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PROCEEDINGS

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

THE COURT: Please be seated.

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

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

right

hand and take the oath from the clerk.

(Juror No. 945 affirmed.)

THE COURTROOM DEPUTY: Thank you.

THE COURT: Please be seated.

VOIR DIRE EXAMINATION

BY THE COURT:

Q. And good morning to you.

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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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.

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

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

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

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

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

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

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

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

6 Now, upon a review of your answers to the

of you to 7 questionnaire, I have a few questions I'd like to ask

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

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

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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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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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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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.

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?

property

8 And so the nature of the dispute was it was

9 loss to you?

10 A. Yes.

this was

11 Q. And to the Government, the IRS, they said that no,

12 an investment loss? Like stock market?

have

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.

between you

17 Q. Well, was this something just back and forth

18 and an IRS agent?

our

19 A. It was done by mail. They sent back a letter on

loss, and

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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Juror No. 945 - Voir Dire

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

11 lottery and my number -- my birthdate came up as No.
288.

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?

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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

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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

Juror No. 484 - Voir Dire

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 --

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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

Juror No. 484 - Voir Dire

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

1121

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.

CPA and 19 Q. Okay. And you also told us of a brother who's a

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.

does he? 24 Q. Do you know -- and he works in a laboratory there,

25 A. Yes.

1124

Juror No. 484 - Voir Dire

1 Q. Do you know what he does?

2 A. He is a supervisor.

3 Q. Do you know what the laboratory does?

for -- 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

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

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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
in
or a --
maybe it

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

1126

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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.
5 Q. Oh, okay. And making that a career as far as you
know?
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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Juror No. 484 - Voir Dire

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

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

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

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

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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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1 A. I didn't think -- well, here again, I didn't know
the

2 evidence, but in the O. J. Simpson case. I got a
feeling I

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.

6 Q. It sounds to me that you're saying but you weren't
in the

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 . . .

14 Q. Can you accept their verdict in the sense that they
were

15 the ones that ultimately had to make the decision that
we're

16 talking to you about; that they had to go into the
courtroom

17 with a clean slate and make their decision not based on
the

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.

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

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1 that way.

Judge's
2 Q. Well, I think it comes down to can you follow the
some
3 instructions. I realize that, you know, you may have
your oath
4 impressions or opinions; but it's really can you take
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?
head. I 22 A. I -- I can't think of anything off the top of my
evidence to -- 23 would -- I definitely feel I had to have enough
evidence, 24 to believe in it. But if I felt that I did have the
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
was 2 he did it or not, and go to that second stage the Judge
3 telling you about, the penalty hearing.
4 A. Uh-huh.
other 5 Q. Once you've decided you had enough evidence, what
to know 6 factors would you want to know about? Would you want
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
gun and, 10 robbery -- whether he was the guy who went in with the
driver of 11 let's say, shot the teller or whether he was just the

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.

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

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Juror No. 484 - Voir Dire

1 A. Yes.

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

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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Juror No. 484 - Voir Dire

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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Juror No. 484 - Voir Dire

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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Juror No. 484 - Voir Dire

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

7 remember hearing the name or seeing this person,
Timothy

8 McVeigh?

9 A. First time. Maybe the day following the bombing.
I'm --

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.

14 Q. All right. Well, see, I know -- you're looking at
me as

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

Juror No. 484 - Voir Dire

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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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.

6 We have for the Government, Mr. Lawrence
Mackey and
7 also -- excuse me -- Ms. Beth Wilkinson.

8 And additionally -- they were not there at
that time
9 but are here today -- Mr. Patrick Ryan and Mr. Mearns
for the
10 prosecution. These are lawyers for the Government.

11 For the defense, you met Mr. Michael Tigar and
12 Mr. Ronald Woods; and of course, Mr. Nichols, Terry
Lynn
13 Nichols.

14 Now, there are other people in the room within
your
15 sight, but they're assisting; and we're not going to
introduce
16 everybody. We'd be here too long, and you've been
waiting as
17 it is.

18 It is important to understand here that we
have taken
19 your answers, the completed questionnaire and made
copies,
20 provided them to the lawyers and me, but we're not
making them
21 public. And as I told you and as you now know very
well
22 because you've answered these questions, we have asked
you some
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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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

14 to the Government to prove the case against him by
evidence

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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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 programmer.

17
18 Q. And in fact, that's where you started the career that you're now in, I take it.

19
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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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?

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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.

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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?

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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.

now, 11 Q. And it is awkward for us to talk about that here,
we have 12 because, of course, we're talking about a case in which
innocence; and 13 no evidence, in which there is a presumption of
terms. But 14 yet, we have to talk about this in sort of what-if
we need 15 before we can talk about the process and the procedure,
something 16 to know -- and that's why we ask these questions --
without regard 17 about your attitudes and opinions coming in here
18 to what the law is.

it, in 19 And you've answered these questions, I take
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.

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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

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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.

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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
counsel 12 particular defendant in the particular case. And the
information and 13 for the person found guilty comes forward with
I've 14 provides additional information of the type again that
lot of 15 mentioned with respect to a sentencing by a judge, a

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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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,
death is not 11 mitigating factors, those things that suggest that
circumstances, 12 justified for this human being under all of the
13 including the circumstances of the offense.

assist 14 Now, in the instructions, the court tries to
are and 15 the jury in analyzing the mitigating factors and the
16 aggravating factors by pointing out to them what they
burden of 17 then suggesting, you know, things about who has the
into now. 18 proof and all of that, which we're not going to get

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
decision, a 23 and discuss; and then each one of them makes a

and seen 24 reasoned decision based upon what they've heard here
about 25 and a decision that really amounts to a moral judgment

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That's 1 whether a particular human being should live or die.
2 the question presented.

that in 3 And the question I have for you is can you do
4 this case if called upon?

5 A. Yes, I believe I can.

-- both 6 THE COURT: All right. Now, counsel for the
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.

Mearns; and 15 Q. As the Judge has told you, my name is Geoffrey

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

19 has gone over most of the questions or most of the
answers we

20 would like to hear from you; but I would like to ask
you to

21 turn to page 27. It's Question 121. And you were
asked a

22 question about possible -- the possible testimony of a
witness

23 who has pleaded guilty and agreed to testify. And your
answer

24 was that your reaction was "cautiously suspicious."

25 Could you expand on that answer for us a
little bit?

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1 A. I would believe that you would have to try your
best to

2 determine if they had anything to gain by, you know,
making the

3 statements or something like that; that you feel they
might be

4 falsifying their answers.

5 Q. If such a witness were to testify in this case,
would you

6 be able to consider his or her testimony with an open
mind?

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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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
on page
you
proposition

12 about the law and the procedure that we will follow if,
13 only if, we get to a penalty phase in this case. And
14 30 in response to Question 29 -- excuse me -- 129 --
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
phase, if

18 Q. Do you feel the same way with respect to the
19 instructions as to the law with respect to a penalty

20 we get there?

21 A. Yes, I do.

Court
Do you
in the

22 Q. In explaining some of the process this morning, the
23 spoke of aggravating factors and mitigating factors.
24 understand what the phrase "aggravating factors" means
25 context of a penalty phase hearing?

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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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1 VOIR DIRE EXAMINATION

2 BY MR. WOODS:

3 Q. Good afternoon.

4 A. Good afternoon.

I'm one 5 Q. As the Court introduced me, my name is Ron Woods.

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.

most of 10 Q. I've got just a few questions. We go last, and so
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

1197

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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

1208

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

22

Paul Zuckerman

23

Carpenter

24

Bonnie

25