved in combat and in fact

you'd be

9 in a situation of great danger serving your country?

10 A. Yes.

11 Q. So that you were someone who was willing to  
participate in

12 a process, but not take life in a process?

13 A. That is correct.

14 Q. Now, when -- if there is a guilty verdict in a  
criminal

15 case where -- and we're -- you understand we're --  
we're going

16 to try not to have that happen.

17 A. Right.

18 Q. But if there's a guilty verdict in a criminal case  
in

19 Federal Court, a jury, the same jury that decided that,  
then

20 starts all over again with no preconceptions and they  
then

21 deliberate.

22 Well, first -- I'll describe the process, and  
if I do

23 it wrong, then I'll be interrupted, but let me just  
describe

24 it. The jury first hears evidence that the prosecution

25 presents as to so-called aggravating factors, things  
that the

Juror No. 945 – Voir Dire

1 prosecution believes justify the jury recommending a  
sentence  
2 of death.

3 The defense then presents evidence as to  
mitigating  
4 factors, and those can be factors with respect to the  
crime,  
5 the offense that's been alleged and that the jury has  
found and  
6 about the personal circumstances of the defendant,  
which  
7 include all sorts of things: Background, upbringing,  
remorse,  
8 prospects of rehabilitation in the personal way and so  
on.

9 Then the judge instructs the jury as to how to  
what the  
10 consider these things, and each juror is told not only  
mitigating  
11 law is as to what aggravating factors means and what  
but also  
12 factors are and who has the burden of proof and so on,  
of the  
13 that the jurors are asked ultimately, as the conscience  
the  
14 community to make a reasoned, moral response. And if  
that the  
15 jurors are unanimous in that reasoned, moral response  
makes  
16 appropriate moral punishment is death, the court then  
17 that judgment. If they are unanimous that some lesser

18 punishment is appropriate, life in prison without  
possibility  
19 of release or a sentence to be determined by the court,  
then  
20 the court does that. So that's the process.  
21 Now, are you saying that as a pacifist who had  
at one  
22 time been willing to don the uniform of your country,  
that  
23 you -- that your objection is to the process by which  
decision  
24 is reached, or are you saying that inside you, you  
believe that  
25 each human creature is a child of God and would require  
you

1110

Juror No. 945 - Voir Dire

1 then to say that you would not vote for the death  
penalty, or  
2 is it something else? I'm not trying to put words in  
your  
3 mouth, but can you help me and talk to me about it.  
4 A. I cannot in good conscience sentence anyone to  
death any  
5 more than I could shoot them.  
6 Q. So that your vote as -- are you saying that your  
vote,  
7 therefore, if you found yourself in this place, just as  
if you  
8 found yourself in a battlefield, would always be the

vote for

9 life?

10 A. Yes, sir.

11 MR. TIGAR: Thank you very much.

12 THE COURT: Well, you're now going to be  
excused for

13 the day. We're not deciding on jurors one at a time as  
we go

14 along. There will be a -- an opportunity for the  
lawyers and

15 me to discuss each one and then make determinations,  
but that

16 isn't now. So as you go from here, please continue to  
follow

17 the same cautions that I gave you when you went from  
the

18 auditorium building on avoiding publicity about the  
case and

19 avoiding discussion about it. Will you do that?

20 JUROR: Yes, sir.

21 THE COURT: And we will notify you when we  
can.

22 JUROR: All right.

23 THE COURT: You're now excused, and thank you  
for your

24 patience in waiting yesterday.

25 JUROR: Thank you.

1 THE COURT: We have 484.

2 Good morning. If you will raise your right  
hand and  
3 take the oath from the clerk, please.

4 (Juror No. 484 affirmed.)

5 THE COURTROOM DEPUTY: Thank you.

6 THE COURT: Please be seated in that chair  
right in  
7 front of you. That swivels around a little so you can  
make  
8 yourself comfortable, and we'll ask you to speak near  
the  
9 microphone so that we can record or hear your answers.

10 VOIR DIRE EXAMINATION

11 BY THE COURT:

12 Q. First, let me, on behalf of all of us, express our  
apology  
13 for your waiting all day yesterday. We thought that we  
would  
14 get farther than we did, but you understand this is a  
human  
15 process and that --

16 A. Of course.

17 Q. -- you know, we can't program it according to  
certain time  
18 schedules. So -- we appreciate your patience.

19 Now you are here and we would like to ask you  
some  
20 questions, recognizing that your name came up through a

chance

juror in 21 process that caused you to be summoned as a possible

Nichols. 22 the trial of the United States against Terry Lynn

questionnaire, and 23 And you answered an original short

on the 24 then you came out to the Jefferson County Fairgrounds

people 25 17th of September, at which time you and many other

1112

Juror No. 484 – Voir Dire

that, I was 1 answered a long questionnaire. But before you did

people, 2 there and introduced myself and introduced some other

3 participants in this case, and I want to do that again,

Mackey. He 4 introducing first for the Government Mr. Lawrence

then in 5 was with us out there. And Ms. Beth Wilkinson. And

here today 6 additional -- additional lawyers for the Government

7 are Mr. Patrick Ryan and Mr. James Orenstein.

counsel for 8 For the defendants, you'll recall meeting

And of 9 Mr. Nichols, Mr. Michael Tigar and Mr. Ronald Woods.

10 course, Terry Lynn Nichols is here and was also with us

when we

11 met before.

12 Now, you recall that after -- well, first of  
all --

13 and I want to repeat some things, even though we expect  
you

14 remember them well, but we like to put a little  
background into

15 the record here -- that before you were asked to fill  
out the

16 questionnaire, I gave you some explanations about the

17 background of the case; that this case and the  
prosecution

18 arises out of an event in Oklahoma City, Oklahoma, on  
April the

19 19th of 1995, when a federal office building exploded  
and

20 people within it were killed and injured and that the

21 Government then brought a criminal charge, called an

22 indictment, against a man named Timothy McVeigh and  
also Terry

23 Nichols and then said in the indictment other persons  
not named

24 formed a conspiracy or plan to bomb that building and  
to kill

25 and injure the people in it and did carry it out and  
that also

1113

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1 planned the murder and carried it out of eight law  
enforcement

2 agents who were in the building. Do you recall that?

3 A. Yes.

4 Q. And I explained that the case was moved from  
Oklahoma City

5 to Denver for trial and that there was an order that  
separated

6 the named defendants, Mr. McVeigh and Mr. Nichols, for  
trial

7 because the differences between them and what the

8 Government's -- Government's evidence might be would --  
well,

9 it wouldn't be fair to ask one jury to decide with  
respect to

10 both. And therefore, there were separate trials  
ordered, and

11 Mr. McVeigh's already been tried by a jury. And I told  
you

12 about the outcome of that.

13 Now, we are preparing for the trial of the  
evidence as

14 it relates to Mr. Nichols. And the first thing, of  
course, is,

15 as I explained then, the outcome -- the jury's verdict  
with

16 respect to Mr. McVeigh cannot be considered here. That  
would

17 violate the very reason that there are separate trials,  
because

18 there has to be an independent consideration of  
whatever the

Nichols. 19 Government's evidence may be as it relates to Mr.  
You 20 understand that?  
21 A. Yes.  
22 Q. And also, I talked a bit about the fundamental  
principles 23 that apply under the United States Constitution to all  
criminal 24 cases, no matter what the charges may be or who the  
defendant 25 may be. It's the same fundamental principles. And  
they begin

1114

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1 with the presumption of innocence; that every person  
charged 2 with a crime, no matter what it is, as I've said, is  
presumed 3 to be innocent of those charges, a presumption which  
carries 4 throughout the trial and entitles that person to  
acquittal, a 5 not guilty verdict, unless the case against him or her  
is 6 proved beyond a reasonable doubt. That basic  
proposition, you 7 understand, do you?  
8 A. Yes.  
9 Q. And of course, Mr. Nichols pleaded not guilty to  
all of

and 10 these charges, thereby creating the issues for trial  
forward 11 causing the court to call upon the Government to come  
then. A 12 with its evidence. And that's what the trial will be  
or duty 13 defendant again, no matter who or she is, has no burden  
has the 14 of proving anything at trial. Certainly, no defendant  
no 15 duty of proving himself not guilty. The fact is that  
any 16 defendant is required to produce any evidence, to call  
explain 17 witnesses, or to take the witness stand and testify or  
not 18 anything. And in the cases in which a defendant does  
instructed 19 testify or offer any evidence, the jury is clearly  
draw 20 they may not consider the -- that fact at all and can't  
can't even 21 any inferences of it -- from it or, as we say, you  
22 discuss it in deliberations. You understand that?  
23 A. Yes.  
is upon 24 Q. And then we speak about the burden of proof which  
and 25 the Government to bring in the evidence and that the --

1 there are rules of evidence that govern what can be  
heard and  
2 the exclusion of things that are not within the rules.  
And  
3 then when the Government's evidence is in, in fact if  
the  
4 defendant has evidence, as well, that's in, all the  
evidence is  
5 in, the court instructs the jurors with respect to what  
has to  
6 be proved, what are the particular things required to  
be proved  
7 for the particular crimes charged and then says to the  
jury,  
8 Now, if you find from all of the evidence under this  
law that  
9 the charges have been proved beyond a reasonable doubt,  
then  
10 you would find the defendant guilty. On the other  
hand, if you  
11 find that the evidence does not satisfy you beyond a  
reasonable  
12 doubt, the verdict must be not guilty, and so what the  
concept  
13 really is is that after considering it all, if the jury  
still  
14 has a reasonable doubt about whether the defendant did  
what  
15 he's charged with and with whatever intent he is  
charged, then  
16 they have to give the defendant the benefit of that

doubt and

17 find him not guilty.

18 Now, I've repeated something that I'm sure you  
19 probably understand. Do you?

20 A. Yes.

21 Q. And not only do you understand it, are you willing  
to

22 accept that as the law that applies and obey it as a  
juror in

23 the case?

24 A. Yes.

25 Q. Now, we asked you to answer a lot of questions, and  
some of

1116

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1 them are somewhat private and personal. We recognize  
that.

2 And it's for that reason that we haven't given your  
answers out

3 to anybody except the people right here in front of you  
who are

4 participating in this process. So these answers will  
not be

5 public. Your name will not be public. We're  
identifying you

6 on this record by number and somewhat shield you here  
in the

7 courtroom and, of course, provide that people can't see  
you or

these 8 photograph you coming in or out of the building. All  
though, that 9 measures are to protect your privacy. Recognize,  
asked now 10 here, your questions -- or these questions that are  
but 11 are answered in open court and are, therefore, public,  
think, cause 12 we'll try to question you in ways that will not, I  
privacy. 13 you any discomfort or in any way invade your personal

14 We're not going to go through all these  
questions.

15 Don't -- and repeat them. Don't be concerned about  
that.

16 There are a few things that you've told us about which  
I would

17 like to expand on and have you tell us a little more,  
and then

18 I also want to talk with you a little more about the  
process

19 and -- and what's involved in jury service. Then after  
I've

20 completed asking you some questions, lawyers for each  
side will

21 have an opportunity to ask you some additional  
questions.

22 Now, first of all, what I understand from your  
answers

23 is that you were born in Colorado and have lived in  
Colorado

24 since then.

25 A. Yes.

1117

Juror No. 484 – Voir Dire

1 Q. And here in the Denver metropolitan area.

2 A. Yes.

3 Q. That you are now married, in fact, recently  
married, and I

4 take it from what you said, married a man who has a son  
from an  
5 earlier marriage?

6 A. Yes.

7 Q. And now, is there some kind of custody arrangement  
so that  
8 his son spends some time with the two of you and some  
time with  
9 his biological mother?

10 A. Yes. He spends most of the time with his mother.

11 Q. Okay. But you and your husband have him for  
particular  
12 periods of time by agreement?

13 A. Yes.

14 Q. All right. That you have taken up the field of  
floral  
15 designing.

16 A. Uh-huh.

17 Q. Is that right?

18 A. Yes.

19 Q. And that's the work that you do now?

20 A. Yes.

21 Q. And you -- you went to Metro for a while; right?

22 A. Yeah. Very shortly.

23 Q. Yeah. You think of going back to continue your  
education

24 at some time?

25 A. I don't have any plans to at this point.

1118

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1 Q. Now, when you left the fairgrounds there, I asked  
you and

2 everybody else there to be careful about the things  
that you

3 might read, see, and hear, television, radio,  
newspapers,

4 magazines, whatever, to avoid anything that might  
influence you

5 in connection with this jury service and also, to be  
careful in

6 discussion with others -- excuse me -- your potential  
role as a

7 juror or anything about the case. And I expect that  
you have

8 attempted to do that. We recognize in a matter of  
public

9 interest, there are some difficulties in doing that and  
it's



10 always possible for someone unintentionally or  
inadvertently to

11 hear or see something. Has anything like that happened  
with  
12 you?

13 A. No.

14 Q. You did, I suppose, discuss with your husband the  
15 possibility of your being on the jury?

16 A. Yes. Yes.

17 Q. Sure. And you understand that there would be a  
18 considerable time commitment involved?

19 A. Yes.

20 Q. We can't tell you -- I mean, just like we can't  
tell you

21 exactly when you're going to be in here to be asked  
questions,

22 we can't tell you how long the trial may take. But for  
23 purposes of our present discussion and your answers,  
you'll

24 have to assume that it would be several months. And I  
take it

25 you've already made that assumption?

1119

Juror No. 484 - Voir Dire

1 A. Yes. I understand that.

2 Q. And in talking with your husband about that, has he

3 expressed any views about -- his opinions about, well,  
what it  
4 would mean to him or the two of you if you were on this  
jury?  
5 A. No. Only financially. We've discussed how it  
would affect  
6 us financially.  
7 Q. Which I take it, would not be good?  
8 A. No.  
9 Q. But are you and he prepared to adjust to that?  
10 A. Yes.  
11 Q. Did you also discuss it with your employer or  
supervisor  
12 there, whoever you work with?  
13 A. Yes.  
14 Q. And what were you told by that person or those  
persons?  
15 A. Well, she also finds it would be very difficult for  
her.  
16 Q. Yeah.  
17 A. But she understands that, you know, that's the way  
it  
18 works. That's what she has to do.  
19 Q. Was any suggestion made by anyone, well, you don't  
want to  
20 do that and you ought to try to get out of it and  
here's how  
21 you do it, and make some suggestions to you? Any  
discussion  
22 like that?

23 A. Yeah. I have had people --  
24 Q. What -- what kinds of things have people said to  
you?  
That's 25 A. Say that I didn't believe in the death penalty.

