

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF COLORADO

3 Criminal Action No. 96-CR-68

4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 vs.

7 TERRY LYNN NICHOLS,

8 Defendant.

9 ff

10 REPORTER'S TRANSCRIPT
(Trial to Jury: Volume 18)

11 ff

12 MATSCH, Proceedings before the HONORABLE RICHARD P.

13 Judge, United States District Court for the District of
14 Colorado, commencing at 1:25 p.m., on the 8th day of
15 October, 1997, in Courtroom C-204, United States Courthouse,
16 Denver, Colorado.

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Transcription
Street,
629-9285

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APPEARANCES

Western
Oklahoma

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City, Oklahoma, 73102, appearing for the plaintiff.

GEOFFREY

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Colorado, 80294, appearing for the plaintiff.

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appearing

10

Lincoln Street, Suite 1308, Denver, Colorado, 80203,

11

for Defendant Nichols.

12

* * * * *

13 PROCEEDINGS

14 (Reconvened at 1:25 p.m.)

15 THE COURT: Be seated, please.

16 No. 80.

17 Good afternoon. If you will raise your right
hand,

18 take the oath from the clerk.

19 (Juror No. 80 affirmed.)

20 THE COURTROOM DEPUTY: Thank you.

21 THE COURT: Please be seated there -- yes, the
chair

22 right by the microphone, which swivels around so that
you can

23 adjust your position. And you don't have to -- it's
not like

24 singers, you don't have to put your face right up
against the

25 microphone; it will pick you up.

2033

Juror No. 80 - Voir Dire

1 VOIR DIRE EXAMINATION

2 BY THE COURT:

3 Q. You of course recall that you have been summoned
here as a

4 result of a chance selection process where your name
came up

5 through a computer run, really, as possibly being a

juror in

Nichols. 6 the trial of the United States against Terry Lynn

7 A. Yes.

fill out, 8 Q. And we sent you a short questionnaire for you to

notice 9 and you did that, sent it back, and then we gave you a

10 to appear on September the 17th at the Jefferson County

11 Fairgrounds' auditorium building to fill out a long

12 questionnaire, and you did that.

13 A. Yes, sir.

And 14 Q. And the questionnaire's there in front of you now.

that, I 15 we'll be referring to it as we go. But before doing

introduced 16 wanted to remind you that when we were together, I

who 17 myself -- excuse me -- and then introduced other people

those 18 were there with us; and I want to do that again because

additional 19 same people are here with us today, including two

20 lawyers.

Beth 21 You recall meeting Mr. Lawrence Mackey and Ms.

joined now 22 Wilkinson, attorneys for the Government. They are

this 23 by Mr. Patrick Ryan and Mr. James Orenstein, seated at

24 first table.

25 You also recall being introduced to Mr.
Michael Tigar,

2034

Juror No. 80 - Voir Dire

1 Mr. Ronald Woods, attorneys for Terry Nichols. Mr.
Nichols was

2 there and is of course here now.

3 There are a few other people here within your
sight.

4 They are assisting these lawyers in the case, and what
we want

5 to do now is, if you can believe it, ask you some more
6 questions, having already asked you 166 of them in this
7 questionnaire.

8 One of the things I know is much on your mind,
and

9 that is an upcoming trip?

10 A. Uh-huh, yes, sir.

11 Q. That you have arranged, and you wrote a letter and
you

12 advised us of the dates of that trip, and I just want
to

13 explain what has happened here.

14 A. Okay.

15 Q. When we got the completed questionnaires, the
answers,

16 then, as I told you and the other members of the jury

pool we

17 would do, we made copies of them and then -- and have
given
18 them out to the people who are participating in this
process,
19 but not to anybody else. Those answers have never been
made
20 public, and will not be, because they ask you personal
and
21 private things, among other things. And we're trying
to
22 respect your privacy and therefore not using names here
and
23 also arranging for you to come in and out of the
building
24 without being photographed and all those things.

25 But then what we did was go back to a computer
again

2035

Juror No. 80 - Voir Dire

1 and have the computer mix up the names really and give
us a
2 sequence, an order in which people would be called in,
in
3 whatever number that we need to get a jury. And we
don't know
4 how many people will be called in for this very same
process
5 that you're in. Now, what happened was that your
number in

6 that sequence is later than your being here now; but
because of
7 your travel schedule, it was agreed by all of us that
we would
8 call you in before that trip occurs so we get this
chance to
9 talk with you and then let you go on the trip.

10 Now, you also gave us the return date, and I
don't
11 know whether we'll have completed the work or not by
that time.

12 But we will factor into this your being gone those
days, so
13 don't worry about it; we're not going to call you back
from
14 your trip.

15 A. Okay.

16 Q. Okay. Do you understand now?

17 A. Thank you. I do now; thank you.

18 Q. And, you know, it's just that we don't know. We
don't know
19 how many people. We don't know how long we'll be at
this, but

20 obviously there are no given restrictions on this
because we're
21 going to go with as many people and take as long as it
takes to
22 do the job right. So we appreciate your coming in
ahead of
23 time.

24 And now let's talk about the case. You will
recall, I

25 am sure, that before asking you to answer the
questionnaires --

2036

Juror No. 80 - Voir Dire

1 the questionnaire, I told you something about the
background of
2 the case and reviewed with all of the people who were
out there
3 at the fairgrounds building how the case starts with an
4 explosion that occurred in Oklahoma City, Oklahoma, on
the 19th
5 of April of 1995, a federal office building was
destroyed,
6 people in it were killed and injured, and that then
later an
7 indictment, formal charges, were filed in the Federal
Court in
8 Oklahoma City charging a man named Timothy James
McVeigh and
9 Terry Lynn Nichols, and then the indictment says, "and
persons
10 not named in the indictment," with a conspiracy to bomb
that
11 building and to kill and injure people in it and to
carry out
12 that plan and also charged them with the murders of
eight law
13 enforcement agents who were in the building.

