





13

PROCEEDINGS

14

(Reconvened at 1:45 p.m.)

15

THE COURT: Be seated, please.

16

Did we have questions for 718?

17

MR. MACKEY: Yes, your Honor.

18

THE COURT: Okay. Bring him in, please.

19

(Juror No. 718 was recalled to the stand.)

20  
resume the

THE COURT: All right. Sir, if you will

21  
questions of

chair there, we'll ask counsel if they have some

22

you.

23

Miss Wilkinson.

24

MS. WILKINSON: Thank you, your Honor.

25

VOIR DIRE EXAMINATION

1501

Juror No. 718 – Voir Dire

1 BY MS. WILKINSON:

2 Q. Good afternoon, sir.

3

I know you feel like you've answered a lot of

4

questions, but we have a few more if you wouldn't mind.

5

A. Okay.

in ROTC

6

Q. You wrote on your questionnaire that you had been

for you;

7

for about three months and then you decided it wasn't

8 is that right?

9 A. That's right.

10 Q. Can you tell me about that just a little bit?

I didn't  
11 A. It was required at the first school I went to, and  
12 like it.

what  
13 Q. What didn't you like about it -- maybe I should ask  
14 you liked about it. It sounds like there was more --

wearing a  
15 A. I didn't like anything about it. I didn't like  
16 uniform or marching in the heat. Just didn't like it.

17 Q. At that early stage, did you have any views on  
18 participating or potentially participating in a war  
where you  
19 might have to take someone's life?

Vietnam  
20 A. No. I was a child of the 60's. I'm not sure when  
21 started, exactly. It could have been at that time.

about the  
22 Q. Well, you told his Honor about some of your views  
23 death penalty, and you've told us in your questionnaire  
I  
24 think -- if I could turn your attention to page 28, 29,  
where  
25 you've set forth your answers.



20 Q. And would your views change depending on the  
evidence, or  
21 is that something more of a moral conviction that  
you've had  
22 for a while?  
23 A. No, that's a moral conviction. I don't think  
there's  
24 anything that would make me change my mind about that.  
25 Q. Okay. So when you said on the next page that you  
would

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Juror No. 718 - Voir Dire

1 never vote for the death penalty or that you wouldn't  
vote for  
2 the death penalty, would that mean that in any case, if  
you  
3 were called to serve, you would always choose life in  
prison,  
4 instead of the death penalty?  
5 A. Yes.  
6 Q. So no matter how I asked you or different scenarios  
I gave  
7 you, that's basically the bottom line?  
8 A. That's the bottom line, yes.  
9 Q. Let me ask you one other thing. I don't want to go  
over in  
10 detail what happened in 1980, but I do want to know a  
little

could. 11 bit about your cooperation with the Government, if I

12 A. Okay.

13 Q. You signed an agreement. Now, we have those agreements,

14 obviously; but in yours, were you just supposed to testify when

15 called by the Government?

16 A. Yes.

17 Q. Testify truthfully, obviously; is that right?

18 A. Yes.

19 Q. How many times did you testify; do you recall?

20 A. Twice.

21 Q. And do you know the results of those -- the trials in which

22 you testified?

23 A. No, I don't.

24 Q. How were you treated by the assistant United States

25 attorneys that you dealt with in those cases? And you can be

1504

Juror No. 718 - Voir Dire

1 honest with us.

2 A. How was I treated? It was fine. I wasn't harassed.

3 Q. Were they professional in how they --

4 A. Yes, they were.

5 Q. -- prepared you for trial?

6 A. Yes.

7 Q. Did you have any complaints at the time -- at the  
time now;

8 I realize you've said you look back on it a little  
differently

9 with a few years between you and the incident. But at  
the

10 time, how did you feel about the U.S. Attorney's  
Office; and

11 was it the DEA or was it the FBI that investigated your  
case?

12 A. It was the DEA. I thought that they probably could  
have

13 done a better job. They were a bunch of young guys,  
but they

14 were -- they tried to do their best. I don't think  
they were

15 trying to do anything to influence my testimony.

16 Q. Now, if you were called as a juror in this case or  
in any

17 other federal case -- and I realize this may be hard to  
answer,

18 but if you could think about it for a moment -- would  
it be

19 hard for you to sit in that jury box every day and  
listen to

20 the Federal Government present evidence against a  
defendant and

21 not think about your case and your interaction with the  
Federal

22 Government?

23 A. There would probably be times when it was hard,  
yeah.

24 Q. And I'm sure you know this from your own case, that  
25 obviously when a criminal case is investigated and  
brought to

1505

Juror No. 718 - Voir Dire

1 trial, both sides want a fair trial, the defendant of  
course

2 who is presumed innocent, but also the Government wants  
a fair

3 trial.

4 A. Right.

5 Q. Do you think based on your experience that you  
could give

6 both sides a fair trial?

7 A. Yes.

8 Q. So the only problem that you would have in this  
case -- or

9 I don't want to characterize it as a problem -- but the  
10 difference is your views opposing the death penalty;  
would that

11 be fair?

12 A. Yes. I think that's probably fair.

13 Q. You have no problem with the presumption of  
innocence or

14 listening to all the evidence to determine innocence?

15 A. No.

16 MS. WILKINSON: Thank you for answering my  
questions.

17 THE COURT: Mr. Woods.

18 MR. WOODS: Thank you, your Honor.

19 VOIR DIRE EXAMINATION

20 BY MR. WOODS:

21 Q. Good afternoon. As the Judge introduced me, my  
name is Ron

22 Woods, and I'm one of the lawyers that was asked by the  
court

23 to represent Terry Nichols who stands accused of these  
charges.

24 We met a couple weeks ago out at Jeffco.

25 A. Right.

1506

Juror No. 718 - Voir Dire

1 Q. Tell me about your decision not to go to law  
school. You

2 got a pre-law degree through junior college and then  
somewhere

3 along the line made the decision not to go to law  
school. What

4 factors went into making that decision?

5 A. Well, partially it was financial. I was working my  
way

6 through school. I was not the best student. At the  
point --

7 to be honest with you, at the exact point that I didn't  
go into

8 law school and I started teaching, it was because I  
would get a

9 deferment to keep me out of Vietnam.

10 Q. And being a student 2S would not have been a  
deferment for

11 you had your number been called?

12 A. Yes; I had had the deferment too many times, too  
many

13 years.

14 Q. Okay. And teaching was one way to make sure you  
didn't go?

15 A. That's right.

16 Q. Let me turn to the question of publicity. If you  
would

17 look on page 33. Now, the questionnaire asked you  
about "If

18 you've heard or read anything about the Oklahoma City  
bombing,

19 please indicate where you heard or read about it." And  
you

20 checked off: "TV news, newspapers, magazines, and  
heard other

21 people discussing the case"; is that correct?

22 A. That's correct.

23 Q. Okay. Now, where you live, do you get all the  
local Denver

24 stations, TV stations?

25 A. Yes.

Juror No. 718 - Voir Dire

1 Q. And do you get the -- either of the newspapers,  
daily  
2 newspapers here?  
3 A. Yes, I get one of them, yes.  
4 Q. And what magazines do you read? I know you checked  
Sail.  
5 A. Yeah. No news magazines.  
6 Q. When you checked here that you had received some  
7 information from magazines on this case, do you pick  
them up  
8 like at a barber shop or where you might be?  
9 A. Right, a salon or whatever. Nothing specific.  
10 Q. And would that be like Newsweek and Time, U.S. News  
and  
11 World Report?  
12 A. Possible.  
13 Q. And heard other people discussing the case.  
Through your  
14 job, you apparently get out quite a bit. You're not  
relegated  
15 to sitting in the office and running the business, I  
take it,  
16 are you?  
17 A. Actually that is what I -- 90 percent of what I do,  
yes.  
18 Q. Okay. Do you ever get out and visit the customers,  
either

with the 19 establishing the new account or keeping the account

20 customers?

21 A. Yes.

community in the 22 Q. So I take it you're out quite a bit in the

to Fort 23 whole Front Range, from Colorado Springs all the way up

24 Collins; is that correct?

25 A. Yes, that's correct.

1508

Juror No. 718 - Voir Dire

with 1 Q. So I take it, then, you probably had conversations

this 2 those people during this past two and a half years that

Would 3 has been a matter of publicity and in the public eye.

4 that be correct to say?

5 A. Yes.

sources of 6 Q. Based on that conversation -- excuse me, not that  
7 conversation -- but those conversations and all the

seen some 8 information that you had, have you heard, read, and

9 of the details in the case?

10 A. Of this case?

11 Q. Well, the bombing case itself.

12 A. Some, yes.

13 Q. Do you recall how many people were killed?

14 A. Hundred and 60 something.

15 Q. And do you recall whether or not there were  
children  
16 killed?

17 A. Yes, I know there were children killed.

18 Q. And do you recall what the reason for that was at a  
federal  
19 building, why there would be children killed?

20 A. There was a day-care center there, I believe.

21 Q. Do you recall approximately how many children were  
killed?

22 A. No.

23 Q. Do you recall how the bomb was placed at the  
federal  
24 building?

25 A. Yes.

1509

Juror No. 718 - Voir Dire

1 Q. What's your recollection from the media and from  
the  
2 conversations you've had?

3 A. It was in a truck outside.

4 Q. And do you know -- do you recall what kind of bomb  
it was?

5 A. Not specifically.

6 Q. What do you recall, if anything, about the nature  
of the

7 bomb?

8 A. That it was, for want of a better description,  
homemade,

9 and that fertilizer was one of the ingredients.

10 Q. Do you have a recollection of how Mr. McVeigh came  
into

11 federal custody?

12 A. No.

13 Q. Do you recall any views in your recollection from  
TV

14 coverage as to him being in the custody of any federal  
15 authorities?

16 A. I'm sorry, any views?

17 Q. Right. Do you have any recollection of having seen  
on

18 television Mr. McVeigh in the custody of federal  
authorities

19 and how that came about?

20 A. Just, you know, scenes of them walking towards I  
assume the

21 court, or something.

22 Q. And do you have any recollection of how Mr. Nichols  
23 initiated contact with federal authorities?

24 A. I don't know how he initiated contact, no.

25 Q. And what do you understand from the media and from  
your

1510

Juror No. 718 - Voir Dire

your 1 conversations was Mr. Nichols' role in it? You put on  
2 form that he was an accomplice?

3 A. Right.

4 Q. What do you understand that his role, if any, was?

5 A. That at some point before the bombing -- I don't  
know how 6 long -- but that they had been together and had had

7 conversations or had been working together towards  
building the 8 bomb. I'm not sure exactly what they were planning, or

whether 9 or not they were planning the whole thing, but that  
they had 10 met previously and had some sort of relationship.

11 Q. All right. Anything else?

12 A. No.

13 Q. When you say "relationship," can you define what  
that was 14 based on, what you heard or read?

15 A. No, I just -- just that they knew each other.  
There was 16 some . . . I don't even know the details, just that

they did 17 know each other, and the presumption on my part was  
that they

18 worked together or he wouldn't be here.

19 Q. Now, do you recall when the verdict came down on  
the

20 McVeigh case this past summer, a couple of months ago?

21 A. Right.

22 Q. Do you recall where you were when the guilty  
verdict came

23 in?

24 A. No, I don't.

25 Q. Do you recall where you were when the verdict came  
in

1511

Juror No. 718 - Voir Dire

1 concerning the death penalty?

2 A. No, I don't.

3 Q. Do you recall having any conversations with anybody  
on that

4 day or the next day concerning the death penalty for

5 Mr. McVeigh?

6 A. Having conversations?

7 Q. Yes, sir.

8 A. No. Not of any significance.

9 Q. Are there other people in your office where you  
work?

10 A. Yes.

11 Q. Do you have a radio or a television in your office?

12 A. Both.

13 Q. Do you recall receiving news that day concerning  
the death

14 penalty?

15 A. No. I got it on the evening news.

16 Q. And that was on the way home, I take it, or on the  
way

17 somewhere else?

18 A. No, that would have been the late news.

19 Q. The 10:00 --

20 A. Right.

21 Q. -- evening news?

22 A. Right.

23 Q. Did you have a conversation with it with your  
family?

24 A. With my wife, yes.

25 Q. Any discussion about the death penalty at that  
time, that

1512

Juror No. 718 - Voir Dire

1 being the appropriate verdict or the inappropriate  
verdict.

2 A. I'm not sure what the conversation was. Something  
to the

3 effect that the people whose family -- you know, there  
was a

4 lot on the media about the family of the people that

were

5 killed, families. And they were really happy about the

6 verdict. But I didn't have my own opinion on it. I  
didn't

7 have discussion about my own opinion on that.

8 Q. What was your opinion at that time, on that  
verdict, the

9 appropriateness of the death penalty for Mr. McVeigh  
for the

10 deaths of 160 people plus, as you said?

11 A. I just don't think the death penalty is warranted  
in any

12 case.

13 Q. Did you have any discussions -- that was on a  
Friday, as I

14 recall. Did you have any discussions that following  
week as

15 you called on any of your clients or customers or any  
of your

16 co-workers concerning that verdict?

17 A. No. It wasn't -- I didn't know anyone who had any  
personal

18 contact with anybody in the case or any of the victims,  
so it

19 was not a topic of conversation.

20 Q. Do you recall the amount of publicity that came out  
21 immediately following that verdict in the national

media and

22 the local media?

23 A. Yes, there was a lot of publicity.

the 24 Q. And that never generated any discussions concerning  
25 death penalty where you were?

1513

Juror No. 718 - Voir Dire

1 A. Not where I worked, no.

2 Q. What about where you called on customers or had any  
3 discussions with anybody?

4 A. No discussions.

what 5 Q. And if someone were to have discussed it with you,  
to 6 would have been your opinion that you would have stated  
7 them?

8 MR. MACKEY: Objection.

9 THE COURT: Sustained.

10 BY MR. WOODS:

the 11 Q. You understand that Mr. Nichols stands charged with  
12 exact same offense that Mr. McVeigh stood charged with?

13 A. No, I didn't understand that.

McVeigh 14 Q. Okay. What was your understanding as to what Mr.  
15 was charged with?

16 A. Conspiracy. I don't know the technical word --

17 Q. Sure.

18 A. -- but conspiracy to commit . . . I don't know how  
to say

19 that.

20 Q. If the Judge explained to you out at Jeffco  
Fairgrounds and

21 then again today that both people were charged with  
conspiring

22 to use a truck bomb to destroy a federal building and  
killing

23 the people inside of it and then also the substantive  
offense

24 of using a truck bomb to destroy a federal building and  
kill

25 the people inside of it and then using a bomb of mass

1514

Juror No. 718 - Voir Dire

1 destruction and causing arson, those are three charges;  
and

2 then the Judge explained to you that they're also  
accused of

3 killing eight federal law enforcement officers that  
were on

4 duty -- that is, eight separate charges -- so they both  
stand

5 charged and accused of 11 separate counts that carry  
the death

6 penalty -- so do you understand that both of them stand  
accused

7 of the same offense?

8 MR. MACKEY: Judge, I object to the

description of the

9 indictment as being both inaccurate --

10 THE COURT: Well, there are some inaccuracies  
in it,

11 but it's good enough for this question.

12 JUROR: Yes, now I understand that.

13 BY MR. WOODS:

14 Q. And you understand what the verdict was for Mr.  
McVeigh?

15 A. Yes, I do.

16 Q. Did you have any disagreement as to that verdict,  
on the

17 penalty?

18 A. With the verdict, no. With the penalty, yes.

19 Q. Are there any laws that you can think of that you  
don't

20 agree with but that you follow as a matter of course,  
such as

21 speeding laws? And I notice that you ride motorcycles.  
Is

22 there a law in this state about requiring helmets for  
23 motorcycle riders?

24 MR. MACKEY: Judge, objection.

25 THE COURT: Sustained.

1515

Juror No. 718 - Voir Dire

1 BY MR. WOODS:

2 Q. Can you think of any laws or statutes that you  
don't agree

3 with but that you follow?

4 MR. MACKEY: Same objection.

5 THE COURT: Sustained.

6 BY MR. WOODS:

7 Q. You understand from the instructions from the Court  
that if

8 a jury finds in this case that the defendant is guilty  
as

9 charged, then a penalty phase is entered into, a second  
phase.

10 You understand that?

11 A. Yes.

12 Q. And you understand that the law does not require  
that the

13 death penalty be assessed. Did you understand that?

14 A. Yes.

15 Q. The only requirement of the law is that the jury be  
able to

16 consider the full range of punishment that could be  
assessed on

17 a case such as this; that is, life in prison, and the  
death

18 penalty. Do you understand that's the requirement of  
the law,

19 that a jury be able to consider both ranges, not that  
they have

20 to assess one or the other, but they have to consider  
it?

those are 21 A. You mean that in this case, if he's found guilty,

22 the two choices?

23 Q. Yes, sir.

24 A. Yes, I understand that.

consider 25 Q. And if chosen on a jury, a jury has to be able to

1516

Juror No. 718 - Voir Dire

1 both those alternatives.

2 A. Yes.

that you 3 Q. Now, you stated in your questionnaire on page 29

easy. Is 4 would never assess a death penalty because it's too

5 that the correct -- am I reading that correctly?

6 A. Yes, you're reading that correctly.

some of 7 Q. Okay. And then you went on to explain briefly that

when you 8 that's based on your personal experience back in '80

questionnaire, 9 were arrested. Now, the way you filled out the

you on 10 as I understand it, was it local officers who arrested

11 the federal warrant? Were there DEA people there?

12 A. I believe there was one DEA agent and --

13 Q. Okay.

14 A. -- and the others were local.

15 Q. And then I take it you were held -- they didn't  
allow you

16 to make bond; you were held until you were -- had a  
removal

17 hearing and taken over to Miami; is that correct?

18 A. Well, not exactly. But I was held for five days.

19 Q. All right. Where were you held?

20 A. Here.

21 Q. In the city of Denver?

22 A. Yes.

23 Q. And was it the county jail?

24 A. It was county jail, the federal marshal's office,  
and the

25 Denver jail.

1517

Juror No. 718 - Voir Dire

1 Q. Not a pleasant experience.

2 A. No.

3 Q. When you got to Miami, were you on bond and never  
went into

4 confinement again?

5 A. That's right.

6 Q. Now, I take it from your answer that you're basing  
part of

7 your decision on that experience; that you feel that

that is

8 the most appropriate and the most severe punishment, to  
be

9 confined in jail; is that correct?

10 A. Yes.

11 Q. And that the death penalty would be too easy.

12 A. Well, that's how it is for me.

13 Q. Yes, sir.

14 A. That's the only way I can relate it.

15 Q. And I notice that you're reading Dead Man Walking  
at this

16 time.