1120

Juror No. 484 - Voir Dire

1 pretty much the only thing. Anything --  
2 Q. Yeah. So, you know, they say, well, that's an easy  
way to 3 get off the jury and be excused.  
4 A. Uh-huh.  
5 Q. And has anybody suggested to you, well, if you get  
on the 6 jury, here's what you ought to do, and suggest what the  
outcome 7 should be?  
8 A. No.  
9 Q. Now, what has been your customary practice or  
routine 10 practice with respect to keeping up with current  
events, the 11 news? Do you watch news programs on television?  
12 A. Occasionally, I watch mostly local news. Some  
national 13 news.  
14 Q. Do you have a particular time of day and a  
particular

15 station that you watch?  
16 A. I'll usually watch local evening news, 10:00, and  
I'll  
17 usually watch 9 News.  
18 Q. Okay. And then perhaps click around if you think  
something  
19 is more interesting on another channel?  
20 A. Yeah. Exactly.  
21 Q. What have you been doing about that since I told  
you you  
22 can't do it anymore as far as seeing anything about  
this case?  
23 A. I haven't seen anything about the case. I haven't  
even run  
24 into -- actually, I did. I was watching a -- a morning  
news,  
25 and I almost ran into it. They said that they were  
going to be

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Juror No. 484 - Voir Dire

1 bringing it on after commercial break, but I didn't  
watch it.  
2 Q. And please understand I'm not saying this in an  
accusatory  
3 way, but has your husband told you what he's seen or  
read?  
4 A. No. He hasn't.  
5 Q. He knows the cautions, as well, and is cooperating?  
6 A. Yes.

7 Q. Is that a fair statement?

8 A. It is.

9 Q. Now, his work -- that is, your husband -- as I understand

10 it, relates to the marketing of some technology equipment?

11 A. I don't even fully understand what it is he does, and for

12 me to describe it is very difficult. He even has a hard time

13 describing it to other people.

14 Q. What I'm going from is what you wrote on page 10 and 11.

15 Feel free to look at your questionnaire.

16 A. Okay.

17 Q. I don't mean to --

18 A. I think I know what I wrote, but okay.

19 Q. Take a look at what you wrote.

20 A. Okay.

21 Q. And, you know, you can expand on this on your own if you

22 want to, on any of these questions. But bottom of the page 48,

23 top of the next page, 49.

24 A. Uh-huh.

25 Q. Now, we're not asking you about names as such here because

## Juror No. 484 - Voir Dire

1 I don't -- I don't know whether it would identify him,  
either,  
2 but I'm not familiar with the name here.

3 A. Uh-huh.

4 Q. Which is no big surprise. I'm not familiar with a  
lot of  
5 things about technology. But how long has he been  
working for

6 this organization; do you know that?

7 A. Since March.

8 Q. Of this year?

9 A. This year.

10 Q. What kind of work did he do just before this  
position?

11 A. Well, he was doing just kind of a fill-in job. He  
was  
12 delivering mattresses to hospitals.

13 Q. Okay.

14 A. Which wasn't really what he was skilled to do, but  
it was  
15 sort of a fill-in job.

16 Q. Well, is his field of training and skill in the  
17 communications technology field? What do you  
understand --

18 A. Not necessarily. It mostly deals with  
manufacturers. This

19 company deals with manufacturers all around the world.

20 Q. And would it be like things that go into the use of  
21 equipment in a factory or --

22 A. Yes. Yes.

23 Q. Okay. Helping the machines work in some way?

24 A. Well, what -- what this company does is they have  
this  
flow  
25 patented formula where they -- it's called a demand-

1123

Juror No. 484 - Voir Dire

1 technology where they -- I don't know how to describe  
it  
2 exactly.

3 Q. Try to correlate inventories with production?

4 A. Well, they pretty much tell -- they -- they sell  
ideas to  
5 the manufacturers that help them make more money to  
help them  
6 be more efficient.

7 Q. Okay. And does he assist in these designs and  
8 implementation? You mentioned implementation.

9 A. He's the manager of implementation, so once they  
have  
10 decided to actually go along with the company and --  
and pay  
11 them to do this, then he's the one who kind of gets the  
wheels  
12 rolling on it.

of town 13 Q. Okay. Is there a travel aspect to that? Is he out  
14 a lot?  
15 A. Not a lot. Somewhat. Maybe one or two nights a  
week.  
16 Q. Depending on where the customers are?  
17 A. One or two months. Yeah. Yeah. He has a certain  
18 territory he -- he handles.  
19 Q. Okay. And you also told us of a brother who's a  
CPA and  
20 another brother who's a chemist?  
21 A. Yes.  
22 Q. The one who's a chemist, where does he work?  
23 A. He works for Monfort meat packing in Greeley.  
24 Q. Do you know -- and he works in a laboratory there,  
does he?  
25 A. Yes.

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1 Q. Do you know what he does?  
2 A. He is a supervisor.  
3 Q. Do you know what the laboratory does?  
4 A. I'm not exactly sure. I think it's -- it's testing  
for --  
5 just testing for strange things in the meats. Testing  
for



6 chemicals in the meat is what -- is what I understand.

7 Q. Sure.

8 A. I'm not sure that's accurate.

9 Q. Testing for purity --

10 A. Yes.

11 Q. -- and quality and so forth.

12 Well, has he ever talked to you in any detail  
about

13 how a chemistry lab functions?

14 A. Maybe in detail. I didn't -- I didn't understand  
it. I

15 never understood chemistry, so that didn't mean  
anything to me.

16 I've been through where he works. I have visited and  
toured

17 it.

18 Q. Did he show you the kinds of machines and computer  
19 equipment that they use in the chemistry laboratory to  
assist

20 them in analysis?

21 A. A little bit.

22 Q. Do you remember the names of any of them?

23 A. No.

24 Q. If there were to be people at trial testify about  
chemistry

25 and chemistry labs and so forth, you'd be like the  
other

## Juror No. 484 - Voir Dire

1 jurors?

2 A. I'd be clueless. I'd have no idea.

3 Q. Okay. Now, page 4 -- I jump around here a little.  
Please

4 forgive me for that, but . . . page 4, the Question 19  
tells us

5 something about how you react when you're in stressful

6 situations or feel anxiety in your life. Do you feel  
that now?

7 A. No, I don't -- I don't feel sick to my stomach  
right now.

8 I feel nervous. I feel anxious more, but --

9 Q. All right.

10 A. No.

11 Q. So you don't see this as something that's going to  
bother

12 you if you were on the jury?

13 A. I couldn't really anticipate -- I don't think it  
would.

14 Q. Do you take some medication when you have this  
reaction?

15 A. No. I -- I have taken medication in the past, but  
I

16 haven't had that since 198 -- 1992. And it was -- it  
was just

17 a mild stomach tranquilizer. I think I've gotten  
better with

18 it.

things 19 Q. Okay. And were the kinds of stressful situation  
in 20 like final exams and that sort of thing when you were  
21 school? Did that affect you in this way?  
or a -- 22 A. Maybe a little bit. It was more maybe first date  
23 Q. More personal things?  
24 A. Yeah. Yeah.  
maybe it 25 Q. All right. You have a -- another brother -- or

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1 isn't another -- brother served in the Coast Guard?  
2 A. Yes.  
3 Q. Is he still serving in the Coast Guard?  
4 A. Yes, he is.  
know? 5 Q. Oh, okay. And making that a career as far as you  
6 A. Yeah. As far as I know.  
7 Q. You told us some things on page 37. And I'm  
looking at 8 Questions 159 and 160. We asked you some things about  
9 publicity that could relate to this. And actually,  
maybe you 10 want to go back to the preceding page and Question 158,  
too, so 11 you get the full context.

12 A. Okay.

13 Q. All right. Do you have in mind what you wrote?

14 A. Uh-huh.

15 Q. Now, since you were -- since you completed this  
16 questionnaire, have you thought about these very same  
things

17 some more?

18 A. Not necessarily. It's pretty much just, you know,  
anything

19 I wrote in there is how I felt all along before.

20 Q. And still do?

21 A. Yeah.

22 Q. Okay. Well, maybe when you left there, you had in  
mind,

23 Well, I hope I don't get called any further and won't  
have to

24 think about these things anymore, or some people may,  
under

25 those circumstances, dwell on their answers and think  
about it

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1 some more, and that's why I asked you.

2 A. Uh-huh.

3 Q. So is this something you sort of put aside, waiting  
to see

4 whether you'd be back in here with us?

5 A. Not necessarily. This is just -- this is just  
something --  
6 the questions in here were -- were just generally --  
the way I  
7 answered them is generally how I felt, you know, from  
any news  
8 coverage from the very beginning. Not because I might  
be  
9 possibly serving, just opinions I had.

10 Q. Well, let me just ask you a few questions about  
your  
11 answers, because these questions went specifically to  
12 impressions that you might have about Mr. Nichols from  
the  
13 things that you've heard or read or people have talked  
with you  
14 about. Is that right?

15 A. Yes.

16 Q. And you say -- let me just get them here again  
myself. I  
17 closed the page on them. Most of what you saw as  
coverage was  
18 early on? Is that --

19 A. Yeah. Directly after. Yeah.

20 Q. In 1995?

21 A. Uh-huh.

22 Q. Is that what you're talking about?

23 A. Yes.

24 Q. And then following up here on 159 and 160, you say  
-- and

25 particularly under 160 -- well, first of all, under  
159, you've

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1 heard that he, meaning Mr. Nichols, has been involved  
in some

2 anti-government groups -- or anti-government groups.  
What have

3 you heard there?

4 A. Well, I -- I don't remember specifically. I heard  
about

5 the militia, and it was to my understanding that he had  
been a

6 member. I don't know if that was correct or not, but  
that's --

7 Q. That's what you heard?

8 A. That's what stuck in my mind.

9 Q. And then you say, well, although not a strong  
opinion in my

10 heart, I think he is probably guilty just because it's  
come to

11 this point. Now -- and I'm not trying to speak for  
you.

12 A. Uh-huh.

13 Q. I'm only trying to assist in your speaking to us.  
But is

14 that some notion that if there weren't anything against  
him,

15 there wouldn't be any charges and he wouldn't be in

court? Is

16 that what you're saying?

I'm not 17 A. Well, I think I -- I would form a slight opinion.

18 saying it's a really strong opinion. I think anyone in  
will lead 19 custody, obviously, is a suspect, which sometimes I

20 more to thinking it's -- you know, possibly the case  
that

21 they -- that they are guilty.

22 Q. Now, we get back to that presumption of innocence  
that we

23 talked about.

24 A. Uh-huh.

25 Q. And you know that's not just something that is a  
hollow

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1 statement. It is the way we have to approach any  
trial.

2 A. Yes. I understand.

3 Q. So while this may very well be an impression that  
you have

4 or feeling that you have, you have to set it aside and  
start

5 from a clean page with you don't know, you know,  
anything about

6 Terry Nichols.

7 A. Uh-huh.

8 Q. And that's not easily done, setting aside that, but  
that's

9 what we require jurors to do.

10 A. Yeah. I -- I fully understand that.

11 Q. And do you think that you could do that?

12 A. I do think I could do that.

13 Q. You say on the next page -- or not -- yeah. Page  
38. I

14 think that very -- you know, I understand you to be  
saying

15 there that same thing, that I think my opinion could be  
swayed

16 based solely on the evidence. I do believe in a fair  
trial.

17 A. Yes.

18 Q. And that's your belief now?

19 A. Yes.

20 Q. Now, we have to talk about more than your ability  
to judge

21 the evidence in this case. That's what the trial will  
be. But

22 this case has the possibility of a death sentence  
because the

23 statute provides that a person found guilty of the  
crimes of a

24 certain type that have been charged -- and that's all  
of them

25 in this case and others under the statute -- but a  
person found



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1 guilty of such crimes may be put in prison for life  
without the  
2 possibility of ever being released, could be sentenced  
to death  
3 or the jury could decide that there should be some  
lesser  
4 sentence than either of those and then turn the matter  
back to  
5 the court for sentencing. Now, ordinarily, the jury is  
not  
6 involved in a sentencing decision. Punishment is not  
an issue  
7 for a jury trial in a criminal case. Now, you've never  
been  
8 involved with a criminal case, have you?  
9 A. No.  
10 Q. You did mention in here that somebody you know was  
arrested  
11 once, didn't you?  
12 A. Yeah. I believe so. I had to think about that,  
but yeah.  
13 Q. I'll take you back to page 24. I don't want to be  
unfair  
14 to you. I want you to see what I've seen. Question  
110. Can  
15 you tell us what that was?  
16 A. Oh.  
17 Q. Not necessarily naming the person.

for DUI. 18 A. Right -- right. I had a friend that was arrested

19 Q. Okay.

20 A. I for --

21 Q. You said on the next page, 111, that it was just.

22 A. Yes.

to him? 23 Q. Okay. The handling of the case, whatever happened

24 A. Yeah.

25 Q. Is this a very close friend?

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1 A. Pretty close.

2 Q. How long ago?

3 A. How long did -- was he arrested?

4 Q. Yes.

5 A. I'm not sure. Maybe a year, year and a half.

6 Q. Was there a trial? Did it result in a trial?

7 A. No.

now, and we 8 Q. All right. Well, we want to talk about a trial

already 9 want to talk about the process a little more. We've

innocence, 10 talked about the burden of proof, the presumption of

11 the -- beyond a reasonable doubt. Now, in cases that

don't

12 involve jury punishment decisions, the jury decides  
does the  
13 evidence prove guilt beyond a reasonable doubt. If no,  
it's  
14 not guilty, and that's the end of it. If the jury  
decides the  
15 evidence does prove guilt beyond a reasonable doubt,  
the  
16 verdict is guilty and that's the end of it as far as  
the jury  
17 is concerned, because then it's up to the judge, the  
court, to  
18 make a decision about the sentence, which is done at  
another  
19 hearing that the court has without any jury in which  
20 information is brought forward concerning not only the  
offense,  
21 but circumstances of the defendant, things about that  
person's  
22 background, sort of his life story or hers, what the  
family  
23 relationships were and are, whether the person has --  
well,  
24 what his employment history may have been, what his  
present  
25 attitude is, whether there is a feeling of remorse or  
sorrow

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1 about the offense, a lot of things. And at that  
hearing, the  
2 court makes a judgment about the individual as an  
individual  
3 human being and what sentence is appropriate for that  
person  
4 and that offense. Understand?  
5 A. Yes.  
6 Q. Now, it's different in Federal Court if there is a  
verdict  
7 of guilty of an offense of this type, and the issue  
becomes one  
8 for the jury. Now, I want to not talk about the  
process that  
9 the jury's involved with yet, but talk with you a  
little about  
10 your views of the death penalty first. And we ask you  
about  
11 that -- in pages 28 and 29 is where we have asked you.  
Do you  
12 want to take time to review those answers, please.  
13 A. Okay.  
14 Q. Of course, you recognize we've asked you, you know,  
without  
15 knowing anything about the law coming in here, what do  
you  
16 think about the death penalty as a possible punishment,  
life in  
17 prison as a possible punishment, and how it may relate  
to the  
18 crime and other circumstances. That's the spirit in  
which

19 you've read the questions and gave your answers?

20 A. Yes.

21 Q. And down on -- on page 28, you're separating out  
murder

22 from other crimes in C and D; right?