14 You recall my explaining that?

15 A. Yes, sir, I do.

16 Q. And I'm sure that you remember this, but I've got
to go

17 over it to sort of set a foundation for the questioning
here

18 just to make sure that we understand each other.

19 A. Okay.

20 Q. Then I described how the case was moved from
Oklahoma City

21 to Denver because of concerns about getting a jury
there and

22 then that an order was entered separating the named
defendants,

23 Mr. McVeigh and Mr. Nichols, for trial and the finding
that

24 that was necessary because of differences with respect
to the

25 evidence and how it would not be fair for those two men
to come

2037

Juror No. 80 - Voir Dire

1 to trial at the same time with the same jury; and so
that was

2 done.

3 And also that the evidence with respect to Mr.
McVeigh

4 had been already heard by a jury, there was such a
trial, and

5 the jury returned a verdict of guilty and a
recommendation for

knew that 6 a death sentence. I explained that, and you probably

7 anyway.

8 A. Yes, sir.

9 Q. True?

10 A. Uh-huh.

order, 11 Q. And then I explained that because of the separation

consider 12 of course, the jury to be selected in this case cannot

about 13 the -- anything that they may have read, seen, or heard

consider 14 the evidence at the McVeigh trial, and certainly can't

that 15 the outcome, the jury's verdicts and recommendation, in

would 16 case as having anything to do with this case. To do so

You 17 plainly violate the very reasons for separate trial.

18 understand that?

19 A. I do.

been in 20 Q. Okay. And you indicate here that you have never

21 a -- you've never served on a jury anywhere, have you?

22 A. I did once.

23 Q. Oh, you did?

24 A. Yeah. It was probably about three years ago.

indeed, in 25 Q. Okay. And -- I missed that on here. You did,

Juror No. 80 - Voir Dire

1 Douglas County?

2 A. Correct.

3 Q. I stand corrected. You did tell us about that.
Page 26 is

4 where you did it. And let's see, two to three years
ago,

5 about?

6 A. Correct.

7 Q. And the charge was the possession of illegal
substance,

8 paraphernalia, weaving, DUI --

9 A. Yes.

10 Q. -- so there somebody was picked up in a traffic
stop, was

11 it?

12 A. Yeah. Somebody had -- was following him, had
reported he

13 was weaving lane to lane, and when they pulled him
over, found

14 all this other stuff in his car.

15 Q. And charged him with everything they could, I
guess?

16 A. Yeah.

17 Q. And were all those charges presented to you as the
jury?

18 A. Yes, they were.
19 Q. And how long did the trial take? Do you have a
memory of
20 that?
21 A. Three and a half days, I think.
22 Q. And what did the jury decide?
23 A. As far as the guilty or not guilty?
24 Q. Yes, guilty or not guilty.
25 A. It was a guilty verdict.

2039

Juror No. 80 - Voir Dire

1 Q. On everything?
2 A. Yes.
3 Q. And was it a case, do you remember, in which -- was
there
4 just one person accused?
5 A. Correct, yes, it was just one person.
6 Q. All right. And did he or she testify at the trial?
7 A. He did not.
8 Q. How long, about -- as you remember it -- did the
jury take
9 to decide the case? You know, talk it over and then --
10 A. Yeah, I'm thinking it was probably three or four
hours.
11 Q. And came, of course, to a unanimous agreement?
12 A. Yes.

Court's 13 Q. Now, you were told some things about the law in the

14 instructions in that case; right?

15 A. Correct.

16 Q. And we're not going to ask you to recite the
instructions.

17 We wouldn't expect you to remember the details. But
there are

18 certain things that are always given in instructions.

19 A. Uh-huh.

20 Q. And that's true because they are fundamental to our
legal

21 system and indeed they are mandated or required by the
United

22 States Constitution. Among those things is the
presumption of

23 innocence. Every person, no matter where charged or
what

24 they're charged with, is presumed to be innocent of
those

25 charges and by a guilt -- not guilty plea simply says,
you

2040

Juror No. 80 - Voir Dire

1 know, prove it; you've alleged it, now prove it. And
you

2 understand about that?

3 A. Yes, I do.

4 Q. And in practical effect, the meaning of it is that
5 whoever's prosecuting that case, whatever level of
government
6 through his lawyers, must come in with the witnesses
and the
7 exhibits and those things relied on by the prosecution
as
8 evidence and present it. And a defendant doesn't have
to
9 present any evidence or in any way show himself to be
not
10 guilty or explain anything, and no defendant has to
testify in
11 a trial; and the jury may not consider that at all or
speculate
12 about why the person didn't testify and so forth. Do
you
13 understand that?

14 A. Yes, I do.

15 Q. Do you remember getting such an instruction in that
case,
16 when the defendant did not testify?

17 A. I think I did, a little bit, you know, that he did
touch --
18 the judge did touch on that.

19 Q. Yeah. And what I say to juries -- and it varies
among
20 judges, but what I say to juries is, "You can't even
talk about
21 it when you deliberate. Put it out of your mind."

22 A. Uh-huh.

23 Q. Do you understand --

24 A. Yeah, uh-huh.

25 Q. Now, I'm not going to ask you what the jury said in
the

2041

Juror No. 80 - Voir Dire

things 1 deliberations in that case, because one of the other
the 2 that is important in the system is the secrecy of jury
3 deliberations. That stays with the persons who are on
positions 4 jury, so we're not going to ask you, you know, the
do want 5 taken or arguments made or comments by jurors. But I
6 prove to emphasize this point: That nobody accused has to
I'm sure 7 anything and that the prosecution must prove it. And
so that 8 you were told, must prove it beyond a reasonable doubt,
have seen 9 if at the end of it all and considering all that you
remaining, 10 and heard at trial, if there is a reasonable doubt
doubt 11 the jury must give to the defendant the benefit of that
12 and find him not guilty. You accept that, I take it?
13 A. Yes.