17 A. I finished it.

18 Q. All right. Did you gain any exposure or any  
sensitivity as

19 to what goes through -- or what emotions, what trauma a  
person

20 experiences who's sentenced to death and awaits his  
death

21 sentence?

22 A. Do I have an appreciation for the trauma?

23 Q. Yes, sir.

24 A. Yes.

25 Q. And after reading that and understanding what that  
process

1518

Juror No. 718 - Voir Dire

1 is, it's still your opinion that that is too easy and  
that life

2 in prison is much harder?

3 A. Well, I think the time period between the death  
sentence

4 and the actual death is extremely difficult.

5 Q. Yes, sir. And that often lasts several years  
because of

6 the appeal process; would that be an accurate  
statement?

7 A. I assume so. I mean, I'm not sure how all that  
works.

8 Q. Yes, sir. Have you been keeping up with the local  
9 publicity concerning a person by the name of Davis who  
is

10 scheduled to be executed next week here in Colorado?  
It's the

11 first execution in decades.

12 A. Just in passing. Some news blurb or something.

13 Q. Are you aware of how many years he's been on death  
row?

14 A. No.

15 Q. Did you keep up with -- when you were in Florida,  
was the

16 Ted Bundy case ongoing at that time?

17 A. I don't remember exactly where I was at that time,  
but I

18 remember the Ted Bundy case.

19 Q. Did you disagree with that verdict, the death  
penalty as to

20 Mr. Bundy?

21 A. I'm not sure at that time.

22 Q. Well, right now, given your opinion now, what is  
your

23 opinion as to the appropriateness of the death penalty  
for

24 Mr. Bundy?

25 A. I don't believe in the death penalty.

1519

Juror No. 718 - Voir Dire

1 Q. Okay. Is there any case that you can imagine the  
2 circumstances would be bad enough where you would feel  
that the

3 death penalty would be the appropriate verdict? If the  
person

4 is found guilty of deliberate, intentional,  
premeditated

5 murder, is there any circumstance you can think of  
where you

6 feel the death penalty would be appropriate?

7 A. No.

8 MR. WOODS: Thank you very much, sir, for  
answering

9 the questions.

10 THE COURT: Well, you have completed answering  
all of

11 the questions now, and you're excused for the day. And  
we're

we'll be 12 not deciding on these possibilities as we go along, so  
here 13 getting back in touch with you. Please, as you go from  
of 14 now, continue to follow the cautions earlier followed  
process, and 15 avoiding discussion about the case, including this  
case in 16 being careful about avoiding publicity relating to the  
leave 17 television, radio, whatever. And if you're going to  
18 town, let us know. All right.

19 JUROR: Yes, sir.

20 THE COURT: Good. You're excused.

21 111.

take the 22 If you will please raise your right hand and  
23 oath from the clerk.

24 (Juror No. 111 affirmed.)

25 THE COURTROOM DEPUTY: Thank you.

1520

1 THE COURT: Please be seated there in the  
chair by the 2 microphone.

3 VOIR DIRE EXAMINATION

4 BY THE COURT:

5 Q. And we -- you know that the case now on trial is  
referring

6 to the case of charges brought by the Government  
against Terry

7 Lynn Nichols.

8 A. Yes, I do.

9 Q. And you got a summons a while back explaining that  
your

10 name came up through a chance process as a potential  
juror, and

11 you answered a short questionnaire and then you were  
called out

12 to the Jefferson County Fairgrounds on September the  
17th and

13 answered a lot longer questionnaire, a lot more  
questions.

14 A. Yes.

15 Q. And you came there with others. I was there,  
introduced

16 some people who are here again. Let me just  
reintroduce them

17 so you know who's with us here in the room this  
afternoon.

18 You recall me introducing Mr. Lawrence Mackey  
and Miss

19 Beth Wilkinson right here at this first table as  
Government

20 lawyers. With them now are Mr. Patrick Ryan and Mr.  
Geoffrey

21 Mearns, who are additional Government lawyers in the  
case. You

22 didn't meet them before --

23 A. No.

24 Q. -- they weren't there.

25 Also there with us were Mr. Michael Tigar and

1521

Juror No. 111 - Voir Dire

1 Mr. Ronald Woods, attorneys for Terry Lynn Nichols, who  
is here

2 and who was also there.

3 And I explained some things about the case at  
that

4 time, about how there was an explosion in Oklahoma City  
5 destroying a federal government building with resultant  
deaths

6 and injuries on April the 19th of 1995, and charges  
were filed

7 against Mr. Nichols and a man named Timothy James  
McVeigh, and

8 also in these charges in the form of an indictment the  
9 Government referred to and other persons not named,  
charging

10 them with a conspiracy to bomb that building.

11 A. Yes.

12 Q. And to carry it out and to also murder law  
enforcement

13 agents who were in it. I gave you that general  
information and

14 also told you about how the case was moved from  
Oklahoma City

15 to this court in Denver and how also the charges were  
separated  
16 for trial so that Mr. McVeigh would be tried by  
himself,  
17 Mr. Nichols be tried alone because of differences in  
the  
18 evidence and a number of reasons requiring fairness  
requiring  
19 that there be separate juries and separate trials, and  
that was  
20 what was done; that is, an order to that effect. Mr.  
McVeigh  
21 was tried to a jury here earlier this year with a  
resulting  
22 jury verdict of guilty and then a death sentence. You  
know all  
23 that?  
24 A. Yes, I do.  
25 Q. And I explained to the jury panel members,  
including you,

1522

Juror No. 111 - Voir Dire

1 that the outcome of that trial could not be considered  
in this  
2 trial because if we allowed that, there wouldn't have  
been any  
3 reason for the separate trials. Separate trials  
require  
4 separate consideration, obviously.



24 A. Oh, yes.

25 Q. And no defendant in any criminal case is obliged in  
any way

1523

Juror No. 111 - Voir Dire

1 to prove anything or explain anything. No defendant  
has to

2 take the stand as a witness and testify or talk at all  
or call

3 any witnesses. It's the Government who brings the  
charges, and

4 it's the Government who must call the witnesses and  
produce the

5 evidence. And there are rules of evidence that limit  
what can

6 be heard and considered by a jury. And we say that not  
only

7 does the Government have the burden of coming in with  
that

8 evidence, but that it has to satisfy fair-minded jurors  
that

9 the evidence shows the defendant to be guilty beyond a  
10 reasonable doubt. You've heard of that, too.

11 A. Yes, I have.

12 Q. And what that means is that after considering  
everything

13 that was presented as evidence during the course of the  
trial

14 and paying attention to the instructions on the law as

to be --

15 as to what has to be proved for the particular offense  
charged,

16 then if the jury, after talking it over, has a  
reasonable doubt

17 about whether that evidence shows the defendant to be  
guilty of

18 those things, then the duty of the jury is to return a  
verdict

19 of not guilty thereby giving the defendant the benefit

20 reasonable doubt. You understand that, do you?

21 A. Yes, I do.

22 Q. And do you accept that as principles that would  
govern you

23 in this trial if you served on this case?

24 A. Yes, I do.

25 Q. You have your questionnaire there in front of you  
and the

1524

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1 answers, and you can certainly look at it. And we will  
be

2 talking about some of these questions, asking you a  
little

3 follow-up on them. And if there's anything that you  
need to

4 explain in response to this or even if you have another

5 explanation about something, you're free to tell us

that.

6                   Of course we're relying on what you've told us  
here,  
7                   and there are no right or wrong answers; it's not a  
test. It  
8                   is to get us -- give us some information about you and  
your  
9                   attitudes and views and opinions. And we know that  
we've asked  
10                  you some things that are personal in nature, and we're  
trying  
11                  to protect your privacy and therefore not using your  
name. The  
12                  answers to these questions have not been made public,  
they're  
13                  just copies have been given to those who are  
participating here  
14                  this afternoon, and that's it. You even -- you know,  
we  
15                  provided a way for you to get in and out of the  
courthouse  
16                  without being photographed and all of that.

17                  But of course what you answer here now is open  
to the

18                  public. This is a public courtroom; you understand?

19                  A. Yes, I do.

20                  Q. Now, as I understand it, you were born up in  
Casper,

21                  Wyoming?

22                  A. Yes, I was.

23                  Q. But then you apparently came to Colorado not too  
long after

24 that, or at least before high school?

oil  
25 A. Yeah. My dad moved around a lot. He worked for an

1525

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1 company, so we were transferred down here.

down to  
2 Q. Yeah. And about how old were you when you came

3 Colorado there?

Then we  
4 A. Well, the first time I was probably about seven.

while, about  
5 moved up into -- or back into Montana for a little

pretty much  
6 three years, and then moved back down here and then

7 down here since.

8 Q. You spent some time in Cody?

9 A. Yeah.

10 Q. What --

11 A. I worked for Amoco for about three years up there.

necessarily -- or  
12 Q. Okay. So you kind of went in your -- not

13 did your father work for Amoco?

14 A. Yeah, my dad worked for Amoco, too.

while?  
15 Q. So you kind of traveled in his footsteps for a

16 A. For a while, until the oil business kind of went

downhill.

17 Q. Then you went into another line of work. And is  
that the

18 work you're doing now?

19 A. Yes, it is.

20 Q. And the work you're doing now, as I understand it,  
is a

21 little bit of a throwback to earlier times when there  
were

22 fountain service?

23 A. Yeah, that's what I do, install fountains, put in  
Coca-Cola

24 fountain machines.

25 Q. And they have those around?

1526

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1 A. Yeah, anyplace, 7-Eleven, those old fountain  
machines.

2 Q. Oh, they have them? Well, I guess I just confessed  
to

3 something: Not being aware. I guess I'm thinking back  
to the

4 old drug stories, before your time.

5 A. They call -- any kind of a machine that dispenses a  
syrup

6 and soda mixture is a fountain.

7 Q. I see. And you've been with this organization you  
work for

8 now about eight or nine years?

9 A. Yes, I have.

10 Q. We know that getting a jury summons and recognizing, as I'm

11 sure you must -- I told you also when we were together on the

12 17th of September, this trial could take a while, several

13 months.

14 A. Yes.

15 Q. And that means some, of course, interruption of your work

16 and also has an effect on your family. Have you talked to

17 whoever you report to where you work about --

18 A. Oh, yeah.

19 Q. -- this jury service?

20 A. Yes, I have.

21 Q. And did you get some response from that person or those

22 persons about, well, you know, see if you can't get off of it,

23 or something like that?

24 A. No, not really. My boss is pretty -- I mean I've worked

25 with him since he started his business. So he knows that

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1 things happen that --

2 Q. And would be supportive of you if you stayed on the  
job

3 here?

4 A. Yes.

5 Q. On this job here?

6 A. Yes, he wouldn't have a problem with it, I'm sure.

7 Q. All right. Did he discuss the case with you at all  
or

8 express any views of his own about what you ought to do  
on a

9 jury, if you get on it?

10 A. No. No, he didn't. He just said, If you have to  
go, you

11 have to go.

12 Q. We asked you to be careful, of course, about  
talking with

13 people and seeing newscasts and everything, to try to  
stay away

14 from any publicity about the case. We know that's not  
easily

15 done, and sometimes despite their best efforts, people  
do run

16 across something. Has that happened in your case?

17 A. Not a lot. I mean I seen headlines once in a while  
and,

18 you know, heard a little on the news; but I -- you  
know, I'm

19 pretty much out of my truck most of the time, so very,  
very

of the 20 little I listen to or anything. And I didn't read any  
21 articles, you know.

work? 22 Q. What -- how far do you go geographically in your

general 23 A. Oh, about a 90-mile radius of Denver; right in that  
24 area.

25 Q. Okay. So you're out in your truck quite a bit?

1528

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1 A. Yeah.

2 Q. You listen to news programs regularly. No?

usually. 3 A. Yeah. Not really. More talk radio or sports

I drive 4 Country music sometimes. Usually when I'm in my truck,

or five 5 just one place and I stop there, and I'm there for four

6 hours at a time at the place I'm working, so --

7 Q. You are a sports fan?

8 A. Yes.

team in 9 Q. And you have a particular affinity for a football

10 the professional league?

11 A. Yes.

12 Q. And do you have tickets for tonight?

to be 13 A. No, but our company works all the games, so we have

14 at all the games.

time to 15 Q. Oh. So you want to make sure you're out of here in

16 get over to the stadium?

They're 17 A. No. A couple of other guys are working tonight.

18 already over there.

I 19 Q. Well, we'll get you out of here before the kickoff,

20 think.

21 A. Thanks.

22 Q. If you wanted to watch it somewhere.

you a 23 You -- I'm looking at page -- wanted to ask

forgive 24 question about page 2. And I'm a little confused, and

you've 25 me for this. But you show under Question 5 how long

1529

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you 1 been married, and then you show a prior marriage. And

whatever. 2 haven't marked divorced and remarried or widowed or

3 What happened to the first marriage?

4 A. Oh, it was divorced. Oh, I didn't see that

divorced and

5 remarried, yeah.

And

6 Q. Well, that's fine. I just wanted to clarify that.

7 your daughter, then, is from the first marriage?

her.

8 A. No, she's from my wife's first marriage. I adopted

marriage?

9 Q. Oh. Okay. You had no children from your first

10 A. No.

11 Q. And your wife is now at home?

12 A. Yes, she is.

mortgage

13 Q. And -- but she used to be a collector for a

14 company?

actually.

15 A. Yeah, she's been with several mortgage companies,

16 Q. And was she doing that earlier on in your marriage?

after we

17 A. Yeah, she worked for about a year, about two years

time.

18 were married. She's pretty much been home most of the

wrote

19 Q. All right. I wanted to ask you about something you

20 on page 22 at Question 101.

21 A. Okay.

22 Q. How long ago was this incident?

summer.

23 A. Oh, it was probably -- I believe it was just this

24 And there was some people causing a disturbance in our

front

25 yard, and we called the police for it.

1530

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1 Q. Unrelated to you or your family?

woman

2 A. Yeah, I just went out 'cause it was a man and a

3 fighting in our front yard, and I went out --

4 Q. From a neighbor's yard?

and

5 A. No, they were in a car and they ran up into my yard

6 started physically fighting in my front yard.

7 Q. Physically fighting?

8 A. Yeah, they were pushing and shoving.

9 Q. And you called the police?

and we

10 A. Yeah, because they had two little kids in the car,

11 were more worried about that.

called to

12 Q. Sure. Was there any follow-up to that? Were you

13 come in to --

the

14 A. No, the people causing the disturbance left before

15 police got there, and the police never called back.

16 Q. Did you give the police a description of them?

17 A. Yeah, they had their license number and that stuff.

18 Q. You had that?

19 A. Yeah.

20 Q. You marked over on page 32, at Question 142, that  
your

21 father had, as far as you know, some experience with  
22 explosives?

23 A. Yeah, he was in the -- he was in exploration, so  
they used

24 a lot of that for seismographing and stuff like that.

25 Q. Sure. In the oil fields.

1531

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1 A. Yes.

2 Q. Have you ever worked out in the fields?

3 A. Yes.

4 Q. Doing roughneck work or --

5 A. Yeah, I was a -- basically a technician for  
installing

6 computers, but we were doing it out in a producing  
field, so --

7 Q. But you didn't work on a drilling rig?

8 A. No, huh-uh. I've been around them my whole life  
with my

9 dad and stuff, so --

10 Q. Yeah. You also indicate that you've gone to gun  
shows or a

11 gun show?

12 A. Yeah, I've been to a few of them.

13 Q. And you have some firearms of your own?

14 A. No, I don't own any. My brother was -- really  
liked guns

15 and stuff, and I'd go with him once in a while.

16 Q. When was the last time that you remember being at a  
gun

17 show?

18 A. Probably three or four years ago.

19 Q. Here in Denver?

20 A. At the Merchandise Mart, yeah.

21 Q. Is that -- the ones you've been to, were they all  
out

22 there?

23 A. Yeah, at the Merchandise Mart.

24 Q. Page 23, Question 103, I need to follow up on a  
little bit.

25 A. Okay.

1532

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1 Q. Was that also here in Denver?

2 A. Yes, it was.

3 Q. And was there any accident --

4 A. No.

5 Q. Pullover and --

6 A. Actually, I was parked when it --

7 Q. You were parked?

8 A. Yeah.

9 Q. And they came up and questioned you?

10 A. Yeah, I was parked in front of my brother's house,  
11 actually.

12 Q. All right. Well, and then you got brought into  
court on  
13 that?

14 A. Yes.

15 Q. And did you go to trial? Did you plead? What was  
the --

16 A. Yeah, I plead. I used -- I think it was a --  
dropped to a  
17 DWAI.

18 Q. Did you have a lawyer?

19 A. Yes.

20 Q. And there was some negotiating involved in it, I  
assume?

21 A. There must have been, yeah.

22 Q. Your lawyer took care of that for you?

23 A. Yeah.

24 Q. And then did you ever go into a jail cell?

25 A. Just till I was -- for work release. And I just  
got a

Juror No. 111 – Voir Dire

1 work-release sentence. Just in a holding cell was all.

check 2 Q. Yeah. Well, with the work-release program, did you

3 in and out of a facility?

4 A. Yeah. In Jefferson County.

5 Q. How long was that?

6 A. I think I did it for like ten days.

7 Q. Did you do some community service?

8 A. Yes.

9 Q. And you also go to some classes about --

10 A. Yes. Yes.

11 Q. To help you change your behavior; is that --

12 A. Yes.

13 Q. And all that is in the past some eight years back?

quite a 14 A. Yeah; I've had a family since then and settled down

15 bit.

16 Q. Okay. Those were in less disciplined days for you?

17 A. Yes, much less.

18 Q. All right. Now, we've talked a bit here about  
trials and

19 the burden of proof and all that. We have to -- had to  
ask you

20 some questions about punishment. And that's because  
the

21 charges in this case under the federal statutes  
involved

22 provide for the possibility of a sentence to death.  
And as we  
23 will talk in a little bit, that involves the jury  
making a  
24 decision. And before I talk to you about the process  
and the  
25 procedure, I want to review with you your answers  
because we

1534

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1 ask you questions here on pages 27, 28, and 29 that  
asked for  
2 your general opinions and beliefs about punishment and  
3 particularly the punishments of life in prison without  
any  
4 possibility of release and death. And these questions  
were  
5 asked -- you know, there was a long explanation here  
before the  
6 questions explaining that, first of all, of course, Mr.  
Nichols  
7 is presumed to be not guilty, so we don't have any  
expectation  
8 of reaching this question, but we can only ask you the  
9 questions one time, and this is it, so we have to ask  
about  
10 your approach to the possibility of a punishment  
decision if  
11 that should occur. So that's why these questions are  
in here,

12 and they're very broadly asked in terms of, you know,  
what you  
13 think if you could make the law.