23 A. Yes.

24 Q. And then in separating punishment of life in prison  
without

25 the possibility of ever being released and the  
punishment of

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1 death, you said, well, murder, especially if it has  
been

2 confessed to, is reason for the death penalty. That's  
one

3 consideration you would make; is that right?

4 A. Yes.

5 Q. And then "I'm very in favor of the death penalty if  
I feel

6 sure that the person has done the crime." And I take  
it if

7 there were a confession, you'd feel sure?

8 A. Yeah. That's -- that's pretty much why I said --  
that's

9 when I really am in favor of it. Then I don't feel  
like

10 there's room for doubt.

11 Q. And you know, we're talking about not even  
considering this

12 question unless the crime is proved beyond a reasonable  
doubt.

13 You understand that?

14 A. Yes.

15 Q. Now, are you thinking -- and here again, I'm not  
trying to

16 suggest your answers. But I think it's my job to try  
to sort

17 of help you speak to us. One could have a view that,  
well,

18 reasonable doubt is reasonable doubt; but then there's  
beyond

19 all possible doubt, I suppose, conceptually. Does that  
enter

20 into your view at all?

21 A. Well, if I understand the question correctly, it's  
-- I'd

22 have to be very sure.

23 Q. More sure --

24 A. I'd have to feel that it had been proven to me to  
give --

25 yeah. To give a guilty verdict.

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1 Q. Well, does that mean something more than beyond a

2 reasonable doubt?

3 A. Yes.

4 Q. Okay. Now, the next page -- I think you're saying  
5 that -- essentially the same thing in the answer under E. Is  
6 is that true?

7 A. Yes.

8 Q. You said back earlier -- and I can't remember the  
9 question, but you said back earlier where we asked you if you  
10 have any moral or religious views that might affect your jury  
11 service, you don't think so. Or something like that. "I don't  
12 know," I think is what you said.

13 A. No. I -- I don't think that that would affect it.  
14 I would -- I would think that it would be justified if --

15 Q. All right.

16 A. Do you mean for the death penalty? Is that what  
17 you're asking?

18 Q. Yes. Well, actually for the entire jury service.

19 A. Oh; right. Yeah.

20 Q. But particularly with respect to a sentencing  
21 decision.

22 A. No. I don't -- I don't feel religiously -- I would  
23 feel that it was justified.

24 Q. Now, I want to mention one more answer, and that's

page 38

whether  
a fair

24 under the heading "conclusion," where we really ask you  
25 there's anything that would prevent you from rendering

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your

1 and impartial verdict. Do you have that? Do you have  
2 answer?

3 A. Let me just look at that real quick.

4 Q. Sure.

5 A. Okay.

"think"

6 Q. All right. And you underlined, I think, the word  
7 and the word "do." "Do believe."

8 A. Uh-huh.

why you

9 Q. You're emphasizing that. Now go ahead. Tell us  
10 underlined those words.

you know,

11 A. Okay. I -- I don't know how I'll react exactly,

could

12 if I were to be chosen. I really -- I'm not sure I

be. I

13 anticipate, you know, how -- how open-minded I could

14 think I could be open-minded.

15 Q. Now, of course, you know, we can't tell you what's



going to

16 happen at the trial. This is not a situation where we  
can go

17 through a lot of what-ifs and if the evidence is this  
or that.

18 A. Uh-huh.

19 Q. We don't know what the evidence is going to be.  
The

20 lawyers here may have some idea, but you and I don't.  
I heard

21 the trial of Timothy McVeigh. I know what the evidence  
was

22 there. And you may know something about what happened  
in court

23 there from the news. But that doesn't have anything to  
do with

24 what we're going to do in this trial, so I don't know  
what's

25 going to happen in this trial. And therefore,  
difficult as it

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1 is, we have to ask you to search your own self, your  
mind and

2 your heart and, you know, those things that come into  
play in

3 making decisions and tell us some things.

4 Now, we're separating out, again, the trial on  
the

5 question of the sufficiency of the evidence from a

decision on

6 punishment. Let me tell you the process so that you  
get a

7 better understanding, perhaps, of just what's involved.  
If

8 there is a verdict of guilty, proof beyond a reasonable  
doubt

9 with respect to the crimes charged or any one of them,  
for that

10 matter, then there would be another trial, second  
trial,

11 separate hearing. And just as I mentioned a little  
while ago

12 about a sentencing judge, so a sentencing jury has to  
consider

13 a lot of things. And these are the things that would  
be

14 presented at that second trial or punishment hearing.  
None of

15 this can be considered at the first trial, where the  
only issue

16 is, you know, has guilt been shown.

17 Now, at the second trial -- and it is a trial,  
because

18 both sides come in with additional information  
concerning the

19 circumstances of the offense and also things concerning  
the

20 defendant, just like I mentioned before for a  
sentencing --

21 sentencing judge to consider the things about the  
background of

22 the person. Again, family history, work history,

everything

all 23 that goes to make an individual human being. And we're

experiences 24 different from each other because of our own life's

about 25 and other things, including the person's then attitude

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1 the case. Understand?

2 A. Yes.

3 Q. And what the court then tells the jury is that you  
have to

4 consider all of these things. Generally speaking, what  
the

5 government comes in with are called "aggravating  
factors,"

6 which are things which the prosecutors believe would  
support a

7 sentence to death, considering all of the  
circumstances. And

8 the defendant comes forward through his counsel with  
things

9 that we usually refer to as "mitigating factors," those  
things

10 that suggest that death is not justified for the  
particular

11 defendant, given all of the circumstances, including  
these

12 things about his own individual life. Do you

understand that?

13 A. Yes.

14 Q. And then what the jury is asked to do is to  
consider all of

15 that and then without interference with respect to, you  
know,

16 some personal point of view about the law, you have to  
look at

17 that, consider the aggravating circumstances, the  
mitigating

18 circumstances, everything they've heard, and then  
decide

19 whether the defendant should live or die. That's the  
question.

20 Now, the court gives suggestions as to how to  
approach

21 that, sort of an analytical process of explaining what  
the

22 mitigating factors are, what the aggravating factors  
are under

23 the information; and, of course, that can't be done in  
advance.

24 That has to be done after the information is there.  
But

25 there's no formula for it. There's no way to, you  
know, direct

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1 the jury's decision. It is ultimately and finally a  
moral

2 judgment made by these representatives of the  
community, and

3 each one must decide it. Do you understand?

4 A. Yes.

5 Q. And of course, in this case, it would be important  
for the

6 people serving on the jury not to be influenced by what  
another

7 jury did in Mr. McVeigh's case. Do you understand  
that?

8 A. I understand that.

9 Q. Well, our question is, can you do it?

10 A. I believe I can.

11 Q. Okay.

12 A. And I do say "believe." I --

13 THE COURT: We understand. How can anyone say  
in

14 advance what he or she will do? But what we're asking  
for you

15 is, you know, given what we've been asking about, can  
you do

16 it. And I understand your answer.

17 Now, we're going to give the lawyers an  
opportunity to

18 ask some more questions of you. So please bear with us  
a

19 little while longer and answer them as you have  
answered my

20 questions. Ms. Wilkinson.

21 MS. WILKINSON: Thank you, your Honor.

22 VOIR DIRE EXAMINATION

23 BY MS. WILKINSON:

24 Q. Good morning.

25 A. Good morning.

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1 Q. Are you still nervous?

2 A. Not as much, no.

3 Q. Good. I have several questions I want to ask you,  
but I

4 wanted to start with a little bit more background just  
about

5 you.

6 You told the Judge that you are a floral  
designer. Do

7 you have an art background?

8 A. No. I had -- I had gone to a floral design school  
here in

9 Denver.

10 Q. And how long was that school?

11 A. I just took a basic class, which -- I really don't  
12 remember. It's been five years ago. Maybe half a  
year.

13 Q. Were you somebody as a kid who liked to draw and do  
things

14 like that? I mean, did you already have an artistic  
bent?

15 A. Not much.

16 Q. What got you interested in pursuing floral design?

17 A. I -- I've -- I guess since I was little, I can  
always  
shops  
pursue  
20 that.

21 Q. It sounds like your family has produced somebody  
who's  
22 interested in all different kinds of fields; right?

23 A. Very much.

24 Q. A CPA: That's about as different from a floral  
designer as  
25 you can get.

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1 A. Yes.

2 Q. A chemist, and your other brother is serving in the  
Coast  
3 Guard?

4 A. Yes.

5 Q. Do you know what he does in the Coast Guard?

6 A. He's on the ice patrol. They track icebergs.

7 Q. You said in your questionnaire that he's in Groton,  
8 Connecticut?

9 A. Yes.

10 Q. Do you know if he's stationed there at the submarine base,

11 or is he stationed at the Coast Guard Academy in New London?

12 A. I don't know.

13 Q. Does he live in Groton?

14 A. Yes.

15 Q. Have you ever visited him there?

16 A. Not there, no.

17 Q. In your jury questionnaire, you told us that you weren't

18 sure whether you had any beliefs that would affect your jury

19 service because you didn't know until you were confronted with

20 it. Do you remember giving that answer?

21 A. Yes.

22 Q. Is that why you're expressing a little hesitation about

23 whether you could do some of these things, because you're just

24 not sure what's going to happen?

25 A. Yes. I believe I could. Like I said, until it's actually



1 presented to me, I really don't know for sure.

and what  
2 Q. You understand that what the Judge is asking you  
those  
3 we're asking you is if you can make that effort to take  
that you  
4 things that you've heard and some of the impressions  
courtroom  
5 have and put them outside or leave them outside the  
his Honor  
6 and come into the jury box to listen to the case, as  
7 says, and start on a clean page.

8 A. Uh-huh.

9 Q. You understand that that's what we're asking you to  
do?

10 A. Yes.

11 Q. Is there anything that you can think of that makes  
you  
12 doubt why you could do something like that?

13 A. No.

14 Q. I take it you've made other hard decisions in your  
life  
15 where you had to consider lots of facts and  
circumstances?

16 A. Right. Uh-huh.

17 Q. And I would imagine that you'd want to make those  
decisions  
18 only after you had as much information as possible. Is  
that  
19 true?

20 A. Yes. Yes.

21 Q. I'm sure getting married was one of those --

22 A. Yes.

23 Q. -- decisions; right?

24 A. That's what I was thinking, yeah.

25 Q. One of those where there's obviously a lot of  
emotion

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1 involved?

2 A. Uh-huh.

3 Q. But where ultimately, there's a lot more things  
that you

4 have to consider?

5 A. Yes.

6 Q. I use that example and obviously, it's not that  
much like a

7 trial, but here, you have some emotional response  
because of

8 what you've heard or, like you said, the things that  
you saw

9 immediately after the bombing.

10 A. Uh-huh.

11 Q. But you understand here in a courtroom, you can't  
use that

12 emotion or rely on that in any way to make your  
decision.

13 A. Yes.

14 Q. Can you accept that?

15 A. Yes.

16 Q. I realize we're asking you to almost set aside one human,

17 you know, feeling; but here, we have to make a decision. Your

18 real decision is does -- has the Government, have we proven to

19 you beyond a reasonable doubt that the defendant is guilty of

20 the crimes charged. You understand that's the first question

21 you would be asked?

22 A. Yes.

23 Q. And that's all you would decide in the first instance.

24 A. Yes.

25 Q. You really have to separate in your mind is he guilty from

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1 the punishment.

2 A. Yes.

3 Q. Did you understand that from the Judge's instructions?

4 A. Yes.

5 Q. And that's important, of course, because you can't decide

whether 6 what punishment someone should receive unless you know  
because 7 they actually are guilty of the crime. I ask you that,  
purposes 8 once you make that determination -- let's assume for  
you 9 of this discussion that you do -- you're on a jury and  
capital 10 determine that someone is guilty of what we call a  
penalty. 11 crime; you know, something that could get the death  
second 12 Once you make that decision and then you start the  
again 13 trial, as his Honor referred to it, you have to start  
14 with basically a clean page. Do you understand that?  
15 A. Yes.  
these 16 Q. So even if the crime is horrible and there are all  
someone 17 circumstances that you found -- for example, that  
one, which 18 engaged in a premeditated murder. Let's use that as  
lean 19 is something I think you mentioned as a fact that might  
sentencing 20 you towards the death penalty. When you get to that  
going to 21 phase, you realize that's only one factor that you're  
22 hear about.  
23 A. Yes.

24 Q. You realize that. So you can't have that be a  
factor that  
25 decides for you automatically, you know, if someone  
planned to

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1 murder, that's it, they are going to get the death  
penalty.

2 Can you accept that?

3 A. Yes.

4 Q. I think we've explained it sometimes as, you know,  
there's

5 people who have all different views about the death  
penalty.

6 For example, there's some people who believe it should  
never be

7 imposed. And obviously, they are entitled that view.  
And then

8 there's people on the other extreme who think if one is  
guilty

9 of the crime, once they determine guilt, then they  
should

10 automatically receive it. And those kind of people,  
obviously,

11 we can't have making a determination in a criminal  
trial,

12 because you have to consider all the evidence before  
you make

13 any decisions. Do you understand that?

14 A. I understand.

15 Q. It's obviously very important to a defendant and to  
the  
16 Government that you are willing to listen to everything  
and  
17 wait until the very end before you make any  
determination, no  
18 matter what the crime is. And the Judge explained it  
to you  
19 in -- in legal terms that we use, which are aggravating  
20 circumstances and mitigating circumstances. And those  
are  
21 really just legal terms that we use for reasons why you  
think  
22 someone might receive the death penalty or might  
receive life  
23 in prison, all the different facts and circumstances  
about that  
24 human being, about who he is, what he did, his role in  
the  
25 offense, whether someone forced him to commit the  
crime; you

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1 know, whether he had a bad childhood. All the things  
that  
2 you've probably heard about and reasons why you would  
consider  
3 someone's -- or you would take into account for  
someone's

4 sentence. Did you understand that?

5 A. Yes.

6 Q. Now, sometimes when we ask people about the death  
penalty

7 and what kind of cases they think the death penalty is

8 appropriate for, they usually focus on those  
aggravating

9 circumstances. I think that you put in your  
questionnaire

10 like, you know, premeditation. Do you understand that  
that's

11 only one set of factors you have to consider? You also  
have to

12 look at the other side and other reasons that would  
mitigate

13 against or make you feel that maybe there's other  
reasons that

14 would tend towards life, someone should receive life in  
prison?

15 A. Yeah. I think I could.

16 Q. Okay.

17 A. I think I could do that.

18 Q. I realize that's a hard thing to ask you to do; but  
the

19 reason the Court and we are asking you to do that is  
because we

20 don't know ultimately even in this case if there were a  
penalty

21 phase what all that evidence would be. So there's no  
way you

22 could make a decision right now about what penalty  
someone

23 should receive. Can you accept that?