14 Q. And you accept that and agree to be bound by it in
this
15 case, if you were to serve here; is that true?
16 A. Yes.
17 Q. Now, you did make mention on page 22 of something,
and I'm
18 looking on that page, of Question 100, where we asked
you your
19 general opinion about the effectiveness of the criminal
justice
20 system; and you said, "Adequately." And then you said,
as I
21 read it, "Sometimes think there's too much emphasis on
how
22 evidence" -- I'm not sure what the next word is -- "was
23 obtained and how easily it can be thrown out of court."
What
24 is that, "et cetera"? Is that --
25 A. Yes, that's what that is.

2042

Juror No. 80 - Voir Dire

1 Q. Now, did you gain that view from something that you
recall
2 about the trial in which you --
3 A. No, huh-uh.
4 Q. What's the source of that opinion?
5 A. Oh, probably TV. You know, just in the past, you
know,

6 things you watch on TV, you know; and that I guess
that's
7 information I assumed or gathered in my mind, you know.
8 Q. You're thinking about illegal searches or those
things
9 where a court finds that the police or the law
enforcement
10 people, whoever they are, gathered some evidence and
broke the
11 law in doing it and so then the court threw it out; is
that the
12 kind of thing you're thinking of?
13 A. Yeah, yeah, yeah, along those lines, yeah.
14 Q. Okay. You understand of course, I'm sure, from the
trial
15 experience you had, we do have rules, and rules govern
what
16 police can do or law enforcement officers, just like
the rest
17 of us. Do you accept that?
18 A. Yeah, I understand that.
19 Q. Sometimes in those dramatizations, those fictional
things,
20 there don't seem to be any limits to what police can
do,
21 sometimes it seems. It's sort of, well, if they get
the bad
22 guys, who cares if they break the law. There's some of
that?
23 A. There is.
24 Q. We don't play by those rules; understand?

25 A. I do understand.

2043

Juror No. 80 - Voir Dire

1 Q. And of course it's not play, and I use that as a
frame of
2 statement, a phrase, but I don't mean to suggest
anything light
3 about it.

4 Of course we expect the law enforcement people
to
5 follow the law, including the Constitution, like we do
6 everybody else.

7 And then there are rules at the trial. I'm
sure you
8 recall times when, in the course of the trial, a
question may
9 be asked, objection raised, objection sustained.

10 A. Yes.

11 Q. Sometimes jurors hear that happening and think,
what are
12 they trying to hide. Now, you know, it isn't a
question of
13 trying to hide; it's a question of what's fair. And
the rules
14 of evidence come to us just like our other laws and
require
15 these disputes to be resolved by a judge and the judge
limits
16 the evidence under the rules that the jury can hear.

Now, do

17 you accept that?

18 A. Yes, I do.

19 Q. Okay. Even though, you know, there certainly can
be times

20 when that happens in front of the jury and the jury
wants to

21 know, well, I wonder what that witness would have said
or what

22 that piece of evidence would have been. Can't do it.

23 A. I understand.

24 Q. Agree?

25 A. Yeah.

2044

Juror No. 80 - Voir Dire

1 Q. Now, I just want to ask you, having gone through
these

2 principles about procedure and the basic principles of
the

3 criminal justice system, do you now tell us that you
agree with

4 them and would follow them in this case if you were to
serve in

5 this case?

6 A. Yes, I would.

7 Q. I want to talk with you a little about some things
in your

8 own background. As I understand it, you were born in

Arizona?

9 A. Yes, I was.

10 Q. Raised in Nebraska?

11 A. Yes, I was.

12 Q. And you lived on a farm the first part of your life
in
13 Nebraska?

14 A. Uh-huh.

15 Q. And you mention a place called Nelson?

16 A. Correct.

17 Q. And I must confess to you, I don't know where that
is.

18 A. Do you want me to tell you?

19 Q. You guessed it, yes.

20 A. It's south-central part of Nebraska. We're just a
few
21 miles -- 50 miles north of the Kansas border.

22 Q. Okay.

23 A. Little town.

24 Q. And what kind of farm was it? What did your family
raise
25 on there, besides kids?

2045

Juror No. 80 - Voir Dire

1 A. Yeah, we had a lot of those. Had milk cows and I
remember

2 farming the land, milo, corn, wheat.

3 Q. Okay. Was it dry-land farming, or did you have
irrigation

4 there?

5 A. It was dry-land farming.

6 Q. And this was -- your family lived there until you
were

7 about nine or ten?

8 A. Yeah.

9 Q. Then where did you go?

10 A. Then we moved to town. We moved to Nelson, a small
town,

11 which is probably like 12 miles from the farm. So we
were in

12 town there and in Nelson. That's where I graduated
from high

13 school, then.

14 Q. Okay. Did your folks still work the farm when you
lived in

15 town?

16 A. No, they didn't, huh-uh. We were renting the farm
when I

17 was living there.