14 And I take it you answered in that spirit, did  
you?

15 A. Yes, I did.

16 Q. Now, please take a moment to review your answers.

17 A. Okay.

18 Q. Okay. You have in mind what you wrote then. Let  
me ask

19 you this first off. This matter of the death penalty  
is

20 something that gets much debated, as I'm sure you're  
aware; and

21 there are people with strong views on each end and in  
the

22 middle and all over the range. So that's why we are  
asking you

23 some things about it.

24 But tell me if it is a subject, the subject of  
whether

25 there ought to be a death penalty, and if so, when; is  
that

1535

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1 something you thought much about before we asked you  
these

2 questions?

3 A. Yeah, I've thought about it quite a bit. I mean,

there

4 is --

gone back 5 Q. Have you changed your views over time? Have you

6 and forth on this or --

since 7 A. Not really. I think I've always, you know, I guess

you know, 8 I've been old enough to reason it out, thought that,

9 death penalty should be in.

10 Q. Depending on what?

11 A. Depending on the crime.

under D 12 Q. Okay. And you've said that in here, I think. Now,

cases it 13 there on 28 you've held that view about what kind of

14 would be appropriate to . . . for sometime?

be used. 15 A. Oh, yeah. When innocent people are killed and it's  
16 premeditated, I believe that the death penalty should

17 Q. Without regard to anything else?

if it 18 A. Well, I guess you could take other factors in; but

else's 19 was premeditated and people were killed by someone

20 actions, unless it's in a war, I can't --

21 Q. Yeah, well, of course --

22 A. But --

little 23 Q. -- we're excluding wars. Well, let me tell you a

about 24 bit about what the law is here, and see what you think  
25 it.

1536

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1 What happens in an ordinary case in which  
there is no 2 death penalty involvement or even the punishment of  
life in 3 prison with no release not involved, you know, the case  
goes to 4 a jury, the jury decides whether the evidence proves  
guilt 5 beyond a reasonable doubt; if so, guilty verdict; if  
not, not 6 guilty verdict. We've talked about this.

7 And of course, if it's a not guilty verdict,  
that's 8 the end of it. If it's a guilty verdict, that's still  
the end 9 of it as far as a jury is concerned, because then the  
case goes 10 back to a judge, the judge that heard the trial, and  
that judge 11 decides what the sentence should be.

12 But the judge doesn't decide the sentence just  
on the 13 basis of the trial itself. There has to be more  
information

14 provided to determine the appropriate sentence for the  
15 defendant, as an individual human being. So  
information is  
16 collected, not only more information about the offense,  
but  
17 more information -- a lot of information about the  
defendant.  
18 And things that never would have come out at the trial  
itself,  
19 things about that person's life history, where he was  
born,  
20 circumstances of his upbringing, family relationships  
21 continuing, work history, you know, all of the things  
that each  
22 one of us has that makes us unique, our own life story,  
as it  
23 were.

24 And the judge hears all of that, has a  
hearing,  
25 listens to arguments, and decides, well, this is the  
punishment

1537

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1 appropriate for this person. And that's not a formula;  
that's  
2 an individual decision.

3 Now, in a case where death or life in prison  
is  
4 involved, then it's different because we don't under  
federal

5 statutes have judges decide that, juries decide that.

6 So in a case where that's a possibility, we will --  
first  
7 of all, that jury decides is the evidence sufficient to  
prove  
8 guilt beyond a reasonable doubt. And if the answer to  
that is  
9 yes, then the jury has to do more because the jury is  
really  
10 the sentencing authority in such a case. And before  
jurors can  
11 decide the appropriate punishment in a case, even if it  
is a  
12 case of death of innocent people and premeditated, no  
matter  
13 what it is, in a murder situation, murder charges, the  
jury has  
14 to hear more.

15 And now, that more is information that's  
presented to  
16 the jury in a second stage that is very much like the  
trial  
17 itself in that there are two sides: The prosecution  
and the  
18 defense; and the prosecutors provide information which  
they  
19 think supports the death penalty, and we refer to that  
as  
20 lawyers and judges as aggravating factors, things that  
support  
21 the notion that death is a just punishment.

22 But the defense also produces information to

the

23 contrary, and we call it mitigating factors, that  
suggest that

24 the defendant -- a particular defendant does not  
deserve death

25 as a punishment under all of the circumstances,  
including these

1538

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1 individual circumstances about that person. The same  
kind of

2 things can be involved, as I mentioned, with respect to  
a judge

3 making the sentencing decision: Who is the defendant,  
what is

4 he like as a human being, and so forth.

5 Now, at the end of that penalty phase trial,  
the

6 court, the judge gives instructions to the jury about  
what the

7 jury can consider as aggravating and mitigating factors  
and

8 some ways to look at all that information that's been  
provided,

9 suggest some questions to be asked and answered to help  
the

10 jury analyze all the information that's been presented.

11 But there's no formula, you know, there's no  
equation.

12 You don't add and subtract or something like that. At

the last

13 analysis what the jury is asked to do is consider it  
all and

14 then make a moral decision, really a moral judgment on  
behalf

15 of the community, but each juror has to decide it  
individually,

16 and the question is should the defendant live or die.  
That's

17 the process.

18 And as I say, in reaching that ultimate  
question of

19 life or death, the jury is required to follow some  
instructions

20 about what they can consider.

21 Given that and given what you've said here and  
the

22 views that you have about the death penalty in general,  
will

23 you be able to follow the instructions and make a  
decision

24 based on the evidence and the information that's  
provided to

25 the jury?

1539

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1 A. I believe I can.

2 Q. And be open to the range of penalty: Life without  
release,

3 and death?

4 A. Yes, I believe I could.

5 THE COURT: All right. Now the counsel have  
some  
6 additional questions of you, and please pay attention  
to their  
7 instructions -- instructions -- my instructions and  
their  
8 questions. Answer them as you have me.

9 Miss Wilkinson.

10 MS. WILKINSON: Thank you, your Honor.

11 VOIR DIRE EXAMINATION

12 BY MS. WILKINSON:

13 Q. Good afternoon, sir.

14 A. Good afternoon.

15 Q. How are you doing?

16 A. Oh, pretty good.

17 Q. Good. You told us a lot about yourself in this  
18 questionnaire, but I still want to ask you a few more  
19 questions. One is about your family. It looks like  
all of  
20 your siblings are here in Colorado, is that right, or  
am I  
21 wrong about that?

22 A. All but one sister; she's down in New Mexico.

23 Q. And you have a brother who's a farmer?

24 A. He lives out -- he's not a farmer; he lives out on  
a ranch

25 with a guy, and he's just helping him out there and  
some stuff.

1540

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1 He's had some problems, so he's staying out there.

2 Q. Trying to get his life in order?

3 A. Yeah, he just went through a divorce and stuff, so  
4 he . . . .

5 Q. Had a tough road recently?

6 A. Yeah.

7 Q. Do you know if he does any farming out there, or is  
he  
8 just --

9 A. No, I think mostly what they do -- it's out on a  
ranch, and

10 I think they run some hunters out there and that sort  
of stuff.

11 He does a lot of guiding up in Wyoming in the hunting  
season.

12 Q. I see you were born in Wyoming. Was he also born  
in

13 Wyoming?

14 A. Yes, he was. No, he was born in Billings, Montana.

15 Q. You all moved around quite a bit because of what  
you told

16 us about your dad's job?

17 A. Yeah, because of my dad.

18 Q. Is anybody else in your family involved in farming?

19 A. No.

20 Q. Do you know anything --

21 A. My sister and her husband moved to Palisade, and  
they're

22 growing fruit trees. She's a teacher, but they got  
some land

23 they're growing fruit trees. I guess you could call it

24 farming.

25 Q. Not like we think of it normally?

1541

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1 A. No.

2 Q. You also said that in your spare time, which it  
doesn't

3 sound like you have too much of, you like to do  
woodworking?

4 A. Yes, I do.

5 Q. What kind of woodworking do you do?

6 A. I build small cabinets, things for the house,  
anything out

7 of wood, actually.

8 Q. Do you sell anything?

9 A. No, mostly for the house, gifts. A few of them  
we've sold,

10 but mostly just around the house and gifts.

11 Q. You told his Honor that you had gone with your

brother to

12 several gun shows. Is this the same brother as on the  
ranch?

13 A. Yes.

14 Q. Did you ever purchase anything at the gun shows?

15 A. No, I've never purchased a gun.

16 Q. Do you remember ever seeing anybody hand out  
literature or

17 have literature or books for sale?

18 A. Oh, yeah, there's all kinds of books and stuff.  
You know,

19 about every display there had something in the way of

20 literature and that kind of stuff.

21 Q. Probably didn't ask that question very well,  
because I was

22 thinking more narrowly. You mean you saw gun magazines  
and

23 things like that; right?

24 A. Oh, yeah.

25 Q. How about any political literature or things about  
Waco or

1542

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1 things like that?

2 A. No. I don't even think Waco had happened before  
the last

3 one I went to.

4 Q. So it's been a while?

5 A. Yeah, it's been four or five years, something like  
that,  
6 since I was at one, yeah.

7 Q. Let me ask you a few follow-up questions about  
things  
8 you've written in the questionnaire. If you could turn  
to page  
9 22, Question 100, please.

10 You see that?

11 A. Yes.

12 Q. And you said the criminal justice system is working  
13 adequately, but you didn't explain. So I was wondering  
if you  
14 could just give me your impressions of what you think  
is good  
15 and bad about our criminal justice system.

16 A. Well, I think -- I mean it's working as well --  
better than  
17 anywhere else in the world. I mean I think some guilty  
people  
18 get, you know, off, but I think a lot of them do get --  
you  
19 know, get what they deserve. But I think a lot of -- I  
hate to  
20 say it, but I think a lot of money gets a lot of people  
off.

21 Q. So you think that has something to do with whether  
--

22 A. Yeah.

23 Q. -- you get a fair trial or not?

24 A. I kind of think so.

of the 25 Q. Did that -- or is that affected by your impressions

1543

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0. J. 1 O. J. Simpson case, 'cause you told us you followed the

2 Simpson case a bit?

the 3 A. Well, I mean that affects it a little bit, but just

that are 4 normal, everyday life, you know, you run into people

be. 5 getting away with stuff that you know they shouldn't

happened 6 Q. Did you have any opinion or do you know about what

7 in the O. J. Simpson case?

money 8 A. I mean I have an opinion, I guess. I mean I think

for a 9 basically -- you know, I think the more money you got

I think 10 trial like that, the better lawyers you can hire and --

11 that was more of a show than a trial, actually.

fan, you 12 Q. So that means that even though you're a football

13 thought that Mr. Simpson was probably guilty?

evidence -- 14 A. I think he probably was. But just with the

15 but, I mean, I wasn't there, so I didn't hear it all,  
so, you  
16 know, and I'm not a blood expert or anything, so I  
couldn't --  
17 but I -- you know, I guess in my opinion, I think he  
probably  
18 did it.  
19 Q. Well, you mentioned that you weren't there, which  
is  
20 obviously the principle -- some of the principles the  
Judge was  
21 alluding to about the different responsibility you  
would have  
22 if you're actually in the jury where you would make  
your  
23 decisions just based on what you hear in the courtroom,  
and  
24 you'd end up hearing more than anybody else.  
25 A. Yes.

1544

Juror No. 111 - Voir Dire

1 Q. You know, the people who are reading the newspaper  
or  
2 watching the television, you understand that?  
3 A. Yes.  
4 Q. Would you have any problem setting aside any  
publicity  
5 you've heard about this case or the bombing in Oklahoma  
City

presented 6 and deciding this case just on the facts that were

7 from the witness stand?

read 8 A. No, I don't think I would because I really haven't

it's kind 9 that much about this case at all. I mean, you know,

what 10 of basically, you know, just what the headlines are and

didn't really 11 you see on the news every once in a while. But I

12 get into the trial or the news that much.

13 Q. You weren't reading the reports every day?

14 A. No.

15 Q. Do you know much about Mr. Nichols?

somewhere, 16 A. No, not really. I know he's from back East

that he 17 farther east than here. That's about all I know. And

all I 18 was, you know, somehow connected, is all. That's about

anything. 19 know, really. I haven't read that much about him or

notions 20 Q. So you're not coming in here with any preconceived

21 of what the charges are --

22 A. No, huh-uh.

23 Q. -- or what the evidence would be?

24 A. No, not at all.

25 Q. Now, when you were asked about the death penalty,

in those

1545

Juror No. 111 – Voir Dire

1 questions the Judge went over with you, we asked you  
your  
2 opinion, again. And you said that you thought the  
death  
3 penalty would be appropriate if the crimes caused the  
death of  
4 innocent people; right?

5 A. Right.

6 Q. And if they were premeditated?

7 A. Yes.

8 Q. Then you heard the Judge tell you what the law is,  
which is  
9 a little different than asking you, obviously, your  
personal  
10 opinion.

11 A. Yes.

12 Q. Where -- in a case like this or in any capital  
case, where  
13 the death penalty is a possible penalty, you can't  
consider  
14 just those factors; you have to consider everything?

15 A. Yeah. I understand it's more a moral judgment.

16 Q. And involved in that moral judgment is everything  
you can

17 find out that we present about the defendant, about the

crime,

You'd 18 all those factors before you could make any decision.

19 have to listen to all of that evidence.

20 A. Yes.

the guilt 21 Q. Even though you've already made a decision about

22 of the defendant. Do you understand that?

23 A. Yes.

you feel 24 Q. Would you have any problem doing that, even though

set that 25 this way generally about the death penalty, could you

1546

Juror No. 111 - Voir Dire

before you 1 aside and listen to all the information and evidence

2 actually determined what the penalty should be?

a man 3 A. Oh, yeah. I think if you're, you know, deciding if

can't 4 lives or dies, you have to listen to everything. You

anybody. 5 just -- I mean, that's a hard decision to make for

6 Q. And you take that very seriously --

7 A. Very seriously.

everything? 8 Q. -- and keep an open mind until you heard

9 A. Yes.

10 Q. You said something similar to generally in the  
11 questionnaire, if you look at page 30, Question 129.

And

12 that's really the ultimate question in this case, which

is

13 could you follow the Court's instructions and do you  
think it's

14 important to do that. And you said you thought you  
agreed with

15 that strongly because you thought that was the only way  
to have

16 a fair trial.

17 A. Yes, I do.

18 Q. So I guess the real question here is not whether  
you have

19 opinions about the death penalty but whether once you  
come into

20 this courtroom and the Judge gives you his  
instructions, you

21 will follow them to give everyone involved a fair  
trial?

22 A. Yes, I would.

23 MS. WILKINSON: Thank you. I appreciate your  
24 answering my questions.

25 THE COURT: Mr. Tigar.

1 VOIR DIRE EXAMINATION

2 BY MR. TIGAR:

3 Q. Good afternoon again.

4 A. Good afternoon.

5 Q. I'm Michael Tigar. I'm one of the lawyers  
appointed by the

6 court to help Terry Nichols in this case.

7 You remember the verdict in the Timothy  
McVeigh case,

8 I suppose.

9 A. Yes, I do.

10 Q. And the sentence?

11 A. Yes.

12 Q. What did you think of that?

13 A. I didn't really follow the case that much; so, you  
know,

14 I'm not sure as to, you know, all the evidence that was  
15 presented and that kind of stuff. I mean, it's . . . I  
guess

16 if that's what the jury decided, I mean they must have  
heard

17 enough evidence to warrant it. I mean, it's taking a  
man's

18 life is . . . you know, it must have been a real hard  
decision

19 to make.

20 Q. Did you see any of the or hear any of the jurors  
being

21 interviewed afterward?

that. 22 A. No. I never -- never really did listen to any of

23 Q. Did you see their picture in the paper?

all 24 A. I think I saw the one picture where they had them

25 sitting down and -- but I never really listened to them

1548

Juror No. 111 - Voir Dire

watch and 1 interview them. I just don't have a lot of time to

2 listen to news.

selected as a 3 Q. Have you thought about being -- if you were

the 4 juror in this case, what that would mean, in terms of

5 media, after your decision, talking to you?

to talk 6 A. Oh, yeah, I -- well, I figure they'd probably try

once you 7 to everybody that was on the jury; but in my opinion,

I would 8 make that decision, it's -- I mean, I don't really feel

9 have to explain myself to the news media.

talk about 10 Q. And how about the folks you work with? Did they

11 the McVeigh case?

it's 12 A. Not that much, really. You know, once in a while,

13 mentioned. The guys I work with are kind of different;

and

14 they don't really get into the news a lot, either.  
It's all a

15 bunch of guys that have been together for years.

16 Q. Well, in that -- you mentioned that your opinion  
about the

17 criminal justice system -- you said some guilty people  
get off;

18 right?

19 A. I said sometimes they do.

20 Q. I wasn't -- I'm not trying to debate with you --

21 A. Yeah.

22 Q. -- just trying to find out what you think.

23 A. I think sometimes they do.

24 Q. Have you read about cases or heard about cases in  
which

25 people that didn't do it got convicted?

1549

Juror No. 111 - Voir Dire

1 A. Oh, yes, I've heard about -- yeah, I think --  
that's what

2 I'm saying: It's not perfect, but it's better than  
anybody

3 else in the world.

4 Q. You bet.

5 A. Sometimes we get the wrong guy, and sometimes we  
get the

6 right guy.

Simpson 7 Q. And as a juror, you're talking about that O. J.

8 case. I mean, everybody has an opinion about that, I  
guess.

9 Do you fault those -- as you think about that case, do  
you

10 think that the jurors did wrong or made a mistake or  
might have

11 been biased?

12 A. I think more it was the fact that -- I think the  
evidence

13 introduced and stuff, I just think the defense did a  
better job

14 than the prosecution. I mean, they put the doubt in  
there. I

15 mean it wasn't beyond a reasonable doubt.

16 Q. Okay.

17 A. I mean, from what you heard -- I mean everybody can  
form

18 their own opinion; but from what I -- you know. But  
you would

19 have to have a reasonable doubt after hearing the  
trial.

20 Q. Well, so far what I hear you saying is that that  
idea of

21 beyond a reasonable doubt is one that you know about --

22 A. Yes.

23 Q. -- agree with, and could follow?

24 A. Yes.

25 Q. And now about the money part: You think that some

of it

1550

Juror No. 111 - Voir Dire

1 has to do with what kind of a lawyer you can hire?

2 A. I think some of it does.

3 Q. Now, in this case, as you've looked at the McVeigh  
case or

4 the Nichols case, do you have any opinions about the  
lawyers

5 for either side, either in this case or the McVeigh  
case, that

6 have influenced you at all?