24 A. Yes.

Judge 25 Q. Okay. In your questionnaire, the question the

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1 pointed out to you several times there at the end,  
where you

2 say you think your opinion could be swayed and you  
believe in a

3 fair trial and you would base that solely on the  
evidence. You

4 used the word "sway."

5 A. Uh-huh.

6 Q. You know, because we're lawyers, we focus on exact  
words

7 and what they mean.

8 A. Right.

9 Q. But you understand that the defendant has no burden  
to sway

10 you? I mean, you have to come in here believing he is  
not

11 guilty. Okay. If we're starting at a hill, we're at  
the

12 bottom of the hill.

13 A. Uh-huh.

14 Q. And the Government is down there at the bottom, and  
we have



15 to climb all the way to the top of the hill and make  
you  
16 believe -- and go over that hill -- beyond a reasonable  
doubt  
17 that he's guilty. You can't start in the middle and  
say, you  
18 know, if he can bring me down to the bottom, then I'll  
believe  
19 he's innocent, or if the Government can bring us over  
the top,  
20 you know, we'll think he's guilty. Do you understand  
that?  
21 A. Yes.  
22 Q. You have to start there at the bottom with them and  
say  
23 unless the Government can prove it to me, I'm going to  
believe  
24 that he's not guilty.  
25 A. Right.

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1 Q. Now, can you do that?  
2 A. I think so. Here again, I say think. You know, I  
can't  
3 guarantee it. I think I could.  
4 Q. But you accept that he doesn't have any burden to  
prove to  
5 you that he didn't do it; right?

6 A. Yes. I understand that.

brother 7 Q. And you would want the same thing if it were your

8 or you that was facing some type of criminal charge --

9 A. Of course.

it's on 10 Q. -- I would imagine. You told us that -- I think

asked you 11 page 22, Question 100, if you could look at that. We

12 about the criminal justice system.

13 A. Uh-huh.

every 14 Q. And you said you didn't think justice was served in

15 case. Can you tell me what you meant by that?

think 16 A. Well, I -- I don't know. I don't -- I don't always

always 17 it's possible that it is always -- that justice is

evidence, 18 served. It -- I think it just depends on, you know,

me 19 things like that. But that doesn't necessarily mean to

say. 20 that -- I don't know how to describe what I'm trying to

might 21 If the evidence hasn't been presented, then the person

every 22 get off, where I don't always feel that every -- in

23 single situation that was fair.

you 24 Q. Can you think of any cases that you know of where

25 thought maybe justice wasn't served?

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the  
feeling I  
1 A. I didn't think -- well, here again, I didn't know  
2 evidence, but in the O. J. Simpson case. I got a  
3 don't think --

4 Q. What was your -- what was your gut feeling?

5 A. My gut feeling is that he was guilty of the crime.

in the  
6 Q. It sounds to me that you're saying but you weren't  
7 courtroom; right?

8 A. Right.

9 Q. You didn't watch it on TV every day?

10 A. Right.

11 Q. So you don't know what the jurors heard or what the  
12 evidence was?

13 A. No. I didn't watch any of that, so . . .

were  
we're  
courtroom  
the  
14 Q. Can you accept their verdict in the sense that they  
15 the ones that ultimately had to make the decision that  
16 talking to you about; that they had to go into the  
17 with a clean slate and make their decision not based on

saw? 18 media or reports or anything, but based on what they

19 A. Yes.

113. We 20 Q. On page 25, if you could turn to that, Question

that? 21 asked you about law enforcement witnesses. Do you see

22 A. Yes. Uh-huh.

witnesses. 23 Q. And you said you'd believe them more than most

24 A. Yeah, I think I would.

You 25 Q. Well, what if the Judge told you you can't do that?

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to 1 can't believe any witness more than another. You have

2 accept whether the person is, you know, from the police

3 department or a civilian or working at a -- as a floral

witness -- 4 designer that everyone comes into the courtroom as a

5 A. Uh-huh.

based 6 Q. -- again with a clean slate, and you have to decide

respond. 7 on what they tell you and how they look and how they

8 Can you -- could you do that?

9 A. I think so.

10 Q. Is there a reason why you think law enforcement  
officers  
11 are more believable?  
12 A. Not necessarily. I would just think maybe on an  
everyday  
13 level, I'm very trusting of law enforcement. And I'm  
not -- I  
14 don't have the single view of them or -- so that's --  
that's  
15 all I meant.  
16 Q. Well, if a law enforcement witness were to take the  
stand  
17 and there were some dispute about his testimony by the  
defense,  
18 or the defense could present the witness -- it doesn't  
matter  
19 who does it -- and dispute, could you judge that  
person's  
20 credibility just based on the factors that you use to  
determine  
21 whether anybody's telling you the truth?  
22 A. Yeah. I think I could.  
23 Q. You wouldn't give him kind of an extra point just  
because  
24 he was in law enforcement?  
25 A. Here again, I don't think so. I think I could look  
at it

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1 that way.

Judge's  
2 Q. Well, I think it comes down to can you follow the  
3 instructions. I realize that, you know, you may have  
some  
4 impressions or opinions; but it's really can you take  
your oath  
5 to serve and do as the Judge instructs you and follow  
the law.

6 A. Yes.

7 Q. If you can turn to page 28, to your views on the  
death  
8 penalty. And you reviewed these with the Judge.

9 A. Uh-huh.

10 Q. But I'd just like to ask you a few more questions  
about  
11 them. You can see down there in D it says, "In what  
kind of  
12 cases is it appropriate, if ever, to impose the  
punishment of  
13 death?"

14 And you focused on one factor, which is  
whether the  
15 defendant confessed, so that you would feel good about  
knowing  
16 he absolutely did it; is that right?

17 A. Yes.

18 Q. Can you think of other factors that you would  
consider on  
19 both sides, using those legal terms again, in  
mitigation or in

any 20 aggravation, things you'd want to know before you made  
21 decision about the death penalty?  
22 A. I -- I can't think of anything off the top of my  
head. I  
23 would -- I definitely feel I had to have enough  
evidence to --  
24 to believe in it. But if I felt that I did have the  
evidence,  
25 then, yes, I very much believe in it.

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whether 1 Q. Okay. Well, let's get past the evidence, which is  
2 he did it or not, and go to that second stage the Judge  
was 3 telling you about, the penalty hearing.  
4 A. Uh-huh.  
5 Q. Once you've decided you had enough evidence, what  
other 6 factors would you want to know about? Would you want  
to know 7 about what role he had in the crime?  
8 A. Yes.  
9 Q. In other words, whether he was -- let's use a bank  
10 robbery -- whether he was the guy who went in with the  
gun and,  
11 let's say, shot the teller or whether he was just the  
driver of

12 the car that drove the shooter to the bank. Would that  
make a

13 difference to you?

14 A. Possibly. I don't know.

15 Q. I understand. You'd have to hear all the evidence,  
but

16 these are the type of things you'd want to know before  
you

17 sentenced someone?

18 A. Well, whether he had gone in with -- you know -- an  
example

19 of the bank robber, whether he had gone in or driven  
the car, I

20 feel equally guilty. It still assisted.

21 Q. Okay. But again, maybe -- maybe I'm not making  
this clear.

22 Let's get past the guilty stage. You've already  
determined

23 someone is guilty, but before you determine the  
punishment.

24 You realize this is probably the greatest decision you  
can make

25 about someone else's life?

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1 A. Yes.

2 Q. To take their life or to put them in prison for the  
rest of



3 their life?

4 A. Yes.

5 Q. I take it you wouldn't want to do that without  
having every

6 bit of information you could possibly have?

7 A. Yes. Right.

8 Q. So would you want to know whether the person  
expressed

9 remorse and was sorry for what they did?

10 A. Yes.

11 Q. Would you want to know what kind of background they  
had,

12 again, before you make a decision? We're not asking  
you

13 ultimately what your decision is. You understand that.

14 A. Right.

15 Q. You don't know the evidence. I'm saying what kind  
of

16 information would you want before you came to a  
decision.

17 A. I suppose all the evidence -- excuse me -- all the

18 information I could have.

19 Q. Okay. If you were seated as a juror in this case  
and if

20 there were a penalty phase, do you understand that you  
would

21 have to consider those things? The Judge would  
instruct you,

22 so as part of your oath to follow his instructions,  
you'd have

23 to consider all those before you made any decision?

24 A. Yes.

oath?  
25 Q. And if you didn't, you'd be in violation of your

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1 A. Yes.

told you  
2 Q. So you wouldn't have any problem accepting if he  
role --  
3 you have to look at the defendant's background, his

4 THE COURT: I think you're prolonging the same  
5 questions over and over.

6 MS. WILKINSON: Okay.

7 BY MS. WILKINSON:

8 Q. Ultimately, though, you would follow the Judge's  
9 instructions as to the penalty phase as well as the  
guilt

10 phase?

11 A. Yes.

12 MS. WILKINSON: Thank you, very much.

13 THE COURT: Mr. Tigar.

14 MR. TIGAR: Thank you, your Honor.

15 VOIR DIRE EXAMINATION

16 BY MR. TIGAR:

17 Q. Good morning.

18 A. Good morning.

19 Q. I notice you -- you say you get almost all of your  
news  
20 from television; is that right?

21 A. Yes.

22 Q. And you haven't read anything that you can remember  
in the  
23 newspapers about the Oklahoma City bombing case or  
about Terry  
24 Nichols?

25 A. No.

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1 Q. And if I remember right, you heard -- you watch --  
do you  
2 watch television about one to three hours a day?

3 A. Yeah. I would guess.

4 Q. And do you watch the local news, the national news?  
Which  
5 ones?

6 A. Usually local. Sometimes national.

7 Q. And as far as you're concerned, television and  
radio are  
8 pretty accurate, what you hear on there?

9 A. Fairly, yeah.

10 Q. I notice here you said that you listen on radio to

I'm not 11 something called Jay Marvin. Well, you probably know  
12 from here.  
13 A. Uh-huh.  
14 Q. And what -- who is Jay Marvin?  
15 A. Oh, it's -- he's a talk-show host.  
16 Q. Is there any particular political view or -- that's  
17 expressed on the Jay Marvin show?  
18 A. No. It's -- it's mostly I -- we listen to it at  
work just  
19 as background. You know, I'll catch it. I probably  
wouldn't  
20 intentionally turn it on.  
21 Q. So --  
22 A. I couldn't even say I follow it very closely. It's  
kind of  
23 background -- background sound for us. So I can't  
really even  
24 tell you what he talks about. He'll just pick a topic  
and have  
25 callers call in and they pretty much take it from  
there.

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the 1 Q. Okay. Have you heard anything on that show about  
2 Oklahoma City case or Terry Nichols or Timothy McVeigh?  
3 A. No. I haven't heard any of that.

that on 4 Q. Now, turning to the McVeigh case, did you follow  
5 the television and radio?  
about 6 A. I -- I wouldn't say I would seek it out if I heard  
7 it. I would listen to it, but, you know, I wouldn't  
8 intentionally try and find it.  
the 9 Q. Do you remember where you were when you heard about  
10 jury's verdict of guilty in the Timothy McVeigh case?  
11 A. Yes.  
12 Q. Where were you?  
13 A. I was at work.  
14 Q. What did you feel about that?  
15 A. I felt good about it.  
feel good 16 Q. All right. And why -- what was it that made you  
was the 17 about it? You thought, from what you understood, it  
18 right thing?  
didn't 19 A. Well, from what I understood. Here again, I -- I  
the 20 know. I wasn't -- I didn't serve. I didn't know all  
great 21 evidence they had. But to my understanding, they had a  
sister 22 deal of evidence, and I felt that -- actually, when his  
23 took the stand is what, to me, made me feel that it was

24 probably pretty likely he was guilty.

you 25 Q. What was it about her testimony that -- that -- as

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1 heard about it, that caused you to believe that?

had 2 A. I don't remember specifically. I think that she

certain 3 mentioned that Timothy McVeigh had mentioned to her

date 4 dates where he'd say something big's going down on this

didn't 5 or, you know -- here again, it's very vague to me. I

was -- 6 follow it closely, but -- I don't know. I felt that it

it, but 7 I don't know. I can't tell you why I felt good about

8 I -- I felt good about the verdict.

the jury 9 Q. Do you remember where you were when you heard that

penalty? 10 had decided to recommend that he receive the death

11 A. No. I don't remember where I was.

12 Q. Do you remember what you felt about that?

13 A. I felt good about that.

14 Q. And why did you feel good about that?

I -- I 15 A. Well, here again, I felt -- in any case of murder,

16 feel that if it's -- if they are guilty, then that's  
justified.

17 Q. Do you think that in a case in which someone  
commits a

18 premeditated murder -- that is, with planning in  
advance --

19 that that's the only proper punishment that society  
should mete

20 out to that person if --

21 MR. MACKEY: Judge, objection.

22 THE COURT: Overruled.

23 JUROR: Well, I don't -- I don't know it would  
be the

24 only one. It's -- it's the one I would feel would be  
best

25 suited.

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1 BY MR. TIGAR:

2 Q. That's what your feeling is about it?

3 A. That's what my feeling is.

4 Q. Well, I want to ask you something about this  
process in

5 which we're engaged. Now, what did you think when you  
got this

6 jury qualification questionnaire in the mail?

7 A. Well, I wasn't thrilled about it. I mean, it was  
-- I

8 found it interesting. I found it strange that I would  
be  
9 chosen even to be, you know, considered. But if I had  
thought  
10 about it long enough, I realized this would be a very  
involved,  
11 it would be a very stressful case.

12 Q. Like today?

13 A. Somewhat like today.

14 Q. And do you remember on that questionnaire, you were  
asked  
15 26 questions and then asked -- you signed your name and  
--

16 under penalty of perjury and all that sort of thing?

17 A. Yes.

18 Q. You remember that?

19 A. Yes.

20 Q. And do you remember that you gave -- you were  
asked, "Is

21 there any reason that would prevent you from serving on  
this

22 jury," and you said yes? Do you remember?

23 A. Yes.

24 Q. Okay. And you gave three reasons.

25 A. Right.



1 Q. Yes.

2 A. I don't remember three reasons.

3 Q. Pardon?

4 A. Yeah, I think I remember the three reasons, but --

5 Q. All right. Well, let me see -- one was, "I can't  
afford

6 what I would be paid"; right?

7 A. Right.

8 Q. Now, that, you think you could work out?

9 A. Yeah. I mean, I think it's -- it's doable. It  
would be

10 tough, but it's doable.

11 Q. Okay. And then you said, "I work in a two-man  
operation,

12 which would leave my employer in a big bind"?

13 A. Yes.

14 Q. Is that right?

15 A. Yes.

16 Q. Now, are there just two people that work in the  
shop?

17 A. There's two designers and a driver, and I'm one of  
the

18 designers.

19 Q. Okay. So it's a -- it's -- it would be more  
politically

20 correct to say it's a two-person operation?

21 A. Sure.

22 Q. Okay. And you're one of the two persons?

23 A. Right.

24 Q. Okay. And the other one you said was, "I don't  
feel

25 open-minded about this particular case."