18 Q. I see.

19 A. And working the farm, so --

20 Q. And so then they changed jobs?

21 A. Uh-huh, yes, sir.

22 Q. Your father and your mother, too, did they both
work?

23 A. Uh-huh.
24 Q. And then you went over to Lincoln to go to school?
25 A. Yes, I did.

2046

Juror No. 80 - Voir Dire

1 Q. And a year at the university?
2 A. Uh-huh.
3 Q. And then you went to a nursing school?
4 A. Yes, I did.
5 Q. In Lincoln?
6 A. Yes, I did.
7 Q. And as a result of that, you became a nurse?
8 A. I did.
9 Q. And you've worked in several hospital settings?
10 A. Uh-huh.
11 Q. And now you're at Rose?
12 A. Correct.
13 Q. And you've been at Rose, what, since you've been in
14 Colorado?
15 A. Yes, sir. Yeah. 1990.
16 Q. Yeah. And your nursing work there now is with
labor and
17 delivery?
18 A. Yes, sir.

were in 19 Q. Have you had other specialties in nursing when you

20 these other health-care places?

and I've 21 A. No. My first years out of school, I did med surg,

22 been doing labor/delivery nursing ever since.

we've heard 23 Q. We have something of a coincidence here in that

24 from another person --

25 A. Uh-huh.

2047

Juror No. 80 - Voir Dire

you 1 Q. -- working at Rose with the same kind of work. Are

2 aware --

3 A. Yes.

I want 4 Q. And I want to -- just so -- you know, we're keeping
5 everybody's name out of the public knowledge here, but

6 to give you the name --

7 A. Okay.

yourself, and 8 Q. -- in writing and just ask you to read it to

9 then tell us if you work with this person.

10 A. Yes, sir.

out 11 Q. Okay. And somewhere along the line, you both found

12 that you got summons; is that right?

13 A. Yes, sir.

14 Q. How long have you worked with this other person?

15 A. Pardon me?

16 Q. How long have you worked together?

17 A. I want to say a couple of months.

18 Q. Okay. Only a couple of months?

19 A. Only a couple of months, yeah.

20 Q. Do you work the same -- do you work on shifts
there?

21 A. We work on shifts, but sometimes we do work
together. So

22 sometimes she'll work a different shift than I do. But
I have

23 worked with her a few times, probably seven or eight or
more

24 times.

25 Q. With the same patients, then?

2048

Juror No. 80 - Voir Dire

1 A. Correct. Yes. She does the same thing.

2 Q. Yeah. And were you aware that she was working
there before

3 you started working together? I mean did you know her
before

4 two or three months ago?

5 A. No, not before she started working in that unit, I

did not

6 know her.

7 Q. Okay. And how did you find out that she had a
summons,

8 too?

9 A. 'Cause I happened to be talking about needing --
the

10 possibility of meeting jury duty, and it came up,
happened to

11 be she was --

12 Q. -- there, too?

13 A. Yes. Or she had mentioned or I had mentioned, "Me,
too,"

14 something like that.

15 Q. And was this talking with a supervisor or somebody
who does

16 scheduling?

17 A. Yes.

18 Q. And so the supervisor was there with the two of
you?

19 A. No. No. Actually it wasn't like -- it wasn't at
the exact

20 same time.

21 Q. Oh, okay. But you then mentioned that to her and
she said,

22 "Oh, me, too"?

23 A. Yeah.

24 Q. Then did you compare notes?

25 A. No, not really.

Juror No. 80 - Voir Dire

1 Q. Or talk about it at all?

2 A. Well, the comment was that we were nervous, of
course; but

3 we didn't do much detailed talking.

4 Q. Was this before you came out to the fairgrounds?

5 A. Actually, it was more after.

6 Q. It was after.

7 A. Uh-huh.

8 Q. Did you have any conversation about what you
thought about

9 this questionnaire --

10 A. No.

11 Q. -- or any of that?

12 A. No.

13 Q. And do you know when she was called in?

14 A. I do.

15 Q. Did she talk with you about it?

16 A. No.

17 Q. Or suggest anything about here's what you can
expect?

18 A. No.

19 Q. Okay. Well, you understand why we want to know --

20 A. Uh-huh.

about 21 Q. -- that. And so I guess I have one more question
Please 22 this. And I'm not suggesting anything improper.
23 understand that.

24 A. Okay.
jury 25 Q. If it should happen that the two of you are on the

2050

Juror No. 80 - Voir Dire

1 together, you were there with the 12 or the 12 plus the
day in and 2 alternates and we're here, you know, in jury service
together 3 day out, is there anything about your having worked
affect 4 before or your acquaintance with each other that would
5 you serving as a juror?

6 A. I don't think so.

7 Q. Okay. Now, you've been married twice?

8 A. Correct.

9 Q. And both marriages, divorces?

10 A. Correct.

11 Q. Tell us, if you will, please, what work your former
12 husbands did while you were married.

13 A. Okay. My first husband was in the Navy and
divorced before

14 he was out. And my second --

15 Q. So about how long were you married?

16 A. Oh, about two years.

17 Q. And did you go to wherever he was stationed?

18 A. Yes, I did.

19 Q. You were a Navy wife at the --

20 A. Correct, uh-huh.

21 Q. -- at the base?

22 A. I was in Florida.

23 Q. And the second one?

24 A. The second one, he was a part-time musician, and
part-time

25 just worked in like a Target store. I can't remember
what the

2051

Juror No. 80 - Voir Dire

1 name of it was, but it was kind of like a Target store.

2 Q. And was he a musician for hire? I mean did he work
in a

3 band or an orchestra?

4 A. Yeah, he worked in a band.

5 Q. And how long were you married with him?

6 A. Oh, about two and a half years.

7 Q. Now, you have a significant relationship with a
person now?

8 A. I do.

to be 9 Q. And that person lives with you, and you are going
10 traveling on this trip together, I guess?
11 A. Correct, uh-huh.

for a 12 Q. And he, as I understand it from your answers, works
13 home builder.
14 A. He does.

marriage or 15 Q. And you don't have any children from either
16 this relationship?
17 A. No, sir.

to jury 18 Q. You agreed -- I think you also said -- getting back
to 19 service, on page 30, Question 129, that -- please turn
follow or the 20 that -- that you agreed strongly with the need to
21 importance of following the court instructions.
22 A. Uh-huh.

the jury 23 Q. And I take it that was your view when you were on
24 deciding the case that we've talked about?
25 A. Yes, it was.