7 A. No, not in this case at all. I mean, I'd heard of  
some of

8 the lawyers in the O. J. case. I've never heard of --

9 Q. Never heard of me?

10 A. No, not --

11 Q. Good. Never heard of these lawyers sitting here?

12 A. No.

13 Q. So we start out with a clean slate, too.

14 A. Yes.

15 Q. All right. You understand why I'd be asking --

16 A. Yes.

17 Q. -- because, you know, there are times when people  
get angry

18 at the lawyers and then they take it out on the person  
that

19 they're appointed to represent.

20 A. Yes, I understand.

21 Q. But that wouldn't be the case for you?

22 A. No.

23 Q. Well, let me ask you something about the -- Your  
father had

24 worked for Amoco, up in the oil industry?

25 A. Yes.

1551

Juror No. 111 - Voir Dire

1 Q. And that was both in Montana and Wyoming?

2 A. Yes. North Dakota and Colorado, he's worked in.

3 Q. And those were -- and none of that was surface  
extraction,

4 was it, or was it? Were you involved in any oil shale  
or any

5 of that?

6 A. No, it was all wells.

7 Q. These are all -- you're drilling wells?

8 A. Deep wells.

9 Q. And when you worked as a computer technician, what,  
were

10 you evaluating the results of those seismic shots?

11 A. No. These were already producing fields, and we  
were

12 automating things so that people didn't have to go out

to every

13 wellhead every day. It was automatically recorded  
through a

14 radio computer system so people didn't have to go out  
and check

15 how much oil each well produced every day and that sort  
of

16 stuff.

17 Q. So you're monitoring production?

18 A. Yes.

19 Q. Were these wells in which Amoco had to use any of  
these

20 advanced techniques to extract? Were they pumping  
steam in the

21 hole?

22 A. Yeah. Actually, the field was pretty much all  
underwater

23 injection and micellar injection.

24 Q. And were you involved in any of the technology of  
that and

25 trying to improve the yields out of the holes?

1552

Juror No. 111 - Voir Dire

1 A. I guess you could say that, because we were  
monitoring how

2 much water they were using to inject and force it up  
and out of

3 the holes with. I guess you'd call it more modern  
technology.

used  
4 With the computers, you could tell exactly how much was  
guess.  
5 every day and if it was increasing or decreasing, I

just  
6 Q. Now, the reason -- in addition to general interest,  
a lot  
7 knowing each other -- in this case there's likely to be  
will be  
8 of evidence by -- from the FBI Laboratory, and there  
and there  
9 people that have done a chemical analyses of things,  
scientific  
10 will be other kinds of folks that have, you know,  
11 evidence to present.

training, would  
12 Now, based on your background and your  
you  
13 you be able to evaluate the evidence just based on what  
being the  
14 hear from the witness stand, as opposed to, you know,  
look at  
15 jurors' coach, the other jurors' coach about how to  
16 some of these things?

ends of  
17 A. I really don't -- I know more about the electronic  
sort of  
18 it than I would about the actual chemicals and that  
19 stuff that would be used.

20 Q. You understand why we'd be asking.

21 A. Yeah.

just 22 Q. Because everybody is supposed to get their evidence  
23 from --  
24 A. Can't be helping the other.  
25 Q. Yeah. Right.

1553

Juror No. 111 - Voir Dire

0. J. 1 In a criminal case -- Now, of course, in the  
right? 2 case, Mr. Simpson didn't testify in his own behalf;

3 A. Right.

criminal 4 Q. And how would you feel if you were a juror in a  
stand? 5 case in which the defendant decided not to take the

reason 6 A. If he didn't have to, I mean there shouldn't be any  
case. 7 for him to if it doesn't help his case, or hurt his

8 Q. Okay.

to -- 9 A. I mean if -- that's his right, I guess, not to have

would not 10 Q. Can you think of a reason why an innocent person  
11 take the stand?

mean if 12 A. No, not really, I guess. An innocent person. I  
13 he's really innocent, unless he's more worried that

maybe they

14 can twist his answers or something is the only --

15 Q. Okay.

16 A. That would be the only reason I can think of it.

17 Q. I understand your feelings about it. So the  
bottom-line

18 question is if the judge said that in a case -- I'm not  
talking

19 about a particular case -- you were a juror in a case  
and the

20 defendant didn't take the stand and the judge said, You  
can't

21 think about it, you can't hold it against him, and you  
can't

22 even talk about it in the jury room and you have to  
just make

23 your decision based on what you heard, would you be  
able to do

24 that even though you have those understandable  
feelings?

25 A. Yes, I believe I could.

1554

Juror No. 111 - Voir Dire

1 Q. Now, when you're -- when you talked to your boss  
about this

2 prospective jury service here over several months, I  
just want

3 to be sure that if this case were to last several  
months, you

4 were selected as a juror, is that going to be a  
financial

5 hardship for you?

6 A. I don't believe so. I don't think so. 'Cause I  
think

7 he -- he was going to pay me, too, so -- the  
difference.

8 Q. So your boss agreed to do that?

9 A. Yeah.

10 Q. Now, when he indicated that he might do that --  
we're not

11 trying to commit him to that obviously, because he's  
not

12 here -- but when he indicated that he might do that,  
did he say

13 anything about why he thought it was important to serve  
or what

14 he thought about it?

15 A. No, not really. He's kind of semiretired, so he's  
pretty

16 laid back about everything.

17 Q. And have you been reading anything or hearing  
anything on

18 the radio about the jury selection up to this point?

19 A. Very little. I think I heard one time that they  
went

20 through like five in a day, or something like that.

21 Q. How did you feel about that?

22 A. Well, you know, I didn't know what kind of  
questions they

23 were asking in here, so I didn't know.

here or 24 Q. Well, did you think that we were goofing off in  
25 doing it too slow or anything?

1555

Juror No. 111 - Voir Dire

questionnaire I 1 A. Not really. Well, I just knew how long the  
2 got was; and I said if it went over that, it might take  
a 3 couple hours.

4 Q. It might take a while. Okay. So if -- and you had  
5 mentioned this earlier case you had. Were you  
satisfied with 6 the help that your attorney gave you in that case?

7 A. Yes. I was.

8 Q. How do you feel? Do you have any feelings about  
folks who 9 represent people who are accused for a living?

10 A. No, not really. I mean it's -- I mean it's a  
profession 11 and -- that needs, you know -- the world needs lawyers.

12 Q. And one -- a little bit more about publicity, and  
then I 13 have one final area.

14 On the publicity: What do you remember about  
Terry 15 Nichols from what you heard and read and talked about?

(sic) 16 A. The only thing I remember is that he was supposedly  
or 17 associated with Timothy McVeigh, and he was from a farm  
much 18 something back East. I mean I just haven't read that  
19 about it, or I don't pay that much attention to --  
of your 20 Q. You don't think you'd have trouble putting that out  
21 mind and starting with a clean slate?  
22 A. No.  
understand 23 Q. Let me ask you this question about penalty: You  
present 24 that our job here as lawyers is to -- on both sides --  
Is 25 the evidence, and then there's going to be a decision:

1556

Juror No. 111 - Voir Dire

1 there a reasonable doubt? And if there is, it's all  
over.  
2 But if the jury should come in with a guilty  
verdict,  
3 we can't call them all in and talk to them again; we  
have to do  
4 it all right now. And looking at that, you've  
indicated, said  
5 in your questionnaire, that the death penalty should be  
imposed  
6 if the crime caused death of innocent people and was

7 premeditated. That's your general --

8 A. That's my general view of it, yeah.

9 Q. And then the prosecutor and the Judge have talked  
about the

10 process. If you were on a jury in the case and you  
found that

11 the defendant had committed a premeditated murder of  
multiple

12 people, would you think the death penalty was the only  
13 appropriate punishment?

14 MR. MACKEY: Objection.

15 THE COURT: Overruled.

16 You may answer that.

17 JUROR: I guess I'd have to, like the Judge  
said --

18 I'd have to see what other circumstances were involved.  
I

19 mean, if that's all I had to go on, I would say it was.

20 BY MR. TIGAR:

21 Q. And your feelings about the death penalty, the view  
you

22 have, you've thought about it quite a bit?

23 A. Oh, yeah.

24 Q. Held this for a long time?

25 A. Oh, yes.

Juror No. 111 – Voir Dire

multiple,  
other  
about what  
you  
judge --  
punishment?

1 Q. If you were -- you had found somebody guilty of  
2 premeditated murders and you were considering these  
3 circumstances, based on your beliefs -- not talking  
4 the law is, 'cause we're going to talk about, you know,  
5 might have some beliefs; you have to listen to the  
6 what sorts of things would move you away from the death  
7 penalty, to let you consider the full range of

8 MR. MACKEY: Objection, Judge.

question,  
10 Mr. Tigar. Are you asking him what he thinks would be  
11 mitigating circumstances?

series of  
to, to  
would

12 MR. TIGAR: Yes, your Honor, based on this  
13 questions, A, B, C, D, E; and then I was going to get  
14 make the question fair, what your Honor's instructions  
15 be; but I wanted to start with that.

mind

16 THE COURT: Well, do you have any of those in  
17 now?

18 If you permit the amendment.

19 MR. TIGAR: Yes, your Honor. If that was a

question,

20 yes.

21 JUROR: Maybe if -- I mean it would be hard to  
say

22 unless you knew what the circumstances of -- let's say  
the

23 circumstances of his life, if someone was holding a gun  
to his

24 head, made him do it. If somebody basically forced  
them along

25 with them, if he was in on the plans with them but was  
forced

1558

Juror No. 111 - Voir Dire

1 along later. I mean there could be circumstances later  
that

2 could prevent -- maybe.

3 BY MR. TIGAR:

4 Q. I want to focus on one of these questions. You  
said the

5 circumstances of his life. Talk to me about that, what  
you

6 were talking about.

7 A. I don't know so much the circumstances of his life,  
the

8 circumstances of what led up to what happened, and that  
sort of

9 stuff. If he was being forced to do it, something like  
that.

have a 10 Q. A prior record, if he had a prior record or didn't  
11 prior record?

12 A. Well, not so much that, because I mean they're old  
enough

13 to make their own decision about, you know, killing  
somebody or

14 doing this, you know, something like this. And to me,  
unless

15 he was basically forced to do it or something like  
that, 'cause

16 even though you may have had a bad childhood or  
something like

17 that, you still should be able to make up your own  
decisions as

18 to something like, you know, killing people.

19 Q. And now the second part of the question: If there  
were a

20 penalty phase in a case where you were a juror, the  
judge would

21 give instructions as to all the things that have to be

22 considered about the nature of the particular crime and  
the

23 defendant: employment, prior record, family history,  
and all of

24 that. Are you telling me that it would be difficult  
for you to

25 consider these personal circumstances if the judge's

to be 1 instructions were to be that that's something that had  
2 considered and given effect?

3 MR. MACKEY: Judge, objection.

about the 4 THE COURT: Sustained. I'm only concerned  
5 "difficult" part.

6 MR. TIGAR: Okay.

7 THE COURT: Putting in the words "would it be  
8 difficult," as opposed to just an open-ended question.

way. 9 MR. TIGAR: Let me try to ask it a different

10 BY MR. TIGAR:

we're 11 Q. You understand what I'm trying to get to here; and

were a 12 struggling -- we're struggling with the words. If you

range 13 juror in a case in which you were asked to consider the

14 of punishments and the judge said that the things to be  
15 considered were, if the evidence supported them, the  
employment

matter how 16 history, the family background, and all of that, no

you -- 17 serious the crime, would you be able to set aside what

the judge 18 what you just told me and decide based on the law as

19 gave them to you?

20 A. I'd take everything into consideration before I

made any

21 kind of decision, definitely. I mean -- I guess until  
you're

22 actually in the situation -- but I definitely would  
take

23 everything into consideration before I made the  
decision

24 whether somebody lived or died.

25 Q. And what you've told me about your background,  
thinking

1560

Juror No. 111 - Voir Dire

1 about this, that's something you thought about for a  
long time.

2 A. Oh, yeah. It's -- I mean . . . I don't know if  
what I'm

3 trying to say is actually -- it's kind of hard to  
describe.

4 I -- you know, I believe in the death penalty; but I  
would

5 have -- I mean, there would have to be something  
definitely

6 there that warrant me to impose on somebody. I mean, I

7 couldn't just do it because I thought he was guilty. I  
mean,

8 I'd have to hear everything.

9 Q. All right. And when you say "something definitely  
there,"

10 what do you mean?

that  
have to  
-- I  
be  
it,  
it was  
it  
kind of

11 A. Oh, I mean, you know, it would have to be something  
12 would -- it would be a moral judgment for me that would  
13 be -- I mean -- you know, it would have to be something  
14 guess it's just a moral thing inside of me; I'd have to  
15 totally . . . I guess -- I don't know how to explain  
16 really. Totally be, you know, convinced that it was --  
17 definitely a -- you know, premeditated and that he did  
18 without, you know, any other circumstances and that  
19 stuff.

talking

20 Q. Okay. And what other circumstances would you be  
21 about?

22 MR. MACKEY: Objection, your Honor.  
23 THE COURT: I'm going to sustain the objection  
24 that.

25 MR. TIGAR: Your Honor, excuse me just a  
moment.

1561

Juror No. 111 - Voir Dire

1 THE COURT: Yes.

2 BY MR. TIGAR:

3 Q. Just one more, if I may. If you were seated as a  
juror in  
4 the case and you truly believed that the murder was  
deliberate  
5 and intentional, would you be able to realistically  
consider a  
6 life sentence for that defendant?

7 A. Yes, realistically I could.

8 Q. Pardon me?

9 A. Realistically, I probably could.

10 Q. But you're not sure?

11 MR. MACKEY: Judge, objection.

12 THE COURT: Yes, I think this is becoming a  
little  
13 argumentative. I don't mean you're intending to be  
14 argumentative, but --

15 MR. TIGAR: I'm sorry.

16 THE COURT: I believe the man's answered what  
he can.

17 MR. TIGAR: Thank you very much, your Honor.

18 Thank you.

19 THE COURT: And you have helped us here by  
answering  
20 all these questions, and we appreciate that. We're not  
making  
21 decisions as we go, one by one; so there's going to be  
a period  
22 of uncertainty here when you won't know whether you're  
going to

23 be on this jury or not. And the way that I want you to  
24 approach that is to assume, yes, you will be on this  
jury. I  
25 can't, you know -- not only is there uncertainty about  
whether

1562

1 you will serve but when the trial will start. We can't  
tell  
2 you that yet. As you appreciate in the answers that  
you've  
3 given us here, it takes a while. So please bear with  
us.

4 And in the meantime, take the responsibility  
of  
5 staying away from conversations about the case, all  
these  
6 things that we've asked you about; and, indeed, we ask  
you to  
7 stay away from any public debates or discussions about  
the  
8 death penalty which is going on in Colorado now, as you  
9 probably appreciate, so that you can come in here if  
called  
10 upon and follow the law as instructed by the Court and  
be open-  
11 minded on the issues to be decided. Can you do that?

12 JUROR: Yes, I will.

13 THE COURT: All right, sir. You're excused.

14 And we'll ask for 512.

15 MR. TIGAR: I'd like to be heard at the next  
recess,

16 your Honor.

17 THE COURT: Yes.

18 If you'll please raise your right hand and  
take the

19 oath from the clerk.

20 (Juror No. 512 affirmed.)

21 THE COURTROOM DEPUTY: Thank you.

22 THE COURT: Please be seated there at the  
chair behind

23 the microphone. You can adjust that, swivels around --

24 JUROR: Okay.

25 THE COURT: Whatever position feels  
comfortable to

1563

1 you.

2 VOIR DIRE EXAMINATION

3 BY THE COURT:

4 Q. You remember taking an oath just like that several  
-- about

5 two and a half weeks ago at Jefferson County  
auditorium?

6 A. I do.

7 Q. And at that time I was there, introduced myself,  
talked  
8 about the background of this case, and introduced other  
people  
9 who were there with me, lawyers for the Government and  
the  
10 defendant and Mr. Nichols.

11 A. Yes.

12 Q. Let me do that again so you're reacquainted with  
the people  
13 who are in front of you.

14 A. Okay.

15 Q. Mr. Lawrence Mackey and Miss Beth Wilkinson here at  
this  
16 first table were there with us. And we have added here  
17 Mr. Patrick Ryan and Mr. Geoffrey Mearns as other  
attorneys for  
18 the Government.

19 Also with us and introduced to you were Mr.  
Michael  
20 Tigar, who is standing, and Mr. Ronald Woods, attorneys  
for  
21 Terry Nichols. And Mr. Nichols was there and is here.

22 And you remember that I discussed how you got,  
you  
23 know, a summons. You remember getting the summons.

24 A. Yes.

25 Q. And answering a few questions and then coming out  
to the

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1 fairgrounds and answering a lot of questions. And you  
have  
2 your answers there in front of you.  
3 A. Correct.  
4 Q. And before giving you the questionnaire to answer,  
I talked  
5 to -- as I said, about the background of the case, how  
this  
6 case concerns an explosion in Oklahoma City, Oklahoma,  
that  
7 happened on April the 19th of 1995, resulting in the  
8 destruction of the federal office building and with the  
loss of  
9 life and injury of people in the building.  
10 Then charges got filed by the Government in  
Oklahoma  
11 City charging in the form of an indictment -- that is,  
simply,  
12 a formal statement of charges -- alleging that a man  
named  
13 Timothy James McVeigh and Terry Nichols, the man who's  
here,  
14 and other persons not named in the indictment were in  
some sort  
15 of a conspiracy or agreement to bomb that building and  
to kill  
16 and injure people in it and that it is alleged that  
they then  
17 carried out that plan, did the bombing, and -- or

caused it to

18 be done, and that they also intended to murder law  
enforcement

19 agents, eight law enforcement agents who were in the  
building,

20 and that to these charges the defendants entered their  
pleas of

21 not guilty thereby disputing all of those allegations  
and

22 creating the issues for trial.

23 And then the trial was moved from Oklahoma  
City to

24 Denver because of a concern about getting fair jurors  
in

25 Oklahoma. And then there was an order separating the  
trials so

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1 that Mr. McVeigh would have a trial all by himself,  
2 Mr. Nichols, all by himself. Mr. McVeigh's already  
been tried

3 by a jury, and I explained the outcome of that trial, a  
guilty

4 verdict and a recommendation for a sentence to death by  
that

5 jury. I explained that that couldn't be considered  
here, we're

6 starting over, and now are to consider -- after we get  
a jury,

7 the jury will consider evidence presented with respect

to

8 Mr. Nichols, which may be entirely different than that  
9 presented in the trial of Timothy McVeigh. You  
understand all  
10 that?