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1 A. Yes.

2 Q. Do you remember that?

3 And that was back on July the 27th, '97.  
Well, what

4 was going through your mind that caused you to write  
down and

5 then sign, "I don't feel open-minded about this  
particular

6 case"?

7 A. Well, here again, as I -- as I said earlier to  
Judge

8 Matsch, the -- I think I feel a little more swayed to  
believe

9 he's guilty. That was before his instructions to --  
you know,

10 to start with a clean slate. I could try to do that.  
I would

11 do my best to do that. But I guess just -- you know,  
after the

12 bombing and after they have two people in custody, in  
my mind,

13 I'm thinking it's likely, anyway, that they would be  
guilty.

14 Not that they are guilty, but that -- it's a good  
possibility.

15 Q. Okay. And well, then let's go back to that time  
after the

16 bombing. Did you see the television coverage of the  
bombing?

17 A. Yes.

18 Q. Or of the building after the bombing?

19 A. Yes.

20 Q. And were you watching -- now, let's see. That's  
back in

21 April of '95. Where were you working then?

22 A. I was working at the flower shop.

23 Q. Oh, all right. And so did you hear about it on the  
radio

24 there? That day?

25 A. Yeah. Actually, that's where I found out, yeah.

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1 Q. And is there a TV set there at the flower shop?

2 A. No.

3 Q. All right. So that first evening, did you watch on  
4 television?

5 A. Yes.

6 Q. Now, do you remember what -- when's the first time  
you

Timothy 7 remember hearing the name or seeing this person,  
8 McVeigh?

I'm -- 9 A. First time. Maybe the day following the bombing.  
10 you know, I'm not really sure.

11 Q. Do you remember how he was taken into custody?  
12 A. Yes. That he had been stopped for a traffic  
violation, I  
13 suppose.

me as 14 Q. All right. Well, see, I know -- you're looking at  
15 though I'm going to grade your answer and, believe me,  
I'm not.  
16 We're just -- I'm just going to ask questions. In  
fact, I'm  
17 not supposed to provide you information.

18 A. Right.

19 Q. We're just trying to ask you to look deep in  
yourself and  
20 tell me what you remember.

21 A. My memory, that's what I can remember.

22 Q. All right. When is the first time you can remember  
seeing  
23 or hearing about Terry Nichols?

24 A. Shortly after. I don't know exactly when.

25 Q. And what -- what do you remember about that as you  
sit

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1 there today?

2 A. I had thought that he had turned himself in.

3 Q. Now, were you under the -- you mentioned in your  
4 questionnaire something about confession. Do you have  
anything

5 in your mind about a confession related to anybody in  
this

6 Oklahoma City situation?

7 A. No.

8 Q. Okay. And when's the first time you can -- well,  
did

9 you -- did you hear -- did you hear about or see on the  
10 television any search of Terry Nichols' brother's farm  
in

11 Michigan?

12 A. I don't recall. That's maybe vaguely familiar, but  
I

13 really don't recall that.

14 Q. Okay. But would it be fair to say that over the  
last, oh,

15 more than two years, you have seen and heard on the  
radio quite

16 a bit about the Oklahoma City case?

17 A. Yes.

18 Q. Now, let me -- do a lot of people that you work  
with --

19 have you -- well, have you discussed this case with  
people that

20 you work with?

21 A. No.

22 Q. I'm not talking about since you got the summons.

23 A. Right.

24 Q. But have you talked about it in the shop?

25 A. Oh, before I had the summons?

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1 Q. Yes. Yes.

2 A. Oh, well, sure, after the bombing, we -- we had  
talked -- I

3 don't remember speaking exactly of this case, but the  
bombing

4 had been discussed.

5 Q. Absolutely. And -- and did those folks express an  
opinion

6 about who was guilty and who was not?

7 A. No.

8 Q. Okay. How about with your husband? Have you  
talked about

9 the case? I mean, before you got the summons.

10 A. No. Not -- not really. I mean, I can't recall any  
times

11 discussing it.

12 Q. Well, moving on to the -- in the questionnaire, you  
came

13 out to Jeffco on the 17th and you filled that out. And  
you  
14 told us some things there about, you know, what you  
read and  
15 heard, and most of that, we -- we've gone over. But  
could you  
16 turn to page 35, please. You don't know anybody -- I'm  
sorry.

17 36. That's where you tell us that almost all of your  
exposure  
18 was through television? Right? There at the bottom of  
the  
19 page.

20 A. Right. Yes.

21 Q. Let's turn over the page to 37. I have heard that  
he is --  
22 has been involved in anti-government groups. What did  
you hear  
23 about that?

24 A. I hadn't heard necessarily that he was. I -- for  
some  
25 reason, that had stuck in my mind that he had been a  
militia

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1 member.

2 Q. And then over on the next page, page 38, you say,  
"I think  
3 my opinion could be swayed based solely on the  
evidence."

4 That's the same thing that others have asked you about.

5 A. Uh-huh.

"do"

6 Q. You underline "think" twice, and then you underline

7 once. Can you tell me about your underlining feeling?

this

8 THE COURT: Well, Mr. Tigar, I already asked

9 question. She's already answered it. Same question.

different

10 MR. TIGAR: I thought I was asking in a

11 form, your Honor.

12 THE COURT: I don't think so. I think you're

13 repeating a question the Court's already asked.

14 BY MR. TIGAR:

some

15 Q. Well, are you saying here that you start out with

be

16 feelings that Mr. Nichols is guilty and that you might

17 swayed to thinking him not guilty?

18 A. No. That's -- that's not necessarily what I mean.

your

19 Q. Well, would it take some evidence from us to change

20 mind?

21 A. Yes. Well -- yes.

22 Q. Okay.

23 A. From both sides.

question

24 Q. Then, let me ask about the answers relating to the



do you 25 of punishment, if I might. And that's page 28. Now,

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here at 1 feel strongly that -- let's see. You say on Question D

2 the bottom of page 28, "I am very in favor of the death  
3 penalty"; is that right?

4 A. Yes.

with or 5 Q. Now, is that a -- is that the view that you start

6 is that related to particular cases?

deal with 7 A. That's just a view I -- I start with. It doesn't

8 any particular case.

has 9 Q. All right. And you say, "If I feel sure the person

10 done the crime"; right?

11 A. Right.

before, but 12 Q. Now, do you -- I wasn't clear from your answers

convicted of 13 I -- I thought I heard you say that if someone is

that person 14 premeditated murder that was planned in advance and

vote for 15 is an adult who's sane, a sane person, that you would

16 the death penalty for that person --

17 MR. MACKEY: Judge. Objection.

18 THE COURT: Sustained.

19 BY MR. TIGAR:

20 Q. Well, tell me then, what you think under what --  
what  
21 circumstances should a person receive the -- the  
penalty of  
22 death?

23 A. I usually think in the case of murder.

24 Q. And that would be -- can you think of anything  
about a case  
25 of premeditated murder that would cause you to not  
believe that

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1 the death penalty is the appropriate punishment?

2 MR. MACKEY: Judge, objection.

3 THE COURT: Well, it's not objectionable.

4 JUROR: Well, first let -- let me clarify. I  
mean,

5 I'm not necessarily saying premeditated even. Yes.

6 Premeditated. But I just -- I mean, murder in general  
to me,

7 unless it's in self-defense, I feel is justified by the  
death

8 penalty. If that answers your question.

9 BY MR. TIGAR:

10 Q. Yes. Yes, it does. Thank you. You said that you  
had some  
11 problems or queries about the justice system, and could  
you  
12 look at page 22, please. And I know you were asked  
about this,  
13 but I thought I heard you say that justice is not  
served, a  
14 person might get off because the evidence isn't  
presented. I  
15 wasn't sure I understood your answer, and I wanted you  
to tell  
16 me some examples of cases where you thought justice  
wasn't  
17 served. I know you mentioned the O. J. Simpson case.  
Are  
18 there any others?

19 A. That's the only one that sticks in my mind as a  
particular.

20 Q. Okay. And was that what you were talking about  
when you  
21 didn't think it was served in every case? Were you  
thinking  
22 about that?

23 A. Yes.

24 Q. Now, you also said that you would -- and I know  
that  
25 counsel asked you about it, but you thought that law

1 enforcement witnesses ought to be considered  
differently than

2 others; right?

3 A. Well, I -- I don't mean that they ought to. I  
think in my

4 opinion, I -- I might sway a little more -- not meaning  
to, but

5 maybe sway a little more to believe them.

6 Q. Where does that feeling or -- come from in your  
background?

7 Can you tell me what that's about?

8 A. Well, just as I said earlier, I have a tendency --  
I trust

9 them. I haven't had any bad experiences with law  
enforcement.

10 I -- I know not everyone is trustworthy who's in law  
11 enforcement, but I just have a tendency to trust them.

12 Q. And would you have a tendency to trust them more  
than

13 somebody, say, somebody who was a relative of a  
defendant?

14 A. Not necessarily.

15 Q. Well, I understand not necessarily, but I'm talking  
about

16 your starting point.

17 A. Right.

18 Q. The baseline. I'm trying to find out where the --

19 A. Right.

20 Q. -- where the race towards decision starts.

could try 21 A. Well, you know, I put that down as saying I -- I  
22 to -- this is where I say I could try. I can try to be  
23 open-minded and take the clean slate. But I just -- I  
tend to 24 trust them. So I would try not to sway that way, but  
maybe 25 that -- not realizing I'm doing it, I might tend to  
sway that

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Juror No. 484 - Voir Dire

1 way more.  
2 Q. And did you see the television coverage of the  
McVeigh 3 jurors after the trial was over?  
4 A. No.  
5 Q. Heard them talking about their process?  
6 A. I hadn't paid close attention to it. I maybe --  
no. I 7 mean, I really don't remember.  
8 Q. And when you mentioned earlier that folks had  
talked to you 9 about, you know, what you might say on your  
questionnaire,  
10 remember somebody said, If you say you don't believe in  
the 11 death penalty, then you'll get off the jury?  
12 A. Right. Right.

13 Q. When's the first time you can remember having a  
14 conversation with someone about responding either to  
the  
15 summons or the questionnaire?

16 A. Maybe the day I got the summons or the day after.  
Yeah.  
17 Probably the day of -- I got the summons.

18 Q. And who was it that you had that conversation with?

19 A. Specifically? I mean, can I say it was a family  
member?

20 Q. Oh sure. Let's don't have any names because we  
don't -- it  
21 was a brother, sister --

22 A. Actually, it had been a parent.

23 Q. A parent. Okay.

24 A. A friend. Actually, I -- I've been told that more  
than  
25 once. I've probably been told that about five times  
just

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Juror No. 484 - Voir Dire

1 from --

2 Q. By different people?

3 A. Yes. That that's the inside word. That's what you  
do.

4 Q. Did they have the same advice, all of them?

5 A. Do you mean is that --

You tell 6 Q. Yeah. Saying they all -- I mean, somebody said,  
7 them you don't believe in the death penalty; right?

8 A. Yeah. Right.

Did 9 Q. And you say there were about five different people.  
10 all five give you that same advice or was there other  
advice?

mind, 11 A. That's the only one that really sticks out in my  
12 because it had been repeated to me several times.

13 Q. I see. By that person?

14 A. Those people?

out how 15 Q. By -- I see. By more -- I'm just trying to find  
16 many people said that. That's all.

I'm not 17 A. I don't know for sure. I would guess four, five.  
18 sure.

influence 19 Q. Okay. And but -- you didn't let those people  
20 your answers, did you?

21 A. No.

did you 22 Q. In fact, on both the summons and the questionnaire,  
23 do your very best to say what your feelings were?

24 A. Yes. I answered it as honestly as I could.

25 MR. TIGAR: Thank you very much.

1 THE COURT: Well, you're excused now for this  
time.  
2 We're not making these decisions as we go, so please  
continue  
3 to follow the cautions as you have been doing, and  
we'll be  
4 back to you when we know.

5 JUROR: Okay. Thank you.

6 THE COURT: You're excused for now.

7 We'll recess. 20 minutes.

8 (Recess at 11:02 a.m.)

9 (Reconvened at 11:22 a.m.)

10 THE COURT: Please be seated.

11 I have 37. Is that next?

12 MR. TIGAR: Your Honor, very briefly, I wanted  
to  
13 express concern about Government counsel's mode of  
14 interrogating the jurors with essentially just leading  
15 questions, you know, a statement and then a commitment,  
a  
16 series of commitments as opposed to exploration.

17 I didn't want to stand up and be objecting,  
but I -- I  
18 wanted to express our view that that is not the most  
19 appropriate way to conduct the inquiry of these jurors.

20 THE COURT: Well, I'd like to avoid these



suggestions

21 of what, you know -- of what might be a mitigating  
factor or

22 that type of thing. We'll have to discuss this, I  
think,

23 further when we talk about the motions to excuse this

24 afternoon.

25 I have some suggestions for all of us.

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1 MR. TIGAR: Yes, your Honor. Thank you.

2 THE COURT: So No. 37.

3 If you will, sir, please raise your right  
hand. Take

4 the oath from the clerk.

5 (Juror No. 37 affirmed.)

6 THE COURTROOM DEPUTY: Thank you.

7 THE COURT: Please be seated there in the  
chair by the

8 microphone. And that swivels around, so you can adjust  
it to

9 your own -- whatever suits you.

10 JUROR: Okay.

11 VOIR DIRE EXAMINATION

12 BY THE COURT:

13 Q. And of course, you took an oath like that before  
when you

14 came out to Jefferson County Fairgrounds' auditorium  
building  
15 to respond to the questions on a written questionnaire.  
You  
16 recall that day, I'm sure.  
17 A. Yes, sir.  
18 Q. And also that was after you received a summons  
notifying  
19 you that you, through a chance selection process --  
you're one  
20 of those who had -- whose name was given to us as a  
possible  
21 juror in this case, which is the case of Terry James  
Nichols --  
22 United States against Terry -- excuse me -- Lynn  
Nichols. You  
23 understand that?  
24 A. Yes, sir.  
25 Q. And at the time that you appeared out there at the

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1 fairgrounds, you -- I introduced myself to you and the  
other  
2 people who were there and also introduced others  
participant --  
3 participating in this case, lawyers for the Government  
and the  
4 defendant and Mr. Nichols. So let me reintroduce them  
so you

5 know who is here with us today.

Mackey and

6 We have for the Government, Mr. Lawrence

7 also -- excuse me -- Ms. Beth Wilkinson.

that time

8 And additionally -- they were not there at

for the

9 but are here today -- Mr. Patrick Ryan and Mr. Mearns

10 prosecution. These are lawyers for the Government.