2052

Juror No. 80 - Voir Dire

1 Q. And you understand instructions means not only the

things

publicity and

in

the --

to the

I guess

too.

2 we've talked about about being careful about the

3 everything when I instructed you and the others, both

4 writing and at Jefferson County, but also at the end of

5 during the case, there are instructions from the Court

6 jury; and at the end of the trial, they are there. And

7 under Colorado practice, you got written instructions,

8 A. Yes.

9 Q. Right?

10 A. Uh-huh.

And you

11 Q. Which were to guide you in considering the case.

12 tried to follow those, I take it?

13 A. Yes, I did.

14 Q. And would here with the instructions that you get?

15 A. Yes, I would.

the guilty

16 Q. Now, do you know what happened in your case with

17 verdicts -- what happened after that?

18 A. I do not.

19 Q. You have no idea what the sentence was?

20 A. Huh-uh, no, I don't.

21 Q. Or when it was?

22 A. I don't know.
23 Q. Okay. So you understand from your own experience
that the
24 usual thing is that the jury decides guilty or not
guilty based
25 on the evidence and following the law. And then it's
not up to

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Juror No. 80 - Voir Dire

1 the jury to decide what to do about it -- that is to
say, what
2 sentence of punishment there should be -- because
that's up to
3 the judge, the court.

4 And what happens in -- and I'm sure what
happened in
5 your case because it is common to all of the cases with
the
6 exceptions that I'll be talking about here -- the
matter goes
7 back to the judge with the guilty verdict and now the
judge
8 needs to get information to decide what sentence should
be
9 imposed. And it isn't some kind of a, you know,
sentence right
10 away; this is the crime, this is the sentence. It's a
matter
11 of individualized consideration. And before the
sentence can

12 be determined, there has to be information not only in
addition
13 to what there was in the evidence as to the
circumstances of
14 the crime or to the offenses, but also things about the
15 defendant individually. And I'm referring to that
person's
16 life history, really, the background, where the person
was
17 born, what the family was like, some of the things
we've been
18 asking you about, but certainly in more detail and
including
19 the work history, family relationships, all of those
things
20 that combine in our lives to make each one of us
different from
21 all others, the things that make us individual and
unique human
22 beings. All that gets presented to the court.
23 Then there's a hearing at which that
information is
24 reviewed and then the court hears from the counsel for
the
25 defense and the prosecution and then decides what is
the

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Juror No. 80 – Voir Dire

1 sentence for this person and this crime. It's an
2 individualized thing.

3 You follow me on that?

4 A. Yes, I do.

5 Q. Now, Federal Court it's different when the crime
involves
6 the possibility of a sentence to death or prison for
life
7 without any possibility of being released because that
issue
8 goes to the jury; and because of the possibility that
that
9 could happen, we have asked you some questions about
your
10 attitudes and opinions concerning those penalties and
11 punishments, and we do so without talking to you about
the law
12 first. Page 28 is where you answered some questions
about
13 this.

14 Okay. You reviewed your answers; right?

15 A. Yes, sir.

16 Q. And you understand there were some prefatory
paragraphs,
17 some paragraphs explaining why we were asking you and
what the
18 frame of reference was; and of course you understand
from what
19 we said there and what I'm saying here is this is not
to
20 suggest that Terry Nichols is guilty.

21 A. No, I understand that.

22 Q. And this doesn't ever happen unless he's found
guilty and
23 the jury doesn't consider any of this in deciding the
24 sufficiency of the evidence on that issue.
25 A. Yes.

2055

Juror No. 80 - Voir Dire

1 Q. But because, in the event of a guilty verdict, the
jury
2 would be participating in a sentencing decision, we
want to
3 know from you ahead of time what your views or opinions
about
4 it are because people have a lot of different views
about this.

5 A. Uh-huh.

6 Q. I'm sure that you are aware debate goes on, goes up
and
7 down from time to time about whether there should even
be a
8 death penalty in the law.

9 A. Yes.

10 Q. And of course there's debate about that in the
state of
11 Colorado now.

12 A. Uh-huh.

13 Q. Because there's a person who has been so sentenced
who --

14 where there's a scheduled date to carry it out. Do you
know
15 about that?
16 A. Yes.
17 Q. I mean that's something you've seen in the news?
18 A. Yeah, uh-huh.
19 Q. I don't know that you mean the details of it, but
generally
20 that whenever that happens, people, of course, start
talking
21 about their views; and some people strongly oppose the
notion
22 that the courts should take a life through any process,
and
23 others have the view that, well, anytime there's a
murder or an
24 intentional killing, there ought to be a death penalty
and
25 that's that. And of course there's a lot in between.

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1 A. Uh-huh.
2 Q. So what we wanted to find out from you was what
your
3 general ideas were, and you gave them to us.
4 Now, is it the case that before you were
confronted
5 with these questions on this questionnaire, the subject
of what

with 6 kind of punishment should be imposed and particularly
and a 7 respect to life in prison without any chance of release
thought a lot 8 penalty of death, whether that's something you've
9 about for any reason before you filled this out?

10 A. Before I filled this out?

11 Q. Yeah, before.

12 A. Yeah, I had some certain beliefs before I filled it
out.

13 Q. Can you just tell us a little about that?
Sometimes people

14 start thinking about this because of what they read
about a

15 case or because they've seen a movie or read it in a
book.