11 A. Yes, I do.

12 Q. And that's why you're here, for possible service on  
this  
13 jury to hear evidence in this case in which Mr. Nichols  
is the  
14 defendant. I also explained some fundamental things  
about our  
15 criminal justice system and our Constitution.

16 And you have not been on a jury before, have  
you?

17 A. No.

18 Q. And I explained about what we call, under the  
Constitution,  
19 the presumption of innocence: That any person in the  
United  
20 States charged with any crime in any court is presumed  
to be  
21 innocent of those charges. That carries throughout the  
trial  
22 and entitles that person to an acquittal, the verdict  
of not  
23 guilty, unless fair-minded jurors decide that the  
evidence  
24 shows him to be guilty of whatever offense is charged.

25 And it is up to the Government to prove  
charges by

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1 evidence, not the defendant. The defendant does not  
have any  
2 burden or duty of offering any evidence and certainly  
no  
3 responsibility to be a witness or testify or explain or  
any of  
4 those things. The Government makes the charges, the  
Government  
5 has to prove them, and do so by evidence.

6 And this is a burden of proof, as we call it,  
that

7 says that you have to convince the jury by the  
evidence. All  
8 of the jurors, all of them have to agree unanimously  
that the  
9 evidence shows guilt beyond a reasonable doubt.

Anything short  
10 of that, you have to give the defendant the benefit of  
any

11 reasonable doubt, find him not guilty if not persuaded.

You

12 follow me on all this? You agree with all that?

13 A. Yes.

14 Q. You ready to follow that in this case if called  
upon to

15 serve here?

16 A. Yes.

of them 17 Q. Now, we also asked you all these questions. Many  
We're not 18 are of a personal nature. We apologize for that.  
understand 19 trying to inquire into your private affairs, but you  
by not 20 the need for that. And we seek to protect your privacy  
from the 21 revealing your name, by having you come and go to and  
of those 22 courthouse so people can't take pictures of you or any  
made 23 things. And the answers that you gave us have not been  
of 24 public. But the answers that you give here in court,  
25 course, are public. This is a public proceeding. You

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1 understand?  
2 A. Yes.  
that's 3 Q. Now, we're not going to make you repeat everything  
which 4 in these answers. We ask you a few questions, some of  
on some 5 ask you to explain or give us a little more information  
I'll be 6 of these things, and then a few additional questions.  
7 asking you some questions; and then when I'm completed,

the

8 lawyers on each side have a fair chance to ask you some  
more.

9 A. Okay.

10 Q. Now, our understanding here from what you've told  
us is

11 that you were born in Chicago and raised in that area.

12 A. Correct.

13 Q. And went to -- I guess you grew up in Hinsdale,  
Illinois?

14 A. Correct.

15 Q. And then you came out here to Colorado about 1969?

16 A. Correct.

17 Q. First to Colorado Springs.

18 A. Correct.

19 Q. And you lived down there for 10 years or more?

20 A. Uh-huh.

21 Q. Right?

22 A. Uh-huh. Right.

23 Q. And then there was a time that you went to the  
Middle East,

24 to the United Arab Emirates?

25 A. Correct.

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1 Q. What were you doing there or why did you go there?

newborn 2 A. I was a registered nurse, and I was setting up a  
3 intensive-care unit.

4 Q. And through some agency of the United Nations or  
something?

5 A. No, it was a private company. Stationed here in  
the United  
6 States, on contract to the government of the United  
Arab  
7 Emirates.

8 Q. Okay. And did you sign up for just being there for  
a year?

9 A. I had a year contract; correct.

10 Q. Okay. Where were you, in what community?

11 A. I was 276 kilometers from Abu Dhabi in the town of  
Al 'Ayn.

12 Q. That a pretty small town?

13 A. At the time it was, yes, sir.

14 Q. And you mentioned on page 22 in the questionnaire,  
where we  
15 asked you about the criminal justice system in this  
country,  
16 something about the Middle East and sort of comparison.  
Did

17 you learn something about the operations of the court  
system in  
18 the Middle East while you were there?

19 A. We had one experience while we were over there  
where a man

20 was charged with murdering a child, and there was no  
direct

written 21 evidence. He confessed and went to court on his  
committed the 22 confession, was asked in court whether or not he  
next day. 23 crime, he said, yes, he did, and he was executed the

24 Q. Now, is this someone you knew?

25 A. No. This happened to be a shop owner in the town  
--

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1 actually, he was in another town outside of where I  
was.

2 Q. All right.

3 A. But it was printed in the paper.

also 4 Q. Okay. And your knowledge of it comes from that and  
5 discussion about it?

were 6 A. Correct, we discussed it among ourselves because we  
the 7 Westerners, and the man who was accused was not from

8 country, he was not a local.

the 9 Q. And did any of you have some reason to suspect that  
10 confession was the result of torture or pressure or  
something?

information 11 A. No, because -- not at the time, not from the

12 that we were given, no.

13 Q. So you don't know about the value of the confession

--

14 A. No.

15 Q. -- or credibility of it?

16 A. No, we just had to take it as what was presented.

17 Q. So that's how you say they move a little faster,  
not just a

18 little faster --

19 A. Correct.

20 Q. -- very much faster?

21 A. Correct. Quite a bit faster.

22 Q. And is that the only, you know, information that  
you got

23 about the justice system there?

24 A. Well, other than some of the people that I worked  
with

25 unfortunately had problems, ran up against the law, if  
you

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1 want. One of the things that they're very strict on  
over there

2 is their driving. And, for instance, one of my nurse  
friends

3 that I had: Her boyfriend was put in jail. And she  
had to

3:00 every 4 provide his food for him, and she had to be there at  
5 afternoon. If she didn't show up, then he didn't get  
anything.

6 Q. How long was he in jail?

7 A. Before they deported him, almost a year.

8 Q. And that happened all year; I mean she had to  
provide food

9 at 3:00 in the afternoon every --

10 A. Correct.

11 Q. Okay. So I guess that's why you say you wouldn't  
want to  
12 be tried there.

13 A. No.

14 Q. When you came back to the United States, you came  
here to  
15 the Denver area?

16 A. Correct.

17 Q. And have been in this area ever since; is that  
right?

18 A. Correct.

19 Q. And you've already mentioned you're a nurse. You  
went to  
20 nursing school in Decatur?

21 A. Decatur, Illinois.

22 Q. Okay. And you're now in home-care nursing; is that  
right?

23 A. Correct.

24 Q. And does that mean you go sort of traveling around  
and

25 check on patients who are at home?

1571

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1 A. Right. That need the care at home.

2 Q. Change dressings, assess wounds or whatever?

3 A. Right. And assess them for other services that  
they might

4 need.

5 Q. Okay. And you do that for a private company?

6 A. Right.

7 Q. Health-care provider?

8 A. Right. Health-care provider.

9 Q. And are these people all of different ages? You  
don't

10 limit it to Medicare patients or --

11 A. No. No, it's open to everyone.

12 Q. And you've been doing that now how long?

13 A. Home care itself, probably 10 years.

14 Q. You -- this is your second marriage?

15 A. Correct.

16 Q. And you said on page 15 that your first husband was  
in a

17 political campaign as a paid worker; is that right?

18 A. Correct. In Colorado Springs.

19 Q. And what did he do besides that; what kind of work

did he

20 do --

down

21 A. He ran -- well, basically ran the office that was

22 there. The workers would come in and stuff envelopes.

what kind

23 Q. Yeah, I mean apart from that political campaign,

24 of work did he do while you were married?

then went

25 A. Let's see. He started out as a state patrolman,

1572

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the

1 back to school. Then while he was in school, he ran

2 campaign headquarters down there. Went back into law

got out

3 enforcement as the undersheriff of El Paso County, then

finished that,

4 of that and went into seminary. And from that,

decided --

5 seminary, and was a minister up here for a while,

6 Q. While you were still married?

7 A. Uh-huh.

8 Q. Okay.

want to

9 A. Then he decided -- it was his choice. He did not

10 be married anymore, so he went to Texas.

11 Q. And as far as you know, continued in the ministry

--

12 A. He's still a minister; correct.

13 Q. And do you belong to that church now?

14 A. Yes.

15 Q. And that's what you've shown on here, as your --

16 A. Right.

17 Q. -- religious affiliation.

18 A. Correct.

19 Q. And the husband to whom you're now married, as I  
understand

20 it, works in a production --

21 A. Correct.

22 Q. -- operation here, like a factory?

23 A. Uh-huh.

24 Q. And has he done this same kind of work throughout  
your

25 marriage, so far?

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1 A. Pretty much, yeah. He went back to school for a  
while,

2 also.

3 Q. And you'd like to go to school to complete your  
nursing

4 education?

5 A. Someday, yeah, I'd like to be able to teach.

6 Q. And I want to ask you some things about your views  
7 concerning punishment. Now, you remember seeing that  
part of  
8 your questionnaire --

9 A. Uh-huh.

10 Q. -- and it's pages 27, 28, and 29 that we're going  
to talk  
11 about.

12 A. Yeah.

13 Q. And you recognize from the preliminary comments  
that are in  
14 here that we're asking you very broad-based questions  
about

15 your view of punishment by death or imprisonment for  
life

16 without any possibility of release. And the reason  
that we're

17 asking you is because of the crimes charged in this  
case and

18 the possibility of a death penalty under the federal  
statutes

19 involved.

20 But of course we don't know that the jury will  
ever

21 get to that point. And that's the reason that before  
talking

22 with you about what the process is and what the role of  
the

23 jury might be, we wanted to get what you think about  
these

24 punishments coming in here before hearing any

instruction about

25 what the jury's role might be. And you understood the

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1 questions in that vein?

2 A. Right.

3 Q. Is the death penalty a subject that has concerned  
you or

4 that you've thought very much about before this  
questionnaire?

5 A. No. I don't believe it has been.

6 Q. Okay. And you know that it's a much-debated  
question as to

7 whether there ought to be a death penalty; if there is  
one, for

8 what crimes, what circumstances, and so forth. And  
it's being

9 debated now, today, in Colorado because there is an  
execution

10 scheduled for state court, the defendant found guilty  
in the

11 state court. You're aware of that?

12 A. Correct.

13 Q. And of course we're not talking about that now.  
We're

14 talking about a federal law, and I want you to turn to  
28 and

15 the answers that you have provided there, and also over  
onto

time, 16 the next page there's another one. Would you just take  
to read 17 if you need it, to review what you said here. You want  
18 it over to yourself?  
19 A. Okay.  
20 Q. Go ahead. Or have you already done so?  
21 A. I'm reading it now.  
22 Q. Oh, I'm sorry.  
23 A. That's okay.  
24 Okay.  
25 Q. And page 29, you wrote "none" over there on the  
next page?

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1 A. Uh-huh.  
2 Q. Now, since you completed the questionnaire and you  
left the 3 auditorium building there, you remember at the time  
that you 4 left I gave you some instructions about being careful  
about 5 talking about the questionnaire and the case and being  
careful 6 about publicity and watching how you read the  
newspapers and 7 listened to the radio and television so you didn't come  
across

8 things about the case.

9 A. Correct.

10 Q. Have you done that?

11 A. Uh-huh.

12 Q. Have you -- you know, no matter how careful a  
person may

13 be, sometimes you stumble into something or people talk  
to you.

14 Has that happened?

15 A. On the radios, especially since I do a lot of  
driving, I've

16 had to change radio stations.

17 Q. And you punch up a different station --

18 A. Uh-huh.

19 Q. -- when something about this came on?

20 A. Correct.

21 Q. How about the people you work with or work --  
supervisors:

22 Did they discuss the case with you?

23 A. No. Because I'm never in the office.

24 Q. Have you talked with anybody there about what is  
involved

25 on this case if you get on this jury, that it may take  
several

1 months out of your work?

2 A. No. They -- you know, again, one of the advantages  
of  
3 being in the nursing that I'm doing is the flexibility,  
is that  
4 I have the flexible schedules. So I don't have to  
usually  
5 worry in a sense about if I'm taken away from the job  
for a  
6 period of time, I can always make it up.

7 Q. Okay. Now, have you thought some more about the  
answers  
8 that you wrote here since you wrote them? I mean what  
I'm  
9 asking you is: Would you change any of these answers?  
Has  
10 anything else occurred to you?

11 A. I don't think so, no.

12 Q. So this pretty much reports to us what your present  
13 thinking is --

14 A. Uh-huh.

15 Q. -- is that right?

16 And one of things that seems to be -- that you  
seem to  
17 be saying here is that you would want to be sure about  
guilt;  
18 is that -- I'm looking at D in particular.

19 A. I would certainly want to make sure that all the  
evidence  
20 was presented that was possible.

wasn't 21 Q. 'Cause you wouldn't want to sentence somebody who

22 guilty?

discussed 23 A. Right, if there was a question of why wasn't this

24 or why wasn't this brought up, I would want to know.

25 Q. What do you have in mind there?

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would 1 A. Well, I'm just saying, you know, if there was -- I

something 2 want -- if there was a question in my mind as to why

haven't been 3 wasn't presented, you know -- I can't, because I

But if 4 on a jury, so I don't know exactly what I'm saying.

have it. 5 they're saying this piece of evidence, but we don't

things 6 Q. I see. Well, let me talk to you a little about how

reference 7 go in court, and this is just to give you a frame of

the 8 so you understand what we're asking about. Of course

punishment. 9 question of guilt is separated from the question of

10 A. Uh-huh.

talked 11 Q. And the first task that a jury has is what we've

12 about: Does the evidence prove guilt beyond a  
reasonable  
13 doubt. Now, if the jury has any reasonable doubt about  
that,  
14 the duty of the jury is to come in with a verdict of  
not  
15 guilty, and that's the end of it. And if the jury  
comes in  
16 with a verdict of guilty, they don't have any  
reasonable doubt  
17 and the defendant's proved guilty, in cases that do not  
involve  
18 death or life imprisonment without release, that's also  
the end  
19 of it from the jury's standpoint because then the  
question of  
20 punishment is up to a judge.

21           And judges make sentencing decisions in a very  
22 particularized way; that is, information not just about  
the  
23 crime, but about all of the circumstances involved and  
all of  
24 the things about the defendant gets collected and  
presented to  
25 the judge, things about the defendant's background,  
life

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1 history, if you will, family relationships, working

2 relationships, whether there's any other crimes in his  
3 background, all of those things, attitudes. These  
things are  
4 all presented to a judge, and there's a hearing and the  
judge  
5 hears both sides and then says: This sentence is right  
for  
6 this person and the crime. And it may be different  
from one  
7 person to another even though the crime is the same.

8 Understand?

9 A. Uh-huh. Okay.

10 Q. Now, when it gets to a question of life or death,  
we don't,  
11 under federal law, have judges decide that. That's a  
question  
12 to be decided by jurors, jurors who come in as a cross  
section  
13 of the community and exercise their judgment. But  
before the  
14 jury can make a sentencing decision, much like a judge  
makes a  
15 sentencing decision, the jury has to hear more, not  
just --  
16 these aren't matters that relate to whether the  
defendant's  
17 guilty as proved, because if not proved guilty, there's  
no  
18 question of punishment, obviously.

19 But both sides, then, present more  
information, like a

20 second trial, a hearing at which the government lawyers

will

at the 21 present to the jury information that was not presented  
22 trial that they suggest would warrant consideration and  
lot of 23 imposition of a death sentence. The defense presents a  
the 24 information that was not at the trial as evidence about  
these 25 defendant and about the circumstances, and we call

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other 1 things, on the one hand, aggravating factors, on the  
that 2 hand, mitigating factors, things that support the view  
this 3 death is deserved, things that support the view that  
crime 4 person should not be put to death, even though the  
understand what 5 supports a death sentence in the law. Do you

6 I'm saying?

7 A. Yes. Yeah.

and listen 8 Q. Now, jurors have to look at this with open minds  
talk it 9 to all of it and before making any decision. Then they  
have 10 over. And then they have to decide: Under all that I

11 heard and seen, should the defendant live or die? Now,  
before  
12 answering that question, the judge gives instructions  
about  
13 asking some questions that sort of help the jury  
analyze the  
14 evidence or the information. But it's not a formula.  
And it's  
15 not a, you know, add this and this equals that or  
subtract or  
16 anything like that. It comes down to being open-  
minded,  
17 hearing it all, and then say, as a moral judgment, the  
18 defendant should spend the rest of his life in prison  
without  
19 being released or be put to death or there's the  
possibility  
20 that a jury should -- may decide neither and send it  
back to  
21 the judge for a lesser decision, lesser punishment.  
22 You've listened carefully, I know, to what  
I've said.  
23 Do you understand what I've said?  
24 A. Yes.  
25 Q. Do you have any question about it?

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1 A. No.

serve on  
able to  
life or

2 Q. My question to you is: If you were called on to  
3 this jury and there were a guilty verdict, would you be  
4 follow these instructions and make a moral choice about  
5 death?

6 A. Yes.

are  
like to  
and  
and we'll  
more

7 THE COURT: All right. Well, the lawyers here  
8 going to have a few more questions of you, but we'd  
9 take a -- I'd like to take a recess before we do that,  
10 maybe they would, too, so, we'll ask you to step out  
11 have you back in about 20 minutes to yet answer some  
12 questions.

13 JUROR: Okay.

14 THE COURT: Bear with us, please.

15 JUROR: Okay.

16 (Juror out at 3:36 p.m.)

17 THE COURT: Mr. Tigar.

18 MR. TIGAR: Yes, may I speak from here?

19 THE COURT: Yes.

Honor  
essentially

20 MR. TIGAR: With respect to Juror 111, your  
21 sustained an objection to a question which was

22 would the juror have difficulty following instructions  
23 concerning the range of punishments, and I had chosen  
the word  
24 "difficulty" very carefully because I apprehended it to  
be an  
25 element of a Morgan vs. Illinois decision that your  
Honor would

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1 be called upon to make; that is to say, it is in no  
wise our  
2 burden to show that the juror is unable to follow  
instructions,  
3 rather we're looking at this question of impairment;  
and for  
4 that reason I wanted to place an objection on the  
record. I'm  
5 not doing this every time I get an objection sustained.  
I  
6 think my record is protected adequately. Just wanted  
more  
7 clarification on that.

8 THE COURT: I'm not suggesting that I would  
never  
9 allow the word "difficulty" to be used in a question.  
I was  
10 assessing the way in which the flow of the answers and  
11 questions were going, and I thought it was getting  
close to  
12 becoming argumentative, given the previous answers of

the

13 juror.