Lynn

11 For the defense, you met Mr. Michael Tigar and

12 Mr. Ronald Woods; and of course, Mr. Nichols, Terry

13 Nichols.

your

14 Now, there are other people in the room within

introduce

15 sight, but they're assisting; and we're not going to

waiting as

16 everybody. We'd be here too long, and you've been

17 it is.

have taken

18 It is important to understand here that we

copies,

19 your answers, the completed questionnaire and made

making them

20 provided them to the lawyers and me, but we're not

well

21 public. And as I told you and as you now know very

you some

22 because you've answered these questions, we have asked

23 things that do, we admit, invade your privacy and some

things

24 that are personal in nature. We try to protect your  
privacy as

25 far as we can, and that's why we refer to you here by a  
number

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1 and not name and also why we provide your -- a way for  
you to

2 come in and out of the courthouse without being subject  
to

3 being photographed or identified. All of that is  
simply a

4 matter of protecting your personal privacy.

5 This, of course, is an open courtroom, and  
what you

6 say here is a matter of open record. You understand  
that?

7 A. Yes, sir.

8 Q. But if there is anything that comes up where you  
want to

9 talk about it privately, you have that opportunity.  
You just

10 tell me.

11 Now, we're not going to go through the whole  
12 questionnaire and ask you these questions all over  
again; but a

13 few of these matters we will want to talk about and  
simply some

14 follow-up questions and then maybe some additional  
questions.

15 I will ask you questions, and then the lawyers on each  
side

16 have the same opportunity.

17 And, you know, some of the things -- I just  
want to

18 review with you some of the things that I've already  
told to

19 you and the others; but it is important that we have  
kind of a

20 base here so that we understand with respect to  
questions that

21 follow what that baseline is. And, of course, what I  
mentioned

22 out there and do repeat is that under the United States

23 Constitution, there are charges to be considered in  
this case;

24 but the defendant is presumed to be not guilty of those

25 charges. You understand that's fundamental.

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1 A. Yes.

2 Q. And I told you something about the charges.  
Indeed, I told

3 you about the background of the case, as I recall; that  
I

4 advised you that this arises as a result of an  
explosion that

5 destroyed a building in Oklahoma City, Oklahoma, on  
April 19 of  
6 1995; that people were killed and injured; that then  
there was  
7 an indictment in Oklahoma City in the Federal Court  
there,  
8 charging a man named Timothy James McVeigh and Terry  
Lynn  
9 Nichols and also other persons not named in the  
indictment with  
10 entering into a conspiracy or agreement or plan to bomb  
that  
11 building and that the charges also include the carrying  
out of  
12 such a plan and the murder of eight law enforcement  
agents who  
13 were in the building, federal law enforcement agents.  
You  
14 recall my explaining that?  
15 A. Yes, I do.  
16 Q. And that the case was changed from Oklahoma to  
Denver for  
17 trial because of the impact on the community there and  
the  
18 difficulty in expecting those people to sit on a jury  
and then  
19 that the case was also separated so there would be a  
separate  
20 trial for Mr. McVeigh and a separate trial for Mr.  
Nichols so  
21 that there wouldn't be any cross-over effect, as it  
were, and  
22 the evidence being different with respect to both of

the

23 accused, we'd have a different jury to consider that  
evidence.

24 And that, of course, is why we're here now, there  
having

25 already been a trial of Mr. McVeigh; and you know the  
outcome

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Juror No. 37 - Voir Dire

1 of that.

2 A. Yes.

3 Q. And you know, because I told you -- and I hope you  
know

4 even beyond that -- that the outcome of that case  
cannot be a

5 factor in this case, can't be considered at all. That  
would

6 violate the whole reason that separate trials were  
ordered,

7 because we start with no evidence at all in this case.  
And I

8 take it you're in agreement with that.

9 A. Yes, sir.

10 Q. And again, going back to the fundamentals that are

11 applicable to any criminal trial in this country,  
regardless of

12 who is on trial or what for, what the charges, it is,  
as we've

13 said, the defendant is presumed to be not guilty; and

it is up

evidence 14 to the Government to prove the case against him by

15 which is admissible under the rules of evidence.

16 No defendant has any burden or duty of proving  
17 anything at his trial. It's not incumbent upon him to  
call

18 witnesses, and certainly he need not testify; so a  
defendant

19 can simply challenge the Government's evidence against  
him

20 through his counsel with cross-examination, objections,  
and so

21 forth. And if it be the fact in a criminal case that a  
22 defendant does not testify or even offer any other  
evidence,

23 the jury may not consider that fact at all.

24 What we do under those circumstances is tell  
the

25 jurors you can't even talk about it when you talk about  
the

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1 case because no inferences or suggestions can be made  
from

2 that. Follow that?

3 A. Yes, sir.

4 Q. Now, you know, these are principles of law that  
must be



accept 5 accepted and must be followed; and are you prepared to

6 and follow them?

7 A. Yes, I am.

is, not 8 Q. And we also speak about the burden of proof; that

it must 9 only must the Government come in with the evidence, but

that 10 be strong enough to convince jurors, fair-minded jurors

defendant to be 11 what they heard and saw as evidence showed the

so that 12 guilty of what's charged and beyond a reasonable doubt

the jurors 13 if, after considering it all at the end of the case,

evidence 14 are left with a reasonable doubt as to whether the

then they 15 does prove what has to be proved to show him guilty,

find him 16 must give the defendant the benefit of that doubt and

17 not guilty. You understand that?

18 A. Yes, sir.

19 Q. And accept it?

20 A. Yes, I do.

21 Q. And accept it for Terry Lynn Nichols seated here?

22 A. Yes.

things that I 23 Q. All right. Well, I want to just review a few

gave us; 24 understood from the questionnaire, answers that you  
have. 25 and you have it there in front of you. You should

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Juror No. 37 – Voir Dire

parts 1 Please pick it up; and you, of course, can refer to any  
to ask 2 of it, but I have a few of your answers that I'd like  
3 you to expand on.

you've 4 To begin with, of course, we understand what  
5 told us here that you were born in Colorado but down in  
6 Colorado Springs.

7 A. Yes, sir.

8 Q. And then at some time, you were in west Pakistan?

9 A. Yes, sir.

10 Q. When was that?

years. 11 A. That was 1959 through 1961, almost exactly two

12 Q. And what were you doing there?

worked for 13 A. I was a young man just 16 years old. My father  
14 an electrical engineering firm there.

15 Q. And the whole family went?

16 A. Yes, sir.

17 Q. Did you go to school when you were there?  
18 A. I took correspondence courses from the University  
of  
19 Nebraska, high school correspondence courses.  
20 Q. Okay. Where did you get your high school degree,  
then?  
21 You've told us here, but I don't remember.  
22 A. Yes, sir. I came back and took one year of high  
school at  
23 Greeley Central, graduated there.  
24 Q. So did the family move to Greeley at that time?  
25 A. Yes, sir.

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1 Q. And then you went to the University of Colorado?  
2 A. Yes, sir.  
3 Q. And earned your degree there; and then shortly  
after that,  
4 you were in the Army?  
5 A. Yes, sir.  
6 Q. And you were --  
7 A. My degree was actually given after I returned from  
military  
8 service.  
9 Q. Oh. And what, did it interrupt your college time?  
10 A. Yes, it did. Yes.

11 Q. And you were -- you served in Vietnam?

12 A. Yes, sir.

13 Q. What years were you in Vietnam?

14 A. I went there from the fall of '68 to the fall of  
'69.

15 Q. And what units did you serve in, or units?

16 A. I was with the headquarters, U.S. Army, there as a  
computer  
17 programmer.

18 Q. And in fact, that's where you started the career  
that  
19 you're now in, I take it.

20 A. That's correct.

21 Q. You learned the basic skills from the Army.

22 A. Yes, sir.

23 Q. And on-the-job training, as it were.

24 A. Yes.

25 Q. So you were in a headquarters unit and then you  
came back.

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Juror No. 37 - Voir Dire

1 When did you come back from Vietnam?

2 A. October of 1969.

3 Q. You were still in the Army?

4 A. Yes, sir.

5 Q. And where did you go after that?

6 A. I was stationed at Fort Sam Houston for about 17  
months.

7 Q. Okay. And then you are now at Colorado State  
University?

8 A. Yes, sir.

9 Q. And you're -- you're working with information  
systems for

10 the university?

11 A. Yes, sir.

12 Q. Is that internal within the -- for the internal  
operations

13 of the school?

14 A. Yes. We do all of the administrative work, student  
15 records, accounting, that sort of thing.

16 Q. Okay. And do you have a supervisory role there?

17 A. Yes, I do.

18 Q. How many people do you supervise?

19 A. Eleven.

20 Q. And you supervise them technically as well as  
21 administratively?

22 A. As best I can.

23 Q. Okay. Now, your wife is working there as well with  
the

24 graduate students?

25 A. That's correct.

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aid office 1 Q. And as I understand it, she works in the student  
2 for graduates?

students, 3 A. She works with the aid that's given to graduate  
4 and so forth.

in a 5 Q. And does she work with them in a guidance role, or  
6 technical role in terms of the records and criteria for  
7 eligibility and so forth?

8 A. More of a technical role, accounting technician.

as I 9 Q. Okay. You have in your family two daughters who,  
10 understand it, are involved with day care?

11 A. Yes, sir.

12 Q. And now, does one of them live at home?

13 A. One of them is still at home, yes.

same 14 Q. And where are their -- are they both working in the  
15 place?

Collins. 16 A. They work both for Children's World in Fort  
It's 17 different centers, though.

18 Q. Okay. But it has --

19 A. It's the same organization.

20 Q. Same organization, two placements or locations?

21 A. Right.

22 Q. And is this day care in the sense of preschool, or  
--  
23 A. Yes, sir.  
24 Q. All right. You as -- you already told us your  
father was  
25 an engineer?

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1 A. No, he was more of an administrative-type person,  
not  
2 really an engineer.

3 Q. I have -- page 32 is, I guess, where I leap to an  
4 assumption or conclusion. Question 142 asked you about  
anybody  
5 in the family have any experience with explosives.

6 A. In the 1950's, he was involved in some uranium  
mining over  
7 on the Western Slope with an uncle that lived over  
there.

8 Q. And of course, that was the time when there was a  
lot of  
9 activity in that field.

10 Was he active as a miner? I mean, hands-on  
work with  
11 the mining action?

12 A. It was he and my uncle primarily that were trying  
to strike  
13 it rich.

14 Q. In the good old traditional way in Colorado: Go  
out there  
15 and stake your claim and see what you got. Is that it?  
16 A. Exactly.  
17 Q. And I take it that didn't produce a -- an  
operational mine.  
18 A. No, it did not.  
19 Q. Your father still living?  
20 A. Yes, he is.  
21 Q. And is he retired now?  
22 A. Yes.  
23 Q. You have a couple of -- two sisters who live over  
in Tulsa?  
24 A. Yes, sir.  
25 Q. What do they do there?

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1 A. My one sister is somewhat mentally disabled and she  
does  
2 not work. My younger sister is a teacher at an  
elementary  
3 school in Tulsa.  
4 Q. A public school?  
5 A. Yes, sir.  
6 Q. And the sister who has some disability: Was that  
from



7 birth?

16. 8 A. It was not really discovered until she was around

9 Q. Okay. But it wasn't as a result of a trauma or an  
event --

10 A. No, sir.

11 Q. It was a developmental thing.

12 Does she live with your other sister?

13 A. No. She has her own apartment.

14 Q. Okay. Now, are you in communication with them  
regularly?

15 A. Yes, sir.

16 Q. Through E-mail or something like that?

17 A. With E-mail with my father when he's able. He's  
had

18 surgery recently. I haven't heard from him for a  
while. And

19 the telephone.

20 Q. How about the sisters in Tulsa?

21 A. Mostly telephone or visits.

22 Q. Have you discussed with them where you are now;  
that is to

23 say, that you're subject to jury service in this case?

24 A. No, sir. They do not know about it.

25 Q. Have you talked with them at anytime about the  
explosion in

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1 Oklahoma City and the subsequent events?

2 A. I'm sure, sir, after it first occurred, that we  
talked  
3 about it briefly.

4 Q. Well, let me -- you know, the question that I'm  
sure is  
5 obvious that I'm going to ask you is whether you would  
at all  
6 be influenced or affected by your sisters' being  
residents of  
7 the State of Oklahoma, where, of course, we're going to  
hear a  
8 lot about, from people from Oklahoma, an event that to  
the  
9 people in Oklahoma has been a matter of great concern  
and  
10 interest. I mean, we brought this case over here from  
Oklahoma  
11 because it really is too much for them to be expected  
to deal  
12 with it as jurors. So tell us that in terms of your  
reaction  
13 to it or if you think that in any way affects you as a  
14 potential juror.

15 A. I don't think it has any effect on me. In fact,  
they live  
16 a hundred miles or so from that city of Oklahoma City.

17 Q. Yes.

18 A. No, I don't think it affects it in any way.

19 Q. Okay. So if you were deliberating in the case,

would it

outcome 20 come into your mind, What will my sisters think if the

21 is this or that?

22 A. No, sir.

getting back 23 Q. Okay. The -- oh, with respect to getting --

have 24 to your father's work with explosives: You, yourself,

25 never worked with explosives; is that true?

1183

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when I was 1 A. I went over to the mine with him a couple times

2 a young boy, but I did not actually work with it, no.

3 Q. You watched them blow some rock out of there?

4 A. No, he never did while I was there.

days 5 Q. And has he ever talked with you about some of his

of 6 there in terms of an incident with respect to the use

7 explosives?

very 8 A. No. He may have said something, You have to be

remember. 9 careful with it, but that's the only thing I can

10 Q. As far as you know, what he used was dynamite?

11 A. Pardon?

12 Q. As far as you know, what was used was dynamite?  
13 A. As far as I know, yes, sir.  
14 Q. And where do you get that from? Is that from what  
he told  
15 you?  
16 A. I have no idea.  
17 Q. You make an assumption?  
18 A. Yes.  
19 Q. All right. The -- you've never been on a jury,  
have you?  
20 A. No, sir.  
21 Q. Or followed any trials closely so that you have  
some idea  
22 about the process?  
23 A. Not really. I think mostly just television shows.  
24 Q. Sure. That is, dramatizations which may be far  
from  
25 reality.

1184

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1 A. Yes, sir.  
2 Q. You appreciate that.  
3 Well, we want to talk with you a little about  
what can  
4 be involved here, because in this case, the jury will,  
of

we've  
an open  
defendant is  
end of the  
burden  
what  
then ask  
doubt?

5 course, be asked to judge the evidence and just what  
6 already talked about -- hear the trial, come to it with  
7 mind -- the only assumption being made is that the  
8 not guilty -- and then hear and consider what has been  
9 presented in the course of the trial and then at the  
10 trial determine whether that evidence does satisfy the  
11 of proof. And I will instruct the jury in detail as to  
12 has to be proved, the elements of each offense, and  
13 the jury, Well, has it been proved beyond a reasonable

verdict is

14 If the answer is no, then, of course, the  
15 not guilty and that's the end of it.

unanimously in  
of  
charge

16 If, however, all of the jurors agree  
17 their decision that the evidence does prove one or more  
18 these charges, then the verdict is guilty as to the  
19 proved and we have some more work for the jury to do.

of a  
parole,  
punishment is

20 In cases that do not involve the possibility  
21 sentence to death or life in prison without release by  
22 no release of any kind, the question of what the

23 is a matter for the court, the judge, to decide. And  
that's  
24 done after another hearing. I mean, the jury is done  
with its  
25 work when it decides the guilty verdict; but then more  
is done,

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1 information is gathered, both about the offense and  
information  
2 about the defendant. And the information about the  
defendant  
3 includes things about his life history, really, his  
background,  
4 his upbringing, the family relationships, work history,  
5 attitudes, opinions that he has, expressions of  
remorse, if  
6 there be any, a lot of things. And in a general way,  
we could  
7 say these are the things that are unique to that  
individual as  
8 a human being.  
9 And then arguments are presented as well, and  
the  
10 court considers that individual and that offense and  
what is  
11 the appropriate sentence. And that's the decision that  
has to  
12 be made.

13                    Now, decisions about life and death, we don't  
leave to  
14 judges in Federal Court. That's a matter for a jury.  
And  
15 because the jury, if there is a guilty verdict in this  
case,  
16 would be involved with the sentencing decision, we have  
to ask  
17 you some questions about penalties. That's the reason  
for page  
18 28 and page 29 questions. And you probably remember  
being  
19 asked such questions.  
20                    If you'll turn to page 28 -- actually, it  
starts on 27  
21 with some explanatory paragraphs that explain, really,  
the  
22 reasons for asking the questions. And then there are  
four  
23 questions on page 28 and another sort of conclusory  
question on  
24 the next page.  
25                    Do you want to take a moment it review those?

1186

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1 A. Okay.  
2 Q. All right. Now, as explained here, you know, there  
are --  
3 there is a wide variety of opinion among people about  
the death

the law 4 penalty, whether there ought to be a death penalty in  
awareness 5 at all. And of course, you probably have a general  
legislatures 6 of these issues being publicly debated. The  
any 7 discuss it, and it's much discussed every time that in  
out. 8 jurisdiction a sentence to death is about to be carried

9 You're aware of that.

10 A. Yes, sir.

11 Q. And it is awkward for us to talk about that here,  
now, 12 because, of course, we're talking about a case in which  
we have 13 no evidence, in which there is a presumption of  
innocence; and 14 yet, we have to talk about this in sort of what-if  
terms. But 15 before we can talk about the process and the procedure,  
we need 16 to know -- and that's why we ask these questions --  
something 17 about your attitudes and opinions coming in here  
without regard 18 to what the law is.

19 And you've answered these questions, I take  
it, in 20 that spirit.

21 A. Yes, sir.



22 Q. And, you know, I'm going to ask you some things  
about this,  
23 and I'm sure the lawyers are, too. None of us will try  
to put  
24 words in your mouth or steer you to a certain answer.  
This is  
25 something that involves all of us on a pretty deep  
level.

1187

Juror No. 37 – Voir Dire

1 Before you answered these questions out at the  
2 Jefferson County Fairgrounds' auditorium building, had  
the  
3 death penalty been a subject that you have thought a  
good deal  
4 about?

5 A. I certainly had given it some thought in the last  
weeks,  
6 yes.

7 Q. Since you got the summons?

8 A. Primarily, yes.

9 Q. Because you knew about the McVeigh case?

10 A. Yes, sir.

11 Q. So you knew there was the possibility that you  
would be  
12 asked the question of whether the death penalty is  
something  
13 you can deal with.

14 A. Yes, sir.

15 Q. Before that, before you knew that you may actually  
be in a  
16 courtroom with a jury, on a jury, where that could be  
an issue,  
17 had you thought much about it?

18 A. I would say a little but not a lot, no.

19 Q. You know, as you sit here now, are there cases that  
come to  
20 mind that you've read about or heard about where a  
sentence to  
21 death was ordered or where executions were carried out  
and then  
22 that generated some discussion with you and others  
about  
23 whether society ought to do this?

24 A. I don't remember any specific discussions, no.

25 Q. Okay. Well, you thought about it after you got the

1188

Juror No. 37 - Voir Dire

1 summons, and you've thought about it when you answered  
these  
2 questions; and we're thinking about it now.

3 A. Yes, sir.

4 Q. And would you, looking at your answers -- would you  
have  
5 anything to say in expansion of these views or further  
6 explanation of these views? Anything, you know -- this

is a

7 chance for you to add to or subtract from what you've  
said in 8 this expression of opinion, if you want to, because you  
may 9 have thought more about it since you answered the  
10 questionnaire. If there is any change you want to make  
on this 11 part of it, you may.

12 A. I don't think I can change anything, no.

13 Q. All right. Well, let me now speak to you about the  
14 process, because we wanted you to say something to us  
here, as

15 you did before you learned more about the process that  
is 16 actually followed in a jury case, where punishment is a  
jury 17 question. Now, you understand the obvious that -- and  
we've 18 talked about it here in the questionnaire. We never  
get to 19 this issue with the jury unless there is a verdict of  
guilty.

20 A. Yes, sir.

21 Q. Clearly. And the question of punishment isn't  
considered 22 by the jury when they're deciding the question of the  
23 sufficiency of the evidence. That's just as in the  
cases where 24 the jury is not involved with punishment -- that's not  
25 considered.

1189

Juror No. 37 - Voir Dire

1                   And, you know, I tell juries, Don't even talk  
about  
2                   the issue of punishment; that's for the court.  
3                   But in a case like this with that issue, life  
and  
4                   death, if there is a guilty verdict, then we go ahead  
with  
5                   more. And as there is in somewhat the nature of the  
hearing  
6                   that I mentioned that a judge has in an individual  
sentencing  
7                   decision, so there is another hearing in front of the  
jury  
8                   which has pretty much the same approach as a trial in  
the  
9                   procedural approach, in that the lawyers for the  
Government  
10                  bring in additional information which they will suggest  
to the  
11                  jury makes it appropriate for a death sentence for the  
12                  particular defendant in the particular case. And the  
counsel  
13                  for the person found guilty comes forward with  
information and  
14                  provides additional information of the type again that  
I've  
15                  mentioned with respect to a sentencing by a judge, a  
lot of

16 things unique to the defendant as a human being. It  
can also  
17 include things about the offense, the role in the  
offense,  
18 major, minor, why, all kinds of things.

19 And I can't really, you know, give you any  
true  
20 for--instances, because we don't really know what those  
things  
21 will be, just as we don't know what the evidence will  
be.

22 So the jury, then, gets instructions about how  
to  
23 approach this question of the decision of life or  
death.

24 Actually, it's life in prison without any possibility  
of ever  
25 being released, death, or the jury can also say some  
lesser

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Juror No. 37 - Voir Dire

1 sentence. If the jury says some lesser sentence, it's  
turned  
2 back to the court again to decide that particular  
sentence. So  
3 those are the options.

4 But when a jury is called upon to do this type  
of  
5 decision, they have to start with open minds when it  
comes to

listen 6 the sentencing decision and the sentencing hearing and  
by both 7 to and consider all of those things that are presented  
8 sides.

factors, 9 And we often speak to these as aggravating  
and 10 those things that may suggest that death is deserved,  
11 mitigating factors, those things that suggest that  
death is not 12 justified for this human being under all of the  
circumstances, 13 including the circumstances of the offense.

assist 14 Now, in the instructions, the court tries to  
15 the jury in analyzing the mitigating factors and the  
are and 16 aggravating factors by pointing out to them what they  
17 then suggesting, you know, things about who has the  
burden of 18 proof and all of that, which we're not going to get  
into now.

not a 19 But there is no formula, there is no equation. This is  
anything 20 matter of counting up aggravating vs. mitigating or  
21 like that.

deliberate 22 What it comes down to is these jurors then  
23 and discuss; and then each one of them makes a  
decision, a

24 reasoned decision based upon what they've heard here  
and seen  
25 and a decision that really amounts to a moral judgment  
about

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Juror No. 37 - Voir Dire

1 whether a particular human being should live or die.  
That's  
2 the question presented.

3 And the question I have for you is can you do  
that in  
4 this case if called upon?

5 A. Yes, I believe I can.

6 THE COURT: All right. Now, counsel for the  
-- both  
7 sides have an opportunity to ask you some more  
questions, so  
8 please listen to them and respond to them.

9 Mr. Mearns?

10 MR. MEARNS: Thank you, your Honor.

11 VOIR DIRE EXAMINATION

12 BY MR. MEARNS:

13 Q. Good morning, sir.

14 A. Good morning.

15 Q. As the Judge has told you, my name is Geoffrey  
Mearns; and

16 I'm one of the prosecutors who will be presenting our

evidence

17 in this case.

Judge

18 Now, I don't have many questions for you. The

answers we

19 has gone over most of the questions or most of the

you to

20 would like to hear from you; but I would like to ask

asked a

21 turn to page 27. It's Question 121. And you were

witness

22 question about possible -- the possible testimony of a

answer

23 who has pleaded guilty and agreed to testify. And your

24 was that your reaction was "cautiously suspicious."

25 little bit?

Could you expand on that answer for us a

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best to

1 A. I would believe that you would have to try your

making the

2 determine if they had anything to gain by, you know,

might be

3 statements or something like that; that you feel they

4 falsifying their answers.

would you

5 Q. If such a witness were to testify in this case,

mind?

6 be able to consider his or her testimony with an open



7 A. I believe so.

8 Q. If you would turn to page 34. In Question 148,  
there was a

9 whole list of names there for you, and you were asked  
whether

10 you knew any of those individuals or heard anything  
about them.

11 And you listed five names there.

12 Tell us what you've heard. I assume you do  
not know

13 Timothy McVeigh.

14 A. No, I do not.

15 Q. Because you circled "heard of"?

16 A. Yes, sir.

17 Q. What have you heard about Timothy McVeigh?

18 A. You know, I've heard that he was arrested for the  
19 possibility of committing the crime in Oklahoma City  
and that

20 he was found guilty in a trial; general news, I think,  
that

21 most everybody would be exposed to.

22 Q. And what have you heard about Terry Nichols?

23 A. That he was a friend of Terry McVeigh -- or Timothy  
24 McVeigh.

25 Q. Have you formed any opinion one way or another  
about

Juror No. 37 – Voir Dire

1 Mr. Nichols?

2 A. No, I have not.

3 Q. Okay. The next name that you listed was Michael  
Fortier.

4 A. Yes, sir.

5 Q. What have you heard about Michael Fortier?

6 A. I believe this was also someone that Terry McVeigh  
-- or

7 Timothy McVeigh knew.

8 Q. What is the source of your information about  
Michael

9 Fortier?

10 A. TV newscasts.

11 Q. Have you formed any opinion one way or another  
about

12 Michael Fortier?

13 A. I don't believe so, no.

14 Q. The next individual there was Lori Fortier. Have  
you

15 formed any opinion one way or another with respect to  
Lori

16 Fortier?

17 A. No, sir.

18 Q. And finally, the last name is James Nichols. What  
have you

19 heard about James Nichols?

20 A. I believe it's Terry Nichols' brother.

21 Q. Have you heard anything else?

22 A. No, sir.

23 Q. I'd like to turn then, finally, to the questions  
regarding

24 the death penalty or the possible penalty. It's on  
page 28.

25 And specifically, sometimes as lawyers maybe we focus  
too much

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Juror No. 37 - Voir Dire

1 on the specific words and think there is meaning when  
there

2 isn't; but in response to Question A, you said, "I  
believe it

3 should be imposed for premeditated murder"; and then  
with

4 respect to the penalty of death, you said, "I believe  
it can be

5 imposed if premeditated murder."

6 Was there a specific reason why you chose  
those two

7 different responses in your answer there?

8 A. I don't believe I had probably read the other  
question when

9 I answered the first one. I believe it could be  
imposed in

10 either case, depending on the circumstances.

11 Q. The Court this morning has given you some  
instructions

and 12 about the law and the procedure that we will follow if,  
on page 13 only if, we get to a penalty phase in this case. And  
you 14 30 in response to Question 29 -- excuse me -- 129 --  
proposition 15 indicated there that you agreed strongly with the

16 that it's important to follow the Court's instructions.

17 A. Yes, sir.

Court's 18 Q. Do you feel the same way with respect to the  
phase, if 19 instructions as to the law with respect to a penalty

20 we get there?

21 A. Yes, I do.

Court 22 Q. In explaining some of the process this morning, the  
Do you 23 spoke of aggravating factors and mitigating factors.  
in the 24 understand what the phrase "aggravating factors" means  
25 context of a penalty phase hearing?

1195

Juror No. 37 - Voir Dire

1 A. I believe I do, yes.

2 Q. Could you tell us what your understanding is?

3 A. It would be the circumstances behind what happened,

4 whether -- I can't really explain it, I guess; but I  
feel like

5 I understand it, yeah.

6 Q. I think the Court's phrase was those are the facts  
or

7 circumstances that suggest that death is the  
appropriate

8 punishment or is deserved in a particular case.

9 A. Yes.

10 Q. Okay. The Court then also used the phrase  
"mitigating

11 factors." Do you understand that phrase as well?

12 A. Yes, sir. I believe these to be things that might  
tend to

13 lead you to not have a death penalty, or something like  
that,

14 reasons that it shouldn't be the choice.

15 Q. That is, the factors that might tend to suggest  
there is --

16 another punishment is appropriate, or different.

17 A. Yes.

18 Q. And as you consider the prospects of being a juror  
in this

19 case, will you be able to consider any factor, both  
aggravating

20 and mitigating, before you reach a decision as to the

21 appropriate punishment?

22 A. I believe I can.

23 MR. MEARNS: Thank you, your Honor.

24 THE COURT: Mr. Woods.

25 MR. WOODS: Thank you, your Honor.

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Juror No. 37 – Voir Dire

1 VOIR DIRE EXAMINATION

2 BY MR. WOODS:

3 Q. Good afternoon.

4 A. Good afternoon.

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

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

7 Nichols in this case. And we met two weeks ago out at  
Jeffco.

8 Is that correct?

9 A. Yes, sir.

10 Q. I've got just a few questions. We go last, and so  
most of

11 the questions have been asked before we get our turn.

12 When you were at Colorado -- University of  
Colorado,

13 did you get drafted into the Army, or did you volunteer  
to go?

14 A. I believed that I was going to be drafted in the  
very near

15 future, and I chose to enlist.

16 Q. When you enlisted, were you able to pick out your  
specialty

17 of what you were going to do?

18 A. Yes, I was able to. I wanted to get into  
computers, and

19 that's one of the reasons I did enlist.

20 Q. All right. And from the years you gave, it looks  
like you

21 were sent to Vietnam as soon as you got out of boot  
camp. Is

22 that correct?

23 A. I went to boot camp and advanced training directly  
to

24 Vietnam, yes.

25 Q. And then you came back. Did you go down to Texas  
to Fort

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Juror No. 37 - Voir Dire

1 Sam and then over to Fort Bliss?

2 A. Fort Bliss was where my basic training was. I went  
to Fort

3 Sam after I returned for about a year and a half.

4 Q. And were you doing computer work there?

5 A. Yes, sir.

6 Q. Do you have any personal feelings, sir, because  
this being

7 your birthday, April 19 -- do you have any personal  
feelings

8 concerning this case or the Waco incident?

9 A. No, sir. It's just an easy date for me to

remember, that's

10 for sure.

11 Q. Right. Right. What were you doing on April 19,  
the day of

12 the bombing, in '95?

13 A. I don't recall.

14 Q. Weren't in the middle of any birthday celebration,  
I take

15 it.

16 A. Not that I recall, no.

17 Q. Are you active in Acacia? Do they have a chapter  
there at

18 Colorado State, and are you advisor or alumnae or  
anything?

19 A. There is no chapter at Colorado State. I am still  
a member

20 of our alumnae organization in Boulder.

21 Q. Do you go down and participate?

22 A. Not frequently.

23 Q. And help or anything?

24 A. Not frequently.

25 Q. If you would, turn to page 33 concerning the  
publicity on

1198

Juror No. 37 – Voir Dire

1 the case. In Question 144, the questionnaire asked  
what



you 2 sources you got information concerning this case. And  
conversations 3 listed TV news, radio news, newspaper, magazines,  
4 and heard other people discussing the case.

shopping 5 I noticed that you do use the Internet for  
information on the 6 and investment and stuff. Have you seen any  
7 Internet about the case?

8 A. No, sir, I have not.

the 9 Q. All right. And then further, the Court asked in  
media 10 questionnaire, "How would you describe the amount of  
11 coverage you've seen about the Oklahoma City bombing?"

articles 12 And you checked off "quite a bit, read a few  
that you 13 or watched a few television specials." And I noticed  
14 listed "20/20" as a show that you regularly watch.

15 A. (Juror nods head.)

had 16 Q. Do you recall some of the specials that "20/20" has  
17 concerning the Oklahoma City bombing?

18 A. I don't recall any of them in detail, no.

issue 19 Q. Well, I'm sure not in detail; but do you recall the  
half 20 coming up on one, those shows, in the last two-and-a-  
21 years?

22 A. Yes, sir.

23 Q. And that's a show that you do watch?

24 A. Fairly regularly, yes, sir.

25 Q. Okay. Now, in Fort Collins, do you get the local news out

1199

Juror No. 37 - Voir Dire

1 of Denver, or do they have their own television station  
for  
2 local news?

3 A. They do have a local station. I do not listen to  
that. I  
4 listen to Denver news.

5 Q. Which channel do you watch?

6 A. Oh, primarily 4.

7 Q. Okay. And then you checked off that you read the newspaper  
8 there in Fort Collins, which is, what, The Coloradan?

9 A. Yes, sir.

10 Q. Do you get any of the Denver newspapers, the Rocky Mountain  
11 News or Denver Post?

12 A. No, sir.

13 Q. Okay. Would you classify yourself as a thorough person?

14 A. Yes, sir.

long  
Michael  
some

15 Q. You're one of the few who spotted the names in that  
16 list of Terry Nichols, Tim McVeigh, James Nichols,  
17 Fortier, and Lori Fortier. You went through that with  
18 care, I take it.

19 A. Yes, sir.

20 Q. From what you've seen and heard and read about the  
case, do  
21 you know how many people were killed in the bombing?

22 A. I don't know an exact number. I believe it was  
somewhere  
23 in the neighborhood of 160 or something like that.

24 Q. Do you know whether or not there were children  
killed in  
25 the bombing?

1200

Juror No. 37 - Voir Dire

1 A. Yes, I know there were.

2 Q. And do you know what the reason why there were  
children in  
3 a federal building?

4 A. Not exactly. There was a day care there. That's  
all I  
5 know.

6 Q. Do you know how many children were killed?  
7 A. No, sir.

8 Q. Do you know how the bomb was placed at the building  
-- or  
9 not do you know, but what have you learned from what  
you've  
10 seen and heard about how the bomb was placed at the  
building?

11 A. It's my understanding it was a rental truck of some  
kind  
12 driven up in front of it.

13 Q. And do you know or have you heard what kind of bomb  
it was?

14 A. Fertilizer bomb.

15 Q. And do you know or have you heard how Mr. McVeigh  
came into  
16 federal custody?

17 A. Yes, sir.

18 Q. What's your recollection of that?

19 A. As I recollect, he was stopped for a traffic  
reason.

20 Q. And have you heard the circumstances of how Mr.  
Nichols  
21 went to the police station?

22 A. I do not recall that, no, sir.

23 Q. Do you have any image in your mind of how Mr.  
Nichols came  
24 under federal custody?

25 A. No, sir.

Juror No. 37 – Voir Dire

coverage

1 Q. Do you have any image in your mind from TV or news  
2 about where Mr. Nichols was at the time of the bombing?

3 A. My recollection is he was in the state of Kansas or  
4 something, is the only thing I can recall.

you

5 Q. Now, you circled James Nichols' name as one that  
6 recognize in that long list of people. Is that

correct?

7 A. Yes, sir.

being

8 Q. Do you have any recollection of any search warrants  
9 executed up in Michigan two days after the bombing?

10 A. Now that you mention it, yes.

in any

11 Q. Okay. And I'm sorry. I don't mean to prompt you  
12 way. I just -- you seem to have a thorough knowledge,

and I

13 was just -- what do you recall about that?

14 A. I really don't recall very much about it.

15 Q. Do you have a recollection of whose farm it was?

16 A. No.

had a

17 Q. And you checked off on your questionnaire that you  
18 general knowledge of what occurred, who was arrested

and the

19 results of the trial of Mr. McVeigh. Is that correct?

20 A. Yes, sir.

21 Q. How closely did you follow the trial of Mr.  
McVeigh?  
22 A. I didn't go out of my way to follow it. Just the  
evening  
23 news and so forth.  
24 Q. And was it covered in the Fort Collins newspaper?  
25 A. I'm sure, yes.

1202

Juror No. 37 - Voir Dire

1 Q. Do you read the newspaper on a daily basis?  
2 A. Yes.  
3 Q. And on page 37, Question No. 159, the questionnaire  
asked,  
4 "Please summarize what you've seen, read or heard about  
Terry  
5 Nichols."  
6 And you answered, "Army buddy of Timothy  
McVeigh, some  
7 possible connection to acquisition of explosives."  
8 A. Yes. Yes, sir.  
9 Q. What are you referring to there about possible  
connection  
10 to acquisition of explosives?  
11 A. Seemed like the newscasts indicated that perhaps he  
was  
12 involved in the preparation of the bomb.  
13 Q. In the preparation or the acquisition?

14 A. Both.

15 Q. And as to the Army buddy, what did you recall from  
that?

16 A. Not a great deal. I believe that's where they met,  
was my

17 understanding.

18 Q. All right. Now, on the questions concerning the  
punishment

19 stage, if we get to that -- and we're certainly not  
conceding

20 we're getting to that; we just have to ask you  
questions now

21 because we'll never get a chance to talk to you again.

22 A. I understand.

23 Q. You were very precise in the way you phrased these  
answers

24 about life in prison without release . . . "I believe  
it should

25 be imposed for premeditated murder."

1203

Juror No. 37 - Voir Dire

1 And then the next question is, "What is your  
view as

2 to whether the penalty should ever be imposed as a form  
of

3 punishment for any crime?"

4 And you stated, "I believe it can be."

5 And then the next two blanks or next two

questions:

6 "In what kind of cases is it appropriate, if ever, to  
impose

7 the punishment of life in prison without the  
possibility of

8 ever being released?"

9 Here, you list murder; and you distinguish, I  
assume,

10 from the one above it, when you list premeditated  
murder.

11 Here, you're listing murder. Is that correct?

12 A. That's the way I listed it, yes.

13 Q. Can you give us an idea of how you distinguish  
between

14 premeditated murder and murder?

15 A. I would distinguish it being, you know, someone  
were to

16 just get angry and kill somebody and it wasn't, you  
know,

17 prethought, planned, would be the distinction.

18 Q. Such as a crime of passion?

19 A. Correct.

20 Q. If someone came over and burned down your house and  
shot

21 your dog and you lashed out and you killed somebody,  
that's a

22 crime of passion; is that how you would describe just a  
murder?

23 A. Yes, sir.

24 Q. All right. And then the premeditated murder: How  
would



25 you describe that?

1204

Juror No. 37 – Voir Dire

going to 1 A. Where one would sit down and plan how they were  
2 accomplish such.

3 Q. With intention?

4 A. With intention of committing murder, yes.

5 Q. And prethought, deliberate?

6 A. Yes.

is that 7 Q. And I'm not trying to put words in your mouth, but  
8 what you're defining "premeditated" as?

9 A. Yes, sir.

ever 10 Q. So the crimes that you think it's appropriate for  
11 punishment of life in prison without the possibility of

habitual 12 being released is murder, rape, habitual criminal --  
13 criminal, how would you define that?

14 MR. MACKEY: Judge, objection.

15 THE COURT: Sustained.

16 MR. WOODS: Okay.

17 BY MR. WOODS:

ever, to 18 Q. As to D, "What kind of cases are appropriate, if

19 impose the punishment of death?"

20 And you list murder there. Are you  
distinguishing in

21 this blank murder from premeditated murder?

22 A. No.

23 Q. Because in this -- in No. D, we're talking about  
the death

24 penalty.

25 A. Yes, sir.

1205

Juror No. 37 - Voir Dire

1 Q. Now, are you saying there that you're considering  
the death

2 penalty for murder, or for premeditated murder, or for  
both?

3 A. I would say I would consider it for both.

4 Q. Now, in those cases where a jury gets to the stage  
of the

5 punishment -- that is, they found the person guilty of  
6 premeditated, deliberate, intentional murder -- and the

7 punishment stage comes up and, as the Court explained  
to you,

8 the option is the death penalty or life without release  
-- Are

9 you with me as to the stage of where you would be at  
that time?

10 A. Yes.

11 Q. Are you saying in this blank that you feel that the  
12 appropriate punishment would be the death penalty?

13 MR. MACKEY: Judge, objection.

14 THE COURT: Sustained.

15 BY MR. WOODS:

16 Q. Do you have a view as to what the appropriate  
penalty would  
17 be in those cases where the jury has found the person  
guilty of  
18 premeditated, deliberate, intentional murder?

19 MR. MACKEY: Same objection.

20 THE COURT: Well, I think the problem here,  
Mr. Woods,  
21 if I may suggest that -- you know, it's not clear  
whether  
22 you're suggesting without hearing anything else that  
that's  
23 what is appropriate.

24 MR. WOODS: Yes, your Honor.

25 THE COURT: If you would modify it that way, I  
think

1206

Juror No. 37 - Voir Dire

1 we can get along.

2 MR. WOODS: Yes, your Honor.

3 BY MR. WOODS:

4 Q. When the jury gets to that stage, the jury is

supposed to

5 have a clean slate in which they're operating. As the  
Court

6 explained to you, evidence will be presented by both  
sides. My

7 question is to you, do you have a view such that before  
the

8 evidence is presented to you -- do you have a view that  
certain

9 murder cases should automatic -- not automatically, but  
that

10 the death penalty is the appropriate punishment for  
those type

11 of murder cases --

12 MR. MACKEY: Same objection.

13 BY MR. WOODS:

14 Q. -- before you're listening to the evidence  
presented by

15 both sides?

16 MR. MACKEY: Excuse me, your Honor. Same  
objection.

17 MR. WOODS: I think that's fair --

18 THE COURT: I think that's clear enough. If  
it isn't

19 clear, just tell us.

20 JUROR: No, I believe it's clear. I think you  
should

21 consider what's brought up.

22 BY MR. WOODS:

23 Q. And I take it, then, from your answer you don't  
have a

24 particular view one way or the other, going into the  
punishment

25 stage, as to what the penalty should be -- is that  
correct --

1207

Juror No. 37 - Voir Dire

1 based on a murder case?

2 A. That's correct.

3 MR. WOODS: All right. Thank you, sir, for  
answering

4 the questions.

5 THE COURT: Well, your waiting and answering  
are over

6 now. You've answered our questions, and we greatly  
appreciate

7 your cooperation in all of this. I wish I could tell  
you now

8 what's going to happen; but I can't, because we will be  
talking

9 with yet more people, I'm sure you understand. And we  
don't

10 have a timetable that I can give you with respect to  
whether

11 you will or won't serve on this jury, so we have to  
leave you

12 with the uncertainty both with respect to whether you  
will

13 serve and when. Bear with us, please. This is a  
process that

14 I'm sure now that you've been through it, you  
understand the  
15 importance of it; and accordingly, continue, please, to  
avoid  
16 discussion of the case or even of this process with  
anyone else  
17 and continue to be very careful about all that you may  
see,  
18 read and hear in the watching of news or reading of  
newspapers,  
19 and so forth, so that you can, if called upon, come in  
here at  
20 a later time and do what we've been talking about:  
Hear the  
21 case and consider it only under the evidence and what's  
22 happened -- what happens in the course of the trial.  
23 Will you do that, please?  
24 JUROR: Yes, I will, sir.  
25 THE COURT: All right. We'll be back in touch  
with

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1 you. You're excused for now. You can leave.  
2 (Juror out at 12:18 p.m.)  
3 THE COURT: All right. Let's see. I think  
1:35.  
4 We'll recess till 1:35 -- yes, Mr. Mackey?  
5 MR. MACKEY: I just want to report to the  
Court -- and

possible 6 I've talked to both Mr. Woods and Tigar -- we shared  
And I 7 challenges last night and want to report to the Court.  
8 think I've provided to Mr. Manspeaker --

9 THE COURT: Yes, Mr. Manspeaker gave me a  
sheet that 10 had -- I haven't studied it yet, of course, but it has  
where 11 there is agreement and where there is one side or the  
other 12 suggests a challenge and it's disputed.

13 MR. TIGAR: Yes, your Honor. And the  
Government -- as 14 a result of that process that we initiated with the  
Government, 15 there are those five on which we do agree, your Honor;  
and I 16 just wanted to say for the record that we have  
consulted with 17 Mr. Nichols and that indeed that does accurately  
reflect our 18 agreement.

19 THE COURT: Okay. Well, that will help in  
getting 20 organized for 4:00, so I appreciate your doing that.

21 MR. MACKEY: Okay.

22 THE COURT: We'll recess till 1:35.

23 (Recess at 12:20 p.m.)

24 \* \* \* \* \*

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15 \* \* \* \* \*

16 REPORTERS' CERTIFICATE



17 We certify that the foregoing is a correct  
transcript from

18 the record of proceedings in the above-entitled matter.  
Dated

19 at Denver, Colorado, this 3d day of October, 1997.

20

21

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22

Paul Zuckerman

23

---

Carpenter

24

Bonnie

25