16 A. Yeah. I don't know, I think . . . the more heinous
the

17 crime, and I just think if there's a lot of
premeditation and a

18 real heinous crime and a planned-out thing and murder,
I think

19 that -- yeah, that the death penalty should be
considered. I

20 mean, I don't know, it's -- and I've thought more about
it

21 since --

22 Q. Yeah, tell me -- excuse me for interrupting.

23 A. No.

24 Q. You said you thought more about it since.

25 A. Uh-huh.

2057

Juror No. 80 - Voir Dire

1 Q. And that's to be expected --

2 A. Uh-huh.

3 Q. -- that we're talking about a very difficult --

4 A. Yes, it is.

5 Q. -- thing to even talk about, let alone decide
about.

6 A. Uh-huh.

7 Q. And I just want you to take a moment and think
about after

8 you answered and what you've thought about since,
whether you

9 would change anything in here.

10 A. Like I -- well, a lot would depend on circumstance,
but I

11 still believe in the death penalty in certain
circumstances.

12 Q. Okay. Again, when it's closer to home, think,
again, you

13 know, about what you believed in before, do you still
believe

14 in that?

15 A. And I do. But, yeah, certain circumstances. I
don't think

16 at the drop of a hat anybody that murders somebody
should have

17 the death penalty. But I think a lot depends on the
18 circumstance.

19 Q. Okay.

20 A. And it would be a hard -- it would be a thought-out
thing.

21 It's a very serious, thought-out decision.

22 Q. And of course the question of guilt is a serious
thing,

23 too?

24 A. Yes, yes, exactly.

25 Q. All of these things that we're talking about are
very

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Juror No. 80 - Voir Dire

1 serious?

2 A. Yeah, like first step, yeah.

3 Q. Now, I want to talk to you a little about what's
actually

4 involved if this should happen. And referring back to
what we

5 talked about like the case where you found this person
guilty

6 of the things that you mentioned in this trial you
served in

7 and then a judge did the sentencing.

8 A. Uh-huh.

9 Q. As I said, we don't have judges making life-and-

death

10 decisions on sentences in the Federal Court; and I want
to make
11 it clear to you that there are differences among the
states,
12 but here we're talking about the federal statutes and
the
13 federal process, 'cause that's where we are, in Federal
Court.

14 A. Yeah.

15 Q. And here we say, well, that kind of a decision
should be
16 made by 12 people on the jury. And in fact, it's the
same 12

17 people who heard the trial and made the initial
decision about

18 the evidence. And if those 12 people found a
defendant, where

19 the statutory crimes carry the possibility of such
punishment,

20 guilty of those crimes, then they must consider the
sentence.

21 But just as is the case with judge sentencing, so jury
22 sentencing requires the consideration of a lot of other
things

23 besides the evidence that was submitted at the trial.
And it

24 is for that reason that we have another hearing, and it
really

25 is a second trial, a trial on the question of
punishment, on

Juror No. 80 - Voir Dire

1 the question of sentence.

2 And it is at that trial that a lot more
information is

3 presented to the jury, and it's presented in this way,
just as

4 the trial of the evidence is presented, with two sides,
the

5 prosecution and the defense. So the question of
punishment is

6 presented in that same fashion, and the lawyers for the

7 Government are expected to bring in those things that
they

8 believe would and should be considered by the jury in

9 considering that death is the sentence that is just and

10 appropriate for the defendant. And at the same time,
in that

11 same hearing, the defense will be producing information
to the

12 contrary; that is, information to support the view that
death

13 is not deserved for this person, regardless of the
crime. And

14 it is then a matter to be decided by the jury.

15 So the kinds of things that come in here
include what

16 we refer to as aggravating factors, the things that may
support

17 death as the justified sentence, and then mitigating
factors

just 18 being those things that go the other way and say a more
release. 19 sentence for this person is life in prison without

that 20 Or there's also the possibility under the law
jury says 21 neither one of those is selected by the jury but the
decide. 22 some lesser sentence and send it back to the judge to

these other 23 But the life-or-death decision is the jury's. And
certainly 24 factors, the other information the jury will hear,
that a 25 include the kinds of things that I've already mentioned

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Juror No. 80 - Voir Dire

about the 1 judge considers in other kinds of cases, the things
born 2 individual defendant, his background, his life, and his
3 relationships with others, what -- where and how he was
positive things 4 and raised, the other things he's done in life,
5 from his life. All of those things come in.

some 6 And then at the end of it, the court gives
these 7 instructions, just like at the end of the trial. Now,

8 instructions outline what the jury -- based on what's
been
9 presented, what the jury can consider as aggravating
and
10 mitigating factors.

11 And then there's some questions that suggest a
method
12 of analysis, suggesting to the jury how they can look
at these
13 things and what they ought to look at. But there isn't
any
14 formula for this, and it isn't like you add these
things up or
15 subtract these things. There's no easy way to approach
it.

16 The approach that is required is to consider all of it;
and
17 then in the end, the jury has to make what amounts to a
moral
18 judgment, should this person live or die. Each juror
has to
19 decide this and of course confer with the other jurors
first,
20 exchange their views and the like, but each juror has
to make a
21 decision like this.

22 Do you understand these points that I've made
and the
23 explanation of the procedure?

24 A. Yes, I do.

25 Q. Do you have any question you'd like to ask about
that?

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1 A. No.

2 Q. Well, the question that we want you to answer,
then, is

3 that after hearing me explain this process, do you
think that

4 you would be able to base a decision, this decision
about life

5 or death, on all that you hear, including not only the

6 circumstances of the crime but all of these things that
may be

7 presented about the personal background and individual

8 characteristics of the defendant? You think you would
be able

9 to do that?

10 A. I think I could.

11 Q. Okay.

12 THE COURT: Well, the lawyers have the chance
to ask

13 you some more questions and explore these and other
matters

14 with you, so please bear with us a while longer and
listen to

15 their questions and answer them as you've been
answering me.

16 JUROR: Okay.

17 THE COURT: Miss Wilkinson.

18 MS. WILKINSON: Thank you, your Honor.

19 VOIR DIRE EXAMINATION

20 BY MS. WILKINSON:

21 Q. Good afternoon, ma'am.

22 A. Good afternoon.

23 Q. I have a few more questions, and I'm sure that
defense has

24 a few more questions. I hope you'll indulge us --

25 A. Okay.

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Juror No. 80 - Voir Dire

1 Q. -- and be patient with us.

2 As the Judge told you, my name is Beth
Wilkinson, and

3 I'm one of a team of prosecutors that's responsible for
4 presenting the evidence in this case against Terry
Nichols. As

5 you know from your experience on a prior jury, we have
a burden

6 of proof to prove beyond a reasonable doubt the charges
that

7 we've made against Mr. Nichols; and it's only if we
prove that

8 and you and your fellow jurors find that that we would
move

9 into the penalty phase that his Honor has just been
discussing

10 with you.
11 A. Uh-huh, I understand.
12 Q. When the Judge asked you about could you do it, the
13 ultimate question, could you consider all of those
14 things
15 about the
16 defendant himself, you said you thought you could.
17 A. Uh-huh.
18 Q. And I sense some hesitancy in your voice.
19 A. It would take a lot of thought, but I think I
could. I
20 But it
21 mean, that's, you know -- that's the best I could say.
22 would take thought.
23 Q. We understand that obviously you've not been in
that
24 position --
25 A. Correct.
26 Q. -- before, and it's a very grave and important
decision. I

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Juror No. 80 - Voir Dire

1 thought maybe I could ask you a little bit about your
work
2 where it sounds like although you deal with a lot of
happy

3 occasions, you probably deal with some life-and-death
4 situations, also; is that correct?

5 A. Yes, that's true.

6 Q. You work as a delivery nurse; is that --

7 A. Yes, I do.

8 Q. -- right? Do most of those situations turn out
well where

9 it's a very happy occasion for people?

10 A. Yes.

11 Q. Are there times, though, where there are times
where things

12 don't go well for either the mother or the child?

13 A. Yes, there are those times.

14 Q. And are there some times when you have to set aside
your

15 emotion and make some very quick but important
decisions?

16 A. Yeah. They're usually quick.

17 Q. Are they?

18 A. Yeah.

19 Q. And I take it you've had training to deal with
those types

20 of situations?

21 A. Yes, with the mothers and baby. Yes.

22 Q. And on the job --

23 A. Probably more on the job, yes.

24 Q. Do you feel comfortable -- "comfortable" is not the
right

25 word. Do you feel like in your job, you can make those

2064

Juror No. 80 - Voir Dire

1 decisions when you need to?

2 A. I feel I can.

3 Q. And do you think you could use some of those skills
here in

4 sitting as an objective juror and weighing all the
evidence at

5 the guilt phase and then if appropriate at the penalty
phase?

6 A. Yes.

7 Q. Have you faced any decisions in your work where
you've been

8 reluctant to make those kind of decisions?

9 A. No. Not the quick ones, I don't.

10 Q. You find it --

11 A. Those are usually life-and-death ones. I mean,
other

12 decisions I'll contact physicians first. But the
really quick

13 life/death ones, usually no, we just go with it.

14 Q. And I'm sure you know this, but obviously in these
15 circumstances, you're not going to have to make any
quick

16 decisions.

17 A. Right.

18 Q. You and your fellow jurors can take as long as you
want and
19 consider everything and get all the information that
you need.

20 A. Right.

21 Q. In your work at the medical center, do you often
work with

22 other nurses when you're making these decisions or --

23 A. Yes, uh-huh.

24 Q. So you're used to interacting with other people --

25 A. Yes.

2065

Juror No. 80 - Voir Dire

1 Q. -- to come to a consensus?

2 A. Yes.

3 Q. Have you done that with this other juror that we've
4 referred to?

5 A. No, I haven't.

6 Q. Do you have any reason to believe that you two
wouldn't get

7 along; have you had any kind of personal disputes or
dealings?

8 A. No. I don't think so. I don't, you know, know her
that

9 well. I mean I work with her, but I don't know her
that well.

10 Q. And you haven't socialized with her outside of

work?

11 A. Huh-uh.

12 Q. On page 110 -- I mean on page 24, Question 110, if
you

13 could take a look at that, please.

14 A. Question No. what?

15 Q. 110 --

16 A. Yes.

17 Q. -- and it's on -- there you talk about someone else
you

18 know that's been charged or accused of a crime.

19 A. Yes.

20 Q. Can you tell me just a little bit about that, or
would you

21 rather not?

22 A. Well, I will if you want me to. It was my ex-
husband. One

23 of my ex-husbands, the second ex-husband.

24 Q. And did you feel like he was treated fairly by the
system?

25 A. Yeah. In retro -- yeah, I did.

2066

Juror No. 80 - Voir Dire

1 Q. You see that more now with a few years between --

2 A. No, I probably did then, too. I did then, too.

3 Q. You said your first husband was in the Navy, and I
see your

4 brother's also in the Navy?

5 A. Yes, uh-huh.

6 Q. Despite your experience of being a Navy wife, what
are your
7 impressions of the Navy?

8 A. It wasn't a very good impression, 'cause my first
husband
9 had a problem with alcohol; so it kind of spilled over
with the
10 kind of friends he hung out with in the Navy. With my
brother
11 now I have a positive viewpoint, but with my ex, I
don't.

12 Q. Has your brother been in the Navy for quite a
while?

13 A. Yeah, he has, since he's been 27 years old; and
he's like a
14 year younger than I am.

15 Q. Is he enlisted, or is he an officer?

16 A. He's enlisted.

17 Q. Do you know what his specialty is?

18 A. Should. I don't know specifically. I don't know
what his
19 specific --

20 Q. Is he on submarines, or surface ships?

21 A. No, he's on a carrier, I think.

22 Q. Carrier. Have you ever been on a carrier?

23 A. Have I?

24 Q. Yeah.

25 A. No, huh-uh.

2067

Juror No. 80 - Voir Dire

1 Q. You also told us in your questionnaire -- and I
think the
2 Judge pointed it out that you had also followed up and
3 completed the answer, the one about your opinion of the
4 criminal justice system, I think on page 40. You
finished
5 answering that --

6 A. Yeah.

7 Q. -- by saying you think "evidence should be legally
8 obtained, but it seems like there's sometimes too many
9 loopholes; or maybe I just watch too much TV."

10 A. Yeah, uh-huh.

11 Q. Is that what you were saying to the Judge when you
were
12 saying you might have gotten those opinions from the
TV?

13 A. Yeah.

14 Q. Is that from that show "Law and Order" that you
said you
15 watch?

16 A. Yeah, that's the one.

17 Q. You said you watch that and "ER"; right?

18 A. Yeah, uh-huh.

19 Q. Which show do you like better?
20 A. "ER."
21 Q. You understand, I'm sure, that that "Law and
Order," I
22 think has an investigation and trial all in one hour.
23 A. Uh-huh.
24 Q. And I take it it's not always going to give a
complete
25 picture --

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Juror No. 80 - Voir Dire

1 A. Correct.
2 Q. -- of the criminal justice system. Did that leave
you,
3 though, with any impressions about lawyers involved
with the
4 criminal justice system?
5 A. No, not really. No.
6 Q. Do you have any from your work? I know doctors
have some
7 strong opinions about lawyers.
8 A. No. No. And I just -- no, not really. I mean,
you hear
9 jokes, but, you know -- now and again.
10 Q. We're used to those.
11 A. Yeah. But no other strong opinions, no.

your 12 Q. Now, speaking of opinions, if you could turn to
pages 36 13 responses to the questions on publicity, which are on
158. 14 and 37. If we could start on page 36 with Question
15 A. Okay.
16 Q. There you were just asked about your general
impressions,
17 and you said you -- around the time of the bombing.
You had
18 seen a lot of pictures, either in magazines or on TV.
19 A. Uh-huh.
20 Q. Can you tell me what your impressions are of the --
or what
21 impression you still have in your mind of the bombing?
22 A. Horror. A lot of sadness and anger. And just
pictures of
23 babies.
24 Q. Obviously, I'd like to ask you based on your work,
since
25 you have so much interaction with babies, could you set
aside

2069

Juror No. 80 - Voir Dire

listen 1 the emotion that you obviously feel about children and
2 to the evidence presented in this case fairly; that is,
3 consider everything that you hear about the crime and

testing

one part 4 the Government's proof and not just focus obviously on

5 of the proof like the evidence about the children?

could, 6 A. Yeah. I mean I would. I would try; and I think I

don't know 7 you know, try and put away the visual pictures. I

certainly 8 that I could keep them out completely, but I would

9 try and keep on top of it.

say, for 10 Q. Well, if the Judge instructed you that -- let's

were 11 example, you saw some pictures at some point, but you

your 12 instructed obviously that you're not to use, you know,

you're to use 13 emotions or your passions to make your decisions,

any kind 14 your logic, reason, and common sense and to set aside

think you 15 of immediate emotional response that you had; do you

16 could do that?

17 A. Yeah, I think I probably could.

18 Q. You understand the importance of --

19 A. Yeah, I do.

20 Q. -- that rule, I'm sure.

21 A. Uh-huh, yeah.

detail 22 Q. You then said on the next page, when asked in more

Question 23 about what you thought about Mr. Nichols, on page 37,
that he 24 163, that you had no opinions or views; you just knew
25 and Mr. McVeigh were suspects.

2070

Juror No. 80 - Voir Dire

1 A. Yes; correct.
2 Q. Is that still true today?
3 A. That's still true today.
4 Q. So you're not walking in here with any preconceived
notion
5 of Mr. Nichols --
6 A. No.
7 Q. -- and what he had done?
8 A. No.
9 Q. And that's how you would be if you were selected to
sit in
10 that seat?
11 A. Yeah, I believe so.
12 Q. I just have a few more questions on the death
penalty. If
13 you could turn to page 28. You told his Honor that you
knew
14 this was a very important decision and you'd have to
consider
15 all the circumstances and facts.

16 A. Uh-huh.

17 Q. And it seems to me that's what you've said here,
when you
18 answered just about what your personal opinions --

19 MR. TIGAR: Object to what it seems to
counsel.

20 MS. WILKINSON: I can rephrase it, your Honor.

21 THE COURT: Okay.

22 BY MS. WILKINSON:

23 Q. Is it clear to you that in this questionnaire you
were
24 asked about your personal opinions? Is that right?

25 A. Yes.

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Juror No. 80 - Voir Dire

1 Q. And his Honor explained the law to you about what
you would
2 consider if you were in that position to determine
whether

3 someone would live or die. Do you understand that?

4 A. Uh-huh.

5 Q. And do you understand that part of your
responsibility

6 would be to consider all of the facts and circumstances
as you
7 described in your questionnaire?

8 A. Yes.

consider 9 Q. Okay. Did you also understand that you can't just

10 one factor?

11 A. Yes.

12 Q. You have to consider all of them --

13 A. Uh-huh.

14 Q. -- and everything about the defendant.

15 A. Uh-huh.

16 Q. If you look at page 28, No. C, when asked about the
17 punishment of life in prison, you there said, "Murder,
18 depending on the circumstances"; is that right?

19 A. Uh-