14 position. Our

MR. TIGAR: I understand your Honor's

and

15 view of the exchange was that the juror had started out

this

16 what we were hearing was some difficulty grappling with

position

17 concept that there might be something other than the

18 circumstances of the crime. But I wanted to state our

your Honor

19 for the record, and I certainly -- I understand what

20 is telling me.

21 THE COURT: All right.

the

22 MR. MACKEY: Your Honor, I have one matter, if

23 Court has the time.

24 THE COURT: Sure.

talked

25 MR. MACKEY: Earlier this afternoon Mr. Woods

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1 to one particular juror about the exactness or the  
similarity,

2 if you will, between charges against Mr. McVeigh and

not

3 Mr. Nichols. As the Court knows, the indictments are

the 4 precisely the same. They describe facts; for example,  
that 5 conspiracy charge, a number of different overt facts  
roles. 6 attempt on the face of the document describe different

7 So I just want to pose an objection.

should be 8 THE COURT: I think that is right, and we  
the 9 cautious about that, Mr. Woods. The crimes charged are  
10 same.

11 MR. WOODS: Yes, your Honor.

but the 12 THE COURT: There's no question about that,  
13 roles and conduct alleged is somewhat different.

count is the 14 MR. WOODS: The finding of guilty on each  
15 same, your Honor.

abet 16 THE COURT: Well, except there's the aid and  
17 aspect of the case.

guilty 18 MR. WOODS: My point being that if he's found  
19 on any one of the 11 counts, we'd go into a death  
penalty case.

20 THE COURT: That's true.

McVeigh in 21 MR. WOODS: And he is named along with Mr.  
22 each and every separate count.

23 THE COURT: But he's named with the same

charges and

24 charged with the same offenses, but they're not  
identical

25 charges. I think that's the point.

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1 MR. MACKEY: Yes, your Honor.

2 MR. TIGAR: Your Honor, if I could add  
something to

3 that?

4 THE COURT: Sure.

5 MR. TIGAR: I couldn't disagree more with Mr.  
Mackey's

6 formulation. The Government has not moved to strike a  
syllable

7 of this indictment, and the notice of intent to seek  
the death

8 penalty is word for word identical, save for the  
defendant's

9 name. If the Government has the view that these are  
different

10 charges, your Honor, it's a little bit late of a  
procedural

11 hour for them to be urging it as a mechanism to  
shutting down

12 voir dire.

13 THE COURT: Well, I'm the one determining voir  
dire.

14 MR. TIGAR: Excuse me for asking your Honor to

do so.

15 Excuse me. I grew a little heated, your Honor, because  
we have  
16 had the identity of charging all the way up to this  
point.

17 THE COURT: Well, I think it can be phrased  
that the  
18 crimes charged are the same rather than that all of the  
19 allegations are the same. And I don't suggest that  
that's what  
20 you said, that all of the allegations are the same.  
But, you  
21 know, all of this has to be in the context of what I've  
been  
22 repeating all along, that we have separate trials by  
order of  
23 the Court.

24 MR. TIGAR: I understand that, your Honor.  
Excuse me  
25 for raising my voice.

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1 THE COURT: Okay.

2 MR. TIGAR: I didn't mean to do it.

3 THE COURT: We're getting along all right,  
everybody.

4 The remainder of the 20 minutes, whatever it is, we'll  
take a  
5 recess.

6 (Recess at 3:40 p.m.)

7 (Reconvened at 3:53 p.m.)

8 THE COURT: Be seated, please.

9 Thank you. If you'll be seated again.

10 And, Mr. Mearns, you have some questions?

11 MR. MEARNS: I do. Thank you, your Honor.

12 VOIR DIRE EXAMINATION

13 BY MR. MEARNS:

14 Q. Good afternoon, ma'am.

15 A. Hi.

16 Q. As the Judge told you, my name is Geoff Mearns, and  
I'm one  
17 of the prosecutors who will be presenting our evidence  
in this  
18 case.

19 The Court has asked the questions that we  
would like  
20 to know the answers to, but I'd just like to follow-up  
on a  
21 couple of matters.

22 On page 7 in response to Question 34, that's  
where you  
23 indicated to us that you were planning to get some  
further  
24 education to obtain a nursing degree.

25 A. Correct.

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1 Q. Is this some plans that you've had for a long time,  
or is  
2 this some plans that you've only recently gotten?

3 A. I've always thought about going back, but it's  
never  
4 presented itself an opportunity; so this is something  
that's --  
5 would like to do if I can find the resources to go back  
to  
6 school.

7 Q. I see. In connection with your -- in connection  
with your

8 employment history on page 9, Question 42, you  
indicated that  
9 you were at Arapahoe County. Is that Arapahoe County  
Hospital?

10 A. No, Arapahoe County Jail.

11 Q. I see. And you indicated that were you there just  
one  
12 month; that is, in February of '94?

13 A. That's when I started. I'm sorry. I started in  
'94. I  
14 lasted -- I stayed about six months.

15 Q. I see. And you indicated there that the reason for  
leaving  
16 was you did not believe in their policies. Could you  
tell us a  
17 little bit more about that.

18 A. Well, my feelings is that because I'm a nurse, it's

helping

19 people. And in the situation of the way the jail was  
set up in

20 their medical care, I did not agree with the way that  
they were

21 doing things.

22 Q. What did you sense about the way they were doing  
things

23 that was different from your philosophy?

24 A. Conditions of how they were treating like  
diabetics, the

25 care that they were giving the diabetics, ignoring, you  
know,

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1 things that they requested that I felt was appropriate  
for

2 them. Those type of things.

3 Q. I see. You indicated in response to one of the  
Court's

4 questions about your experience in Abu Dhabi and your  
concerns

5 with that particular -- or the way in which either that  
murder

6 case was handled, something about the proceedings --  
What about

7 that case troubled you? Was it just the speed, or the  
way in

8 which --

the way 9 A. Yeah. I think I automatically make a comparison to  
always 10 we do things here and with their laws. I mean, I was  
handle 11 curious or interested in how other countries would  
that 12 situations. And, of course, we had always been warned  
the 13 any -- you know, anything that we did disrespectful to  
And so 14 country or to their laws would -- we would be sent out.  
would 15 when this happened, I was curious about how the system  
would be 16 work; and I was really surprised. I thought that they  
instead of 17 more like here; that they would go through a process  
that's it. 18 having just basically the judge, the evidence, and

me if 19 Q. So I take it from your answer -- and please correct  
concerns 20 I'm mistaken -- that you don't have any of the same  
or 21 about the procedures that we're following in this case  
22 similar cases?

23 A. Uh-uh.  
139 that 24 Q. You indicated on page 32 in response to Question  
25 you had attended a gun show. When was that, ma'am?

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for  
1 A. That was when my ex-husband was the undersheriff  
2 El Paso County.  
3 Q. Did you go to one, or more than one?  
4 A. We went to one. He was trying to find antiques,  
5 collector's type of stuff.  
6 Q. Were you interested, too, or was it something like  
you were  
7 going along?  
8 A. I was just -- I was doing it because he was going.  
9 Q. I see. I'd like to turn finally, then, to the  
questions  
10 concerning possible punishment in this case. As the  
Court  
11 indicated, those are on page 28. It's Question 124.  
And the  
12 Court this afternoon -- I'm sorry. I'll let you catch  
up.  
13 A. That's okay.  
14 Q. The Court this afternoon has explained some of the  
-- has  
15 given you a general guide as to the legal principles  
and some  
16 of the instructions that you'll have if we get to a  
penalty  
17 phase in this case. You indicated at a later question  
on page  
18 30, on Question 129, that you agreed strongly with the

19 proposition that it's important to follow the Court's  
20 instructions. Do you recall that question?

21 A. Yes.

22 Q. Is that -- do you have the same view of the  
proposition of

23 following the Court's instructions with respect to the  
Court's

24 instructions regarding possible penalty in this case?

25 A. Yes.

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1 Q. The -- the Court has outlined, as I said, some of  
the

2 procedures; that is, that if we get to a penalty phase,  
there

3 will be certain evidence that could be presented to  
suggest

4 that the death penalty is the appropriate sentence and  
there

5 could be facts that would suggest that the imposition  
of a

6 death penalty was not warranted.

7 Do you understand and are you able to keep an  
open

8 mind and consider all of the evidence presented before  
you make

9 any determination as to what the appropriate sentence  
would be?

10 A. I believe I can.

11 Q. And finally, in -- on page 37 in response to  
Question  
12 160 -- excuse me -- 163. I'm sorry. At the -- on the  
bottom  
13 there on page 37, I believe your answer was whether or  
not your  
14 views or opinions of Mr. Nichols have changed as a  
result of  
15 anything that you may have heard about the trial of  
Timothy  
16 McVeigh.

17 A. Correct.

18 Q. And your answer was that because they were not  
tried  
19 together, you don't have any information about Mr.  
Nichols that  
20 would cause you to form an opinion one way or another.

21 A. Correct.

22 Q. Is that true both with respect -- is that true with  
respect  
23 to guilt and innocence, or "not guilt"?

24 A. Right.

25 Q. Is that also equally true with respect to whether  
or not --

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1 what particular penalty might be appropriate in this  
case?

2 A. Yes.

3 Q. I'm sorry. That was a terrible question. Is that  
-- that

4 is the same view -- do you hold the same view with  
respect to

5 possible punishment; that is, you don't have any  
information at

6 this point?

7 A. Right.

8 MR. MEARNS: Thank you, ma'am.

9 Thank you, your Honor.

10 THE COURT: All right. Mr. Woods?

11 MR. WOODS: Thank you, your Honor.

12 VOIR DIRE EXAMINATION

13 BY MR. WOODS:

14 Q. Good afternoon.

15 A. Hi.

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

17 of the attorneys that was asked by the court to defend  
Terry

18 Nichols, who stands accused of these crimes. We met a  
couple

19 weeks ago at Jeffco. Is that correct?

20 A. Correct.

21 Q. When you were working at the Rocky Mountain Poison  
Center,

22 did you ever treat anybody for methamphetamine abuse?

23 A. Not that I'm aware of.

24 Q. Were you aware that there are a number that are  
treated

25 there?

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1 A. The way they triage through there, I was not  
experienced

2 enough to be handling those type of calls.

3 Q. And are those for the more experienced people,  
then, I take

4 it?

5 A. Correct.

6 Q. What kind of treatment were they given, those --  
giving

7 those people?

8 A. I believe they had a screen, a panel -- a computer  
screen,

9 and there was spelled out on the screen exactly the way  
that

10 the -- that particular nurse was to handle it; but  
since I did

11 not do it, I would rarely ever call up that particular  
mode.

12 Q. All right. But were you familiar with the  
treatment --

13 A. No.

14 Q. -- that was given by the doctors?

15 A. No. Like I said, I never was really -- I started  
out with  
16 other calls that were not involved, not complicated  
calls.

17 Q. All right. I see. What about at the jail when you  
were at  
18 Arapahoe County? Did you have any occasion at all --  
were  
19 there people brought in right after arrest into the  
jail at  
20 that time?

21 A. Not that I'm aware of. I don't remember anybody.

22 Q. Was it just confinement after having been found  
guilty?

23 A. No. We had the intake. We had the intake where we  
were  
24 called down to see them; and then from that, again, if  
it were  
25 necessary to call the physician in to see the clients,  
to see

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1 the patients.

2 Q. And are you familiar with any treatment for  
methamphetamine  
3 abuse at that facility?

4 A. Not -- I don't think I was ever directly involved  
with any  
5 of those; not that I'm aware of.

John 6 Q. All right. You indicated that you read books by  
7 Grisham. Is that correct?  
8 A. Correct.

-- by 9 Q. Do you recall any specific books you've read about  
10 him recently?  
11 A. The Partners, I think is the last one I read.

movie, Time 12 Q. Have you read others?  
13 A. Well, what was that one? They made one into a  
14 to Kill.

either 15 Q. Have you formed any opinion about criminal lawyers,  
16 prosecutors or defense lawyers, from reading the  
Grisham books?  
17 A. No. To be honest with you, I read it for the  
entertainment  
18 that's there; and I can't remember, if you asked me a  
month  
19 later, exactly what all went on. I probably couldn't  
recall  
20 all of it.

with 21 Q. All right. You would agree that it deals mainly  
22 lawyers and the practice of law; is that correct?  
23 A. That is correct.

to 24 Q. But you formed no opinion one way or the other as  
25 prosecutors, defense attorneys?

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1 A. I basically look at it as a story.

2 Q. All right. If you would, turn to Question 144,  
which is on

3 page 33. The questionnaire -- questionnaire asked at  
144, "If

4 you've heard or read anything about the Oklahoma City  
bombing

5 case, please indicate where you heard or read about  
it." And

6 you've checked off TV news and radio news and the  
newspaper.

7 Is that correct?

8 A. Correct.

9 Q. You've not had any conversations with anybody about  
the

10 case?

11 A. I try to remember back when -- I remember it coming  
over

12 the TV; and, you know, I'm sure in my traveling and  
talking to

13 clients that it may have come up, but nothing recently.

14 Q. In your home health care when you visit the people  
in their

15 homes, have you had any discussions concerning the  
case, for

16 example, when the verdict came in in June -- excuse me

--

17 against Mr. McVeigh and the death penalty verdict? Did  
you  
18 have any discussions with any of the patients that you  
were  
19 treating in the home health care?  
20 A. No, because at that time, I was primarily having  
mostly  
21 children; and I -- cerebral-palsy-type patients at that  
point  
22 that I was seeing.  
23 Q. No adults?  
24 A. Nothing that would warrant having this type of  
discussion,  
25 no.

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1 Q. That is still the main focus of your treatment  
right now,  
2 is treating children?  
3 A. No. I'm back with doing adults right now, seeing  
adult  
4 patients.  
5 Q. What about when the case was moved here last year  
in  
6 February, '96? Did you have any discussions concerning  
the  
7 case with any patients and your co-workers?  
8 A. I think there may have been some at work  
questioning coming

9 to Denver; but again, that wasn't our decision, you  
know. It  
10 was whatever they felt was best. That's why it came  
here. But  
11 that would be it.

12 Q. Do you recall from the TV and the newspaper and the  
radio

13 how many people were killed in the federal building?

14 A. No, I don't. I honest -- I don't really remember.

15 Q. Was it few, or many?

16 A. Okay. If you want an estimate of what I think I  
remember,

17 it was over a hundred -- let's see -- I want to say  
either

18 injured or killed -- I place the number at 100 as  
something

19 sticking in my mind, but I don't remember the exact  
number that

20 were killed.

21 Q. Okay. Do you recall whether or not there were  
children

22 killed in the federal building?

23 A. Yes, I do.

24 Q. And do you recall why that circumstance existed,  
why there

25 were children in the federal building?

center 1 A. Because from what I understand there was a day-care

2 there.

federal 3 Q. Do you recall how the bomb was placed at the

4 building?

5 A. No.

6 Q. Do you recall what kind of bomb it was?

-- the 7 A. I remember that it was in a truck and that it was

8 components of it were locally purchased; so it was not

in what 9 apparently a complicated -- not like what you envision

10 they talk about the plastic explosives.

11 Q. All right.

12 A. But that's all I remember about it.

your 13 Q. It was something other than plastic explosives is

14 recollection?

15 A. Right.

placed into 16 Q. Do you recall how Mr. McVeigh was arrested or

17 federal custody?

18 A. No, I do not.

of him 19 Q. Do you have any view in your memory on TV coverage

20 being in federal custody?

vest. 21 A. I remember one thing of seeing him in a bulletproof

22 Q. And where was that?

23 A. I have no idea where that was taken. I just  
remember

24 seeing it on TV when -- this said he was a second  
suspect in

25 it. That was the last time.

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1 Q. I was speaking of Mr. McVeigh.

2 A. Oh, I'm sorry. I do remember how he was picked up.

3 Q. All right. And what's your recollection of that?

4 A. I believe he was stopped and in a car. And from  
that point

5 on is sort of things started unraveling and they  
suspected him

6 at that point. Yeah. That's right. That's my rec --  
you

7 know, I remember that part.

8 Q. And from that recollection, do you have any  
recollection of

9 Mr. Nichols' initiating contact with the law  
enforcement

10 authorities?

11 A. The only one I remember was that one picture I saw  
in the

12 paper or on TV.

13 Q. Do you recall any of the details --

14 A. No.

15 Q. -- of how that happened?

16 A. Other than they said he was a second suspect.

17 Q. And then from what you've seen, read and heard,  
what do you

18 understand that Mr. Nichols' involvement in the case  
was?

19 A. As a partner.

20 Q. As a partner to?

21 A. To McVeigh.

22 Q. All right. And by saying he's a partner, what do  
you mean

23 by that? Based on what you've seen, read and heard.

24 A. From what I've read or heard is that they were  
friends and

25 that they worked together and that that's how they  
became

1596

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1 joined, in a sense. As far as anything else linking  
him to

2 him, I don't remember any of it.

3 Q. Did you follow the McVeigh trial?

4 A. No.

5 Q. And why was that?

6 A. I really wasn't that interested in it. I mean, I  
knew it

primary 7 was here. I knew it was going on, but that was not my

8 interest. I was working and busy at the time.

9 Q. Sure. Sure. I take it you watched the news on  
television.

10 Is that correct?

11 A. Uh-huh.

12 Q. So it's pretty hard to avoid the coverage of the  
trial,

13 wasn't it?

14 A. Yeah. I mean, I knew it was going on; but again, I  
work

15 some evenings. A lot of times I'm called out in the  
evening

16 time, so I may not get back. And I'll be honest with  
you: By

17 10:00 I'm tired.

18 Q. Sure.

19 A. And I've never really been interested in the news  
that

20 much.

21 Q. What time do you go to work in the morning?

22 A. It can vary. I can start as early as 6.

23 Q. Do you ever have the television on in the  
background as

24 you're getting ready in the morning, the morning talk  
shows,

25 "Today," "Good Morning --"

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1 A. Radio, I will have on.

discussed 2 Q. You have the radio on? And the radio, of course,

3 the ongoing McVeigh trial during --

4 A. Uh-huh.

time? 5 Q. Do you recall hearing about the trial during that

so it was 6 A. Probably, yes. I mean, I do listen to the radio,

7 on. Probably listened to whatever was being presented.

penalty 8 Q. Do you recall hearing about the verdict, the death

9 verdict?

made it a 10 A. I was trying to remember if they interrupted or

11 special broadcast. And that's probably -- they did.

verdict with 12 Q. Do you recall having any discussion about the

whether or 13 your co-workers or your family or friends concerning

14 not that was the appropriate verdict for that crime?

time, so 15 A. I guess I refer back to I wasn't there during the

was 16 if that's what the jury came out with or that's what

17 decided, you know . . .

Court 18 Q. Given your experience of what you related to the

19 about, was it in Abu Dhabi or United Arab Republics  
where the  
20 person was sentenced to death and then executed the  
following  
21 day?

22 A. It was the united Arab Emirates, Abu Dhabi.

23 Q. Given that experience, was it of some interest when  
the  
24 death penalty was assessed in this case?

25 A. I believe that in my mind that was always what  
would -- if

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1 it came down that he had a guilty -- that he was found  
guilty  
2 that was what the verdict -- I mean that's what the  
decision  
3 would be.

4 Q. But I mean, did you discuss that with any of your  
5 co-workers or family friends, given your past exposure  
to the  
6 death penalty in another country?

7 A. I don't believe so.

8 Q. Now, when you say, as you just related as to the  
McVeigh  
9 verdict, that it was your understanding if it came to  
guilty  
10 that that was what the punishment would be -- was that  
what you

11 said?  
12 A. Correct.  
13 Q. Did you ever hear or discuss with anybody that that  
was an  
14 inappropriate verdict?  
15 A. Not that I'm aware of.  
16 Q. Okay. Heard anybody at all say that that's not  
correct?  
17 A. I don't believe so.  
18 Q. Okay. And I take it your opinion was that it was  
certainly  
19 the correct verdict?  
20 A. If that's what was found during the trial. I mean,  
if  
21 that's what it came down to the people that were  
judging it.  
22 Q. Based on the evidence?  
23 A. Based on what they found.  
24 Q. And that's the way you've explained it in your  
25 questionnaire on page 28.

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1 A. Uh-huh.  
2 Q. If you would turn to that.  
3 A. Okay.  
4 Q. On page 28, the last two questions: "In what kind

of cases

5 is it appropriate, if ever, to impose a punishment of  
life in

6 prison without the possibility of ever being released?"  
you

7 gave the example of murder. "If there are no  
eyewitnesses to

8 the crime --" what is the rest of that? I'm having a  
little

9 trouble reading that.

10 A. I said if there was no eyewitnesses to it.

11 Q. Then if found guilty?

12 A. "If found guilty, then I believe the person should  
remain

13 in prison."

14 Q. All right. And then you distinguish that from "In  
what

15 kind of cases is it appropriate, if ever, to impose the

16 punishment of death?" And you stated, "If the evidence  
can

17 link directly -- that is, fingerprints, DNA, photos or

18 eyewitnesses -- then the death penalty should be  
imposed."

19 That is the way you distinguish between those two  
penalties?

20 A. Right.

21 Q. Okay. Okay. Now, of course, if a penalty stage is

22 reached, the jury will have found the defendant in a  
capital

23 murder case -- if they get to a penalty stage, the jury  
will

doubt of 24 have found the defendant guilty beyond a reasonable  
understand 25 intentional, premeditated, deliberate murder. You

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1 that?  
2 A. Uh-huh.  
3 Q. Did you understand when the Judge explained to you  
the  
-- what 4 circumstances of how a jury would weigh that decision  
-- about 5 did you understand that the Judge was saying about the  
the 6 circumstances that would play a part in the judge -- in  
7 jury's decision?

8 MR. MACKEY: Objection, Judge.

9 THE COURT: Overruled.

10 You may answer what you understood about  
11 circumstances.

12 JUROR: Circumstances is that they would have  
to have  
13 the evidence there, the circumstance being the  
evidence.

14 BY MR. WOODS:

15 Q. And the -- are we talking about the guilt evidence,  
the

16 evidence that led the jury to find the defendant guilty  
--

17 A. Right.

18 Q. -- of murder beyond a reasonable doubt, and that  
murder was

19 intentional and deliberate, premeditated?

20 A. They would have to have the evidence there.

21 Q. Now, what did you understand about the Judge's  
instructions

22 about the circumstances that would be considered by the  
jury on

23 assessing a penalty; that is, between life imprisonment  
and the

24 death penalty?

25 THE COURT: I think he's asking about when I  
explained

1601

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1 about aggravating and mitigating factors.

2 JUROR: Mitigating. Yeah.

3 THE COURT: You understand what you're being  
asked

4 here?

5 JUROR: I'm getting a little confused. I  
thought I

6 answered it, but maybe I didn't.

7 BY MR. WOODS:

8 Q. Let me see if I can rephrase it.

9 A. Okay.

10 Q. You distinguish in your questionnaire that you  
think the

11 death penalty should be imposed where there is direct  
evidence;

12 that is, eye witnesses or fingerprints or DNA or  
photos.

13 A. Uh-huh.

14 Q. Now, if there is not direct evidence in a murder  
case,

15 where there is no eyewitnesses, you think life  
imprisonment is

16 the proper and appropriate punishment. Is that  
correct?

17 A. Correct.

18 Q. So what I'm trying to get to is what a jury is  
going to be

19 considering at a punishment stage, because if -- as you

20 understand, a jury, once they get to the punishment  
stage, has

21 already found the defendant guilty --

22 A. Right.

23 Q. -- beyond a reasonable doubt. And they've made up  
their

24 mind on the guilt and the circumstances of the crime.  
They've

25 heard all the evidence of the crime.

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1                    Now, is it your statement that you believe  
that the            2            death penalty should be imposed where there is direct  
evidence           3            as to the defendant's involvement?

4                    MR. MACKEY: Objection, Judge.

5                    THE COURT: Sustained. I think the problem  
here is            6            that we're not sufficiently clarifying the difference  
between           7            guilt phase and punishment phase.

8                    JUROR: Right.

9                    VOIR DIRE EXAMINATION

10                  BY THE COURT:

11                  Q. You remember I told you there would be a separate  
trial on            12            punishment?

13                  A. Right.

14                  Q. You don't reach that without a guilty verdict.

15                  A. Right.

16                  Q. Now I think what Mr. Woods is addressing here is  
whether on           17            a punishment-stage decision, after you've heard more  
about --

18                  not the evidence at the trial but these mitigating and  
19                  aggravating circumstances, factors that I talked about;  
20                  remember?

21 A. Right. And you're talking about the judge knows or  
what is  
22 told or background of the person.  
23 Q. Yes. Those are things -- when I made the analogy  
like when  
24 a judge sentences --  
25 A. Right.

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1 Q. -- judges don't sentence in a case where the issue  
is life  
2 or death. The jury sentences.  
3 A. So that's additional information.  
4 Q. Yes.  
5 A. Right. If I'm given that additional information.  
6 Q. That's right.  
7 A. Right.  
8 Q. And what I believe Mr. Woods and I both -- we're  
all  
9 interested in whether you're then open to consideration  
of all  
10 that you hear in the penalty phase.  
11 A. Correct. Right. The other information that would  
be  
12 given.  
13 Q. Yeah. Now, you know, this isn't doubt about guilt.  
This

14 is about circumstances of the offense.

15 A. Right.

16 Q. The background of the offender.

17 A. That part, yes.

18 VOIR DIRE EXAMINATION

19 BY MR. WOODS:

20 Q. All right. And I'm trying to square that with the  
21 questionnaire, where you say that the death penalty  
should be

22 imposed where there is direct evidence linking the  
defendant to  
23 the crime.

24 A. I guess when I filled it out, I didn't understand  
there

25 would be two phases; so I'm assuming that if I'm asked  
at that

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1 point with the evidence that was presented based on  
what I know

2 for a verdict, but then you come into the next part as  
far as

3 the sentencing goes, there is other things that are  
going to be

4 brought into it that has to be considered, also.

5 Q. Right.

6 A. And that I would be able to judge based on that  
information

7 and does not have to be direct, as I said in here.

8 Q. And then the question is if you -- if you're on a jury and

9 you found the person guilty of murder beyond a reasonable doubt

10 with the intent, deliberation, and premeditation, are you

11 saying that -- because you said that the death penalty should

12 be imposed, are you saying that you go into that hearing

13 believing that it should be imposed, or are you saying that

14 you're open to life imprisonment for murder of that type?

15 A. Based on what I was -- I would have to say that I would

16 have to also consider that part, too, life imprisonment.

17 Q. You would consider and give effect to punishment for a

18 crime of deliberate, intentional, premeditated murder -- you

19 would consider a life sentence without release?

20 A. Based on the information that I was given.

21 Q. All right. Now, I have one other question. On the next

22 page, on page 29, when the questionnaire asks you about "What

23 role do you think the federal government should play in

24 people's lives?" and you stated that "People should be able to

25 run their own lives without the federal government  
unless the

1605

Juror No. 512 - Voir Dire

American 1 people are working outside what is considered normal

that a 2 traditions" -- and I was wondering, can you expand on

tradition"? 3 little bit about "outside of normal American

you 4 A. You know, I mean we're given enough freedoms to --

which 5 know, like run our own businesses. We have the freedom

6 is different like, for instance, when you go to another  
papers to go 7 country, where you're required to have passport or

8 from one place.

want, to 9 Here, we're allowed to travel as much as we

that the 10 do as we want; but when you step over certain things

working 11 government gives you, allows you to do, then you're

would 12 outside of those -- of the rules in a sense, and that

can 13 bring into question -- I mean, that's the only way I

expected 14 explain it. I mean, I have my values, I have what I'm

15 to do as a citizen of the United States.  
16 Q. Right. Now, let me give you an example of -- you  
recall  
17 during the Vietnamese War when the students protested  
against  
18 government policies.  
19 A. Uh-huh.  
20 Q. And that was sort of a first. We had never seen  
people  
21 protest the government directly and in the streets and  
saying  
22 that the military was wrong and that the government was  
wrong  
23 for what they were doing there. Would you consider  
that  
24 outside the American tradition?  
25 A. No, because we have built in the right to express  
ourselves

1606

Juror No. 512 - Voir Dire

1 within what is considered reasonable protest. I think  
2 that's --  
3 Q. Yes, ma'am. And I take it you would not hold it  
against  
4 someone who spoke out against government policies; is  
that  
5 correct?  
6 A. Correct.

with  
from this  
there  
the jury  
to that,  
deliberate mind

7 Q. All right. Given your occupation of having worked  
8 children a great deal, as you can realize or surmise  
9 case, knowing some of the publicity in the matter that  
10 may be a lot of emotional testimony, a lot of emotional  
11 photographs, heartrending testimony from victims that  
12 will be exposed to, do you think that you could listen  
13 take that in but at the same time keep a cool,  
14 as to weighing the evidence in the case?

15 A. I believe I could.

16 MR. WOODS: Thank you very much.

in here  
your

17 THE COURT: Well, we do appreciate your coming  
18 and answering all these questions, as we appreciate  
19 answering the questions on the questionnaire.

not  
choose; so  
from  
been,  
20 I can't tell you the results now because we're  
21 making these choices as we go along, as I'm sure you  
22 understand. And I can't even tell you when we will  
23 please bear with us. Be patient with us. Wait to hear  
24 us; and in the meantime, conduct yourself as you have  
25 with the assumption that you're going to serve on the

jury and

1607

1 do the things that you've told us you can do, decide on  
the

2 evidence and follow the law.

3 So be careful about talking with people, be  
careful

4 about what you read, see and hear, to avoid anything  
related to

5 the case. And I ask you to even be careful about  
general

6 discussions that are going on in the community about  
the death

7 penalty, because that is being discussed right now  
because

8 there is, as you probably know, someone whose execution  
is

9 coming up under Colorado law, not under federal law.

10 So be careful, will you?

11 JUROR: Uh-huh.

12 THE COURT: All right. We'll be back in touch  
with

13 you. You're excused for now.

14 JUROR: Okay. Thanks.

15 THE COURT: And 348.

16 Will you please raise your right hand and take  
the

17 oath from the clerk.

18 (Juror No. 348 affirmed.)

19 THE COURTROOM DEPUTY: Thank you.

20 THE COURT: Just be seated there, if you will,  
in that

21 chair by the microphone and make yourself comfortable  
-- as

22 comfortable as you can in that chair.

23 And you can adjust it, you know, swiveling, so  
that --

24 you don't have to speak directly into the microphone.

25 JUROR: Okay.

1608

1 THE COURT: Anywhere near, I think we'll be  
able to

2 pick up your answers.

3 VOIR DIRE EXAMINATION

4 BY THE COURT:

5 Q. You remember taking an oath like this before out at  
6 Jefferson County on September -- Fairgrounds on  
September 17.

7 A. Yes.

8 Q. And you came out there because earlier you had  
received a

9 jury summons letting you know that your name through a  
chance

10 process has come up on our computer as a possible juror  
in the  
11 case of United States against Terry Lynn Nichols, a  
trial to be  
12 held here.

13 A. Yes.

14 Q. And when you came out there to the auditorium  
building with  
15 other persons, I introduced myself and explained  
something  
16 about the background of the case, and I introduced  
people who  
17 were there with me. And I want to do that again  
because  
18 they're with me again this afternoon and with us  
present here.

19 And I introduced at that time and you met Mr.  
Lawrence  
20 Mackey, right here at this table, and Ms. Beth  
Wilkinson, as  
21 lawyers for the Government. They're joined today by  
22 Mr. Patrick Ryan next to Ms. Wilkinson and Mr. Geoffrey  
Mearns  
23 next to Mr. Ryan.

24 Over here on the other side of the room, we  
have  
25 Mr. Michael Tigar and Mr. Ronald Woods, who were  
introduced as

1 attorneys for Terry Nichols. And Terry Nichols is  
here, too,  
2 as he was on that previous occasion.

3 And then I told you about how this case arises  
as a

4 result of an explosion in Oklahoma City destroying a  
federal

5 office building over there with deaths and injuries of  
the

6 people in it on April 19 of 1995; that charges were  
filed in

7 Oklahoma City; that those charges by way of an  
indictment by

8 the Government alleged that a man named Timothy James  
McVeigh

9 and Terry Nichols, who is here, and other persons not  
named in

10 the indictment were conspiring to cause that explosion  
by

11 bombing the building; that they carried it out and that  
also

12 are charged with the murders of eight law enforcement  
agents

13 who were in the building. You remember that  
description?

14 A. Yes.

15 Q. And also, I said, of course, that there were pleas  
of not

16 guilty, thereby creating the issues to be tried and  
that the

17 case was moved away from Oklahoma City here to Denver  
because

18 of concerns about community reaction there in Oklahoma  
and that  
19 also an order was entered separating into two trials  
the  
20 charges against Mr. McVeigh and against Mr. Nichols  
because the  
21 Court ruled that you couldn't have a fair trial with  
both of  
22 them before the same jury because of differences that  
are  
23 expected in the evidence.

24 And you know that there already has been a  
trial here  
25 at which Mr. McVeigh was found guilty and that the jury

1610

Juror No. 348 - Voir Dire

1 recommended the death sentence in his case. You're  
aware of  
2 that?

3 A. I am, yes.

4 Q. Yes?

5 A. Yes.

6 Q. Okay. And of course, as I said to you and the  
other  
7 members of the jury panel out there earlier, you can't  
take  
8 that into consideration, the outcome of that case,  
because this  
9 is all new again. And we start over and consider the

evidence

10 now as it may relate to Mr. Nichols. And that's the  
whole

11 reason that we had separate trials ordered, because  
there has

12 to be separate and independent consideration of the  
evidence,

13 and the evidence may not be the same. You follow me on  
that?

14 A. Yes, I do.

15 Q. Okay. And we then asked you a number of questions  
in a

16 questionnaire which you answered; and you have your  
completed

17 questionnaire there with you now. You can take a look  
to be

18 sure that I'm correct in what I said and that we gave  
you the

19 right one. Okay? You recognize it?

20 A. Yes, I do.

21 Q. All right. And we're going to be asking you a few

22 questions, some of them relating to what you've already

23 answered, some separate from that. These answers that  
you gave

24 us are answering things that -- some of which are very  
personal

25 and private. We try to respect your privacy. These  
answers

Juror No. 348 – Voir Dire

1 are not given out to anybody except the people right  
here who  
2 are involved in this process and your name has not been  
given  
3 out to anybody. We know you by number here.  
4 We even arranged for you to come and go out of  
the  
5 courthouse so that people can't photograph you or  
identify you.  
6 Your answers that you would give to us now, of  
course,  
7 are in public. You understand this is a public  
courtroom.  
8 A. Yes.  
9 Q. Okay. And you have not had any previous experience  
with  
10 criminal cases or criminal trials. Is that true?  
11 A. That's correct.  
12 Q. And I gave some explanations to you and the others  
about  
13 sort of the basics, fundamental principles of criminal  
law in  
14 the United States, which include that the defendant is  
presumed  
15 innocent and the defendant -- any defendant, no matter  
in what  
16 court or what charges may be against that person, is  
presumed  
17 to be innocent, and it is not up to a defendant to  
prove  
18 himself or herself not guilty or to prove or explain

anything

19 at a trial. The charging government, whatever it is,  
state,  
20 local, federal, must bring in the evidence. And a  
defendant in  
21 a criminal case is not required to take the stand and  
testify  
22 as a witness or to say anything, can remain silent and  
simply  
23 challenge the evidence offered by the Government.

24 And it is up to the Government through its  
prosecutors  
25 to prove the crime by evidence, legally admissible  
evidence,

1612

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1 and to persuade the jury beyond a reasonable doubt.  
2 So what the presumption means and the burden  
of proof  
3 is that after hearing all of the evidence and the law  
and the  
4 court's instructions, if the jurors after talking it  
over have  
5 a reasonable doubt about whether the evidence proves  
the crimes  
6 charged, they must find the defendant not guilty. Do  
you  
7 understand that?  
8 A. Yes, I do.

9 Q. And do you accept those principles?

10 A. Yes.

11 Q. And would follow them in this case if called upon  
to serve?

12 A. Yes.

13 Q. Now, I want to ask you some questions here about  
your

14 background. You live in Greeley now?

15 A. Right.

16 Q. There was another person with us today from  
Greeley. You

17 didn't happen to know each other --

18 A. No.

19 Q. -- did you? Do you know who the other person from  
Greeley

20 is --

21 A. (Juror shakes head.)

22 Q. Okay. You didn't talk about that?

23 A. No, we didn't.

24 Q. All right. Well, that's good. We don't want too  
much

25 conversation going on among prospective jurors, as I'm  
sure was

1613

Juror No. 348 - Voir Dire

1 explained to you.

2 You were born in Illinois.

3 A. Correct.

child? 4 Q. You -- your family came here and you came here as a

5 A. That's right.

Greeley? 6 Q. And you work for a company that's headquartered in

7 A. Correct.

8 Q. Well, part of it is?

9 A. Part of it.

10 Q. Bigger company than that?

11 A. Right.

adjusting 12 Q. And as a matter of fact, your particular work is

13 workers' compensation claims.

14 A. Correct.

15 Q. You've been doing that how long?

16 A. Five years.

the 17 Q. Now -- and you're assigned to particular parts of

18 country other than Colorado as I understand it?

19 A. That's correct.

20 Q. Nebraska, Kansas, and Kentucky?

21 A. And I've worked with Omaha and Arkansas --

22 Q. Okay.

23 A. -- also.

file 24 Q. And tell us a little how you do that. Do you get a

that 25 with reports of investigation and incident reports and

1614

Juror No. 348 – Voir Dire

1 sort of thing presented to you?

them 2 A. Incident report comes across to myself. I handle

they lose 3 basically once they are represented by an attorney or

claim. 4 their allotted time from work and then I take over the

yourself? 5 Q. Now, do you go out and do any investigation

6 A. No, I don't go out in the field.

7 Q. Do you do any telephone inquiries of people who are  
8 witnesses, that kind of thing?

9 A. Sometimes. Not too often, but yes, sometimes.

that a 10 Q. But you have another staff that does that, or is

happened? 11 responsibility of the supervisors there where it

responsibility out 12 A. Correct. It's usually the supervisor's

13 in the state.

there is 14 Q. Yeah. So first comes in an incident report that

there is 15 an injury and then later when the claim gets filed

16 more presented?

17 A. Yes.

18 Q. And your involvement starts when there is a claim;  
is that

19 right?

20 A. The claim can go on for months before I get the  
file.

21 Q. Okay.

22 A. But I've done both.

23 Q. Primarily you work with disputed matters?

24 A. Yes.

25 Q. And with lawyers involved?

1615

Juror No. 348 - Voir Dire

1 A. Yes.

2 Q. Now, does the company have its own legal staff to  
handle

3 those claims?

4 A. We have separate attorneys in separate states, and  
they

5 deal with each plant that we work with.

6 Q. All right.

7 A. So I work with two separate attorneys.

8 Q. Outside; that is, in law firms outside of the  
company?

9 A. Correct.

10 Q. And of course, do you, you know -- do they work it

so that

11 when there is negotiation of the claims, you talk  
directly to

12 the claimant's lawyers?

13 A. Yes, I do.

14 Q. Okay. So you work -- you've dealt with a lot of  
lawyers?

15 A. Yeah. Yes.

16 Q. Do you have any overview about lawyers as people?

17 A. No.

18 Q. Okay. People are people and some of them are  
lawyers;

19 would that be a fair statement?

20 A. That's correct.

21 Q. Okay. Your husband works in the same firm?

22 A. That's right.

23 Q. But as I understand it, his involvement is  
marketing and

24 particularly foreign countries, marketing efforts in  
foreign

25 countries?

1616

Juror No. 348 - Voir Dire

1 A. That's right.

2 Q. Does he travel to those countries?

3 A. Yes, he has.

4 Q. You have some plans to travel abroad soon?

5 A. Yes.

6 Q. Do you? Now, is that in connection with some trip  
that

7 he's going to take or --

8 A. No. This is personal.

9 Q. When do you plan to travel?

10 A. We are supposed to leave November 1.

11 Q. How long are you supposed to be gone?

12 A. November 9.

13 Q. A week?

14 A. A week.

15 Q. And you and your husband?

16 A. No. My two sisters and myself.

17 Q. Okay. Is that a plan that's been -- a trip that's  
been

18 planned for some time?

19 A. Actually, no. It was a spur-of-the-moment  
decision.

20 Q. When did that moment occur? When you got a  
summons? No,

21 I'm just teasing you a little.

22 A. I forgot -- it was after the first questionnaire  
was sent

23 in and the period of time between the first  
questionnaire and

24 the notice of the second one.

25 Q. Okay. And was that a sister's suggestion, or --

1617

Juror No. 348 - Voir Dire

1 A. Yeah. Yeah, it was. We had to make a decision  
that  
2 afternoon, and I just didn't think about this and said  
yes.

3 And then when I got the letter to appear for the second  
4 questionnaire, I remembered.

5 Q. Now, have you invested in nonrefundable tickets for  
that?

6 A. Yes, I have.

7 Q. And in the event that you were picked for jury  
selection --

8 I mean for jury service and that was a conflict with  
that time

9 but we helped you get a refund of those tickets, would  
that be

10 all right with you?

11 A. Yes. Yes, it would.

12 Q. Okay. Now, you know, you're not going to be mad at  
me and

13 take it out on me, are you?

14 A. Depends on how good of a time they had over there  
without

15 me.

16 Q. Well, that's a pretty honest answer, I'm sure.  
But, you

17 know, we got to you first; right? Summons got there  
first?

18 A. I'm under oath; correct?

19 Q. Yes.

20 A. Yes, it did.

21 Q. All right. Well, we'll see what happens.

22 Your -- you've got -- let's see -- two sisters  
and a

23 brother, and one sister is a lawyer?

24 A. Three sisters. Three of them and a brother, yes.

25 Q. Okay. Yeah. Excuse me. Yes. One sister is a  
lawyer in

1618

Juror No. 348 - Voir Dire

1 Eaton, Colorado?

2 A. She's not practicing currently, but she has worked  
up there

3 before.

4 Q. Okay. I'm remembering. Is Eaton by Greeley?

5 A. It's about 10 miles outside.

6 Q. Yeah. And then you have a sister who is a doctor?

7 A. That's correct.

8 Q. Back in New York State?

9 A. Correct.

10 Q. What type of -- does she have a specialty?

11 A. She specializes in hematology.

12 Q. And does she have her own practice?

13 A. No.

14 Q. Working in a --

15 A. She works through the hospital.

16 Q. Hospital. And works with testing of bloods --  
bloods --

17 blood and body fluids?

18 A. I don't talk to her much about it, but it's my  
19 understanding that's what she does.

20 Q. And what's the other sister do?

21 A. The youngest one -- she is a house -- is this  
politically

22 correct -- she stays at home with her children.

23 Q. And what -- what type of law is the sister who is a  
24 lawyer -- has practiced in the past? What has she  
done?

25 A. Water rights.

1619

Juror No. 348 - Voir Dire

1 Q. In a private firm?

2 A. She had her own for a while, so . . .

3 Q. With an office in Greeley?

4 A. In Eaton.

5 Q. In Eaton?

6 A. In Eaton.

7 Q. Okay. Now, you have two young children, one

preschool.

8 A. Correct.

9 Q. And is she in a day-care program somewhere?

10 A. Part-time, uh-huh.

11 Q. And you and your husband alternate picking her up,  
or do

12 you have a car pool, or --

13 A. The day care picks her up from preschool; and when  
I'm off  
14 work, then I pick her up every day.

15 Q. All right. And if you're on the jury here 9 to 5,  
16 arrangements can be made to take care of her?

17 A. She'd have to stay at day care all day.

18 Q. On page 11 -- and actually 11 and 12, we asked you  
to mark  
19 some organization or activities and asked whether any  
of your  
20 immediate family members have been employed in this  
way. You  
21 see my reference?

22 A. Yes, I do.

23 Q. Question 53. And one of them is security guard  
that you

24 answered yes to. Who is that and what work was that?

25 A. That was my father down at Fort St. Vrain. He's  
deceased

Juror No. 348 – Voir Dire

1 now, though, for approximately eight, nine years.

2 Q. And where did he work as a security guard?

3 A. Fort St. Vrain.

4 Q. In the power plant?

5 A. Correct.

6 Q. Okay. And you've got Department of Justice marked.

7 A. Well, I don't know -- I think I was thinking of my  
sister.

8 She served as a judge for a year.

9 Q. Where?

10 A. Up in Alt, which is outside of Eaton. Wasn't sure  
which --

11 Q. What kind of a judge? Municipal, city judge, or --

12 A. I think it would have been a city judge.

13 Q. Okay. Well, judges don't work for the Department  
of

14 Justice.

15 A. I know.

16 Q. I'll let you know that. In fact, sometimes some  
lawyers

17 might think they work against the Department of  
Justice, but

18 there is a separation there. You understand?

19 A. Yes, I --

20 Q. These lawyers are with the Department of Justice  
and

21 they're on one side of the case, and we have defense  
lawyers on

22 the other, and judges are in between, so to speak.

23 Now, you've also got farming and ranching work  
marked.

24 A. Uh-huh.

25 Q. Tell us about that, why you marked that.

1621

Juror No. 348 - Voir Dire

1 A. My oldest sister out in New York also lives on a  
small  
2 farm.

3 Q. Oh, yes. I think you said that. And is -- is she  
or her  
4 husband actively engaged in farming operations?

5 A. If you can call it farming. It's mostly basically  
just a  
6 small farmhouse with a few farm animals. They don't do  
any of  
7 the plowing type of farming, just a small farm.

8 Q. Do they sell animals, or --

9 A. Not to my knowledge.

10 Q. So --

11 A. But my other sister lives on a farm and her husband  
farms.

12 Q. The one in Eaton?

13 A. I have two. Right.

14 Q. And that's his main occupation, is it, farming?

15 A. Correct.

16 Q. And how big a farm do they have there?

17 A. I couldn't tell you that. He leases, so I really  
don't

18 know.

19 Q. Leases acreage in addition to what they own?

20 Do you know what -- is it livestock, or crops,  
or

21 both?

22 A. Crops. Hay, crops.

23 Q. Hay?

24 A. Uh-huh. And he's done others: beans, corn.

25 Q. You know anything about the farming operations  
there? Have

1622

Juror No. 348 - Voir Dire

1 you participated in them yourself?

2 A. No, I have not.

3 Q. Okay. And you've got newspaper, magazine, or  
journal

4 marked.

5 A. Correct.

6 Q. Tell me about that.

7 A. The sister who is the attorney also worked for the  
mag --

8 newspaper. I believe it was in Eaton, reported for  
them.

9 Q. Is that a weekly paper?

10 A. I believe so. She hasn't done it, I don't believe,  
for a

11 couple months -- at least I don't think so.

12 Q. Do you know if she reported things particularly  
related to

13 courts and police blotters or things like that?

14 A. No, I think mostly what she handled was a school --  
school

15 areas in small towns.

16 Q. Okay. Now, on page 36, if you'll turn there,  
please,

17 Question 157, you mention a co-worker to your  
information

18 visited the Murrah Building site in Oklahoma City?

19 A. Correct.

20 Q. Do you know when that was?

21 A. I believe that was just this spring.

22 Q. Did she talk to you about it, or he? I don't know  
which it

23 is.

24 A. She has some. She has a daughter who lives out  
there.

25 Q. Lives in Oklahoma City?

1623

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1 A. Correct.

all of 2 Q. So I take it that she has been very interested in  
3 the things subsequent to the explosion.  
4 A. Yes, she has.  
5 Q. Talked to you about it?  
6 A. Some. Some.  
about what 7 Q. And did she -- when she came back, talk with you  
8 she saw and what she -- what her emotional response  
was?  
9 A. A little bit. A little. Not a lot.  
influences 10 Q. Anything from that conversation that you believe  
11 or affects you now?  
12 A. No.  
have any 13 Q. Any other -- do you know of any other persons who  
14 connection with family in Oklahoma City or in Oklahoma  
for that 15 matter?  
16 A. I don't believe so.  
37, an 17 Q. You have mentioned, turning over to the next page,  
18 opinion that you formed that Mr. Nichols is guilty  
based on 19 media and friends.  
20 A. Correct.  
21 Q. How much have you followed reports in the media?  
22 A. Not a whole lot.

get -- 23 Q. And what media are you talking about? Where do you  
24 A. TV, radio.  
25 Q. -- news reports?

1624

Juror No. 348 - Voir Dire

stations 1 Do you watch a particular -- you get Denver  
2 up there in Greeley; right?  
3 A. Yes.  
4 Q. And do you follow the news on any particular one?  
5 A. No, I don't.  
interests you at 6 Q. Go from one to the other, whatever sort of  
7 the time?  
8 A. Right. Whatever channel we have on.  
news at a 9 Q. Do you have a regular habit, routine of watching  
10 certain time of day?  
11 A. Mostly just the late evening news.  
12 Q. 10:00?  
13 A. Yes.  
assume 14 Q. And then friends, you've mentioned here, too. I  
there is 15 this person you work with whose daughter lives over

16 one of those friends?

17 A. Correct.

18 Q. And how about others? What -- we're not asking you  
to

19 identify them, but --

20 A. Oh, neighbors, friends, relatives. Everybody has  
an

21 opinion.

22 Q. People at the place where you work?

23 A. Sure. Yeah.

24 Q. Has it been discussed there very much with you?

25 A. Not recently, no.

1625

Juror No. 348 - Voir Dire

1 Q. Was it during the McVeigh trial?

2 A. After it happened and during the trial, yes.

3 Q. You understand, of course, that the jury in this  
case will

4 be asked to decide based on evidence what happens at  
trial and

5 the things that are reported or said outside of the  
courtroom

6 have to be disregarded. That's the obligation.

7 A. Uh-huh.

8 Q. Sometimes we can do that, sometimes we can't. It  
depends

9 on who we are and how much of that we've seen or heard.

10                    In your case, can you think -- do you think  
you can  
11                    set aside what you've heard and read and this opinion  
that  
12                    you've formed?

13                    A. I suppose it would be based on the evidence that  
was  
14                    produced. I really couldn't -- I really couldn't say.

15                    Q. Well, you know, when I went back over the  
fundamental rules  
16                    and the presumption of innocence, Mr. Nichols sits with  
us here  
17                    today presumed to be innocent. And it wouldn't be fair  
to

18                    judge him by what somebody has said about him or  
reported about  
19                    him or reported about what they think the evidence  
might be.

20                    It's going to depend on what happens at trial, what is  
produced  
21                    at trial.

22                    Now, you understand that intellectually, I  
assume?

23                    A. Yes.

24                    Q. And I guess what we're asking you is to make your  
best  
25                    estimate of your own ability to do that and set aside  
the

1 things that you may have as preconceptions.

2 A. Like I say, if there was overwhelming evidence to  
show

3 different than what I had believed in before, yes, I  
could.

4 Q. Well, now, you also remember that I said no  
defendant has

5 to prove himself not guilty and that indeed a defendant  
doesn't

6 have to offer any evidence. You are suggesting that  
the

7 defendant should come in with overwhelming evidence.  
Is that

8 what you're saying?

9 A. No.

10 Q. Well, I'm misunderstanding then, and it's toward  
the end of

11 the day, so that's understandable. But what do you  
mean when

12 you say --

13 A. Evidence to show that he is guilty.

14 Q. Okay.

15 A. I mean if he comes in and I'm looking at him as not  
guilty

16 and to erase all that in my own mind -- I don't know.  
I'm so

17 confused.

18 Q. Okay. Let's go back over it slowly; and these are  
legal

19 requirements, so -- and they may be different from

human nature

20 in a way. And that, of course, is why we ask a lot of  
21 questions.

22 But yes, we start with, you know, if you want  
to look

23 at it, here's a clean page. There is nothing on it.  
That's

24 this case right now, because there is no evidence. And  
it is

25 up to the Government, these lawyers here, to bring in  
the

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1 evidence. And unless what they bring in that is  
received as

2 evidence -- and there will be objections and challenges  
to the

3 evidence. That's part of what happens at trials, but  
with --

4 and I rule on what the jury can hear and consider. And  
the

5 jury has to be limited to that which is heard in the  
trial and

6 then decide whether the evidence that has been heard  
shows

7 guilt beyond a reasonable doubt.

8 Now, it is understandable that some people  
have so

9 much of an opinion that they can't do that as jurors.  
Others

I'm going 10 can say yes, even though I've heard a lot of things,  
and 11 to set it aside and do what the law requires me to do,  
12 that's listen to the evidence and decide on that basis.

know, 13 What we're asking you to do is tell us, you  
14 which way you are on that.

15 A. Yeah. I could set it aside.

16 Q. Okay. I'm not trying to push you into that answer.

17 A. No. Okay.

clear on 18 Q. Okay. And as I said -- and I just want to be very

and that 19 this because of something you said a little while ago;

obligation to 20 is, these lawyers for Mr. Nichols don't have any

these 21 bring in any evidence. They can simply challenge what

part of 22 lawyers bring in and object and, you know -- and that's

are rules 23 what lawyers have to do professionally, because there

24 that limit it.

25 A. Basically what I work with every day.

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1 Q. Sure. And you're not going to support payment of a

claim

2 that isn't proved.

3 A. That's right.

4 Q. And does it happen in your work every day -- not  
every day,

5 but it happens in your work that sometimes you have a  
thought

6 about, well, they'll never be able to support this  
claim, and

7 then, yeah, at a later time, you find that it's there?

8 A. It happens quite a bit.

9 Q. So you have sometimes, as you pick up a file, a  
notion

10 about how it's going to come out and then it comes out

11 differently; is that what you're saying?

12 A. Correct.

13 Q. Based on what is the evidence.

14 A. Correct.

15 Q. And that's the way you're going to look at it here?

16 A. Yes.

17 Q. Okay. Well, we're going to ask you some more  
questions,

18 and we're not going to be able to finish by 5:00; so  
we're

19 going to ask you back tomorrow. You're not happy with  
that

20 news, I know, but please bear with us. And what I'm  
going to

21 ask you to do is between the time -- you'll be here  
same time

22 tomorrow? I mean where you were this morning.

23 A. Yes, I can.

24 Q. And then we'll resume at 8:45 tomorrow; and I'm  
going to

25 ask you some more questions, and then the lawyers will  
have a

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1 chance to talk with you as well and ask you some  
questions.

2 A. Okay.

3 Q. So please in the meantime don't talk about it,  
don't -- you

4 know, same as when you left the auditorium at Jeffco.  
All

5 right?

6 A. Okay.

7 THE COURT: Thank you very much. I'm sorry  
that we

8 didn't get finished with you today, because we know  
you've got

9 a trip back and forth, but bear with us.

10 We'll see you tomorrow morning. You're  
excused for

11 now.

12 (Juror out at 4:59 p.m.)

13 THE COURT: Okay. We'll continue with her in  
the

14 morning.  
15 I do, you know -- Mr. Neureiter, you keep  
getting up  
16 and moving around; and that's distracting to me. I  
prefer you  
17 not to do that.  
18 MR. NEUREITER: I apologize, your Honor. It  
won't  
19 happen again.  
20 THE COURT: All right. We'll resume 8:45  
tomorrow  
21 morning.  
22 (Recess at 5:00 p.m.)  
23 \* \* \* \* \*  
24  
25

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REPORTERS' CERTIFICATE

transcript from

2

We certify that the foregoing is a correct

Dated

3

the record of proceedings in the above-entitled matter.

4

at Denver, Colorado, this 6th day of October, 1997.

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Paul Zuckerman

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Kara Spitler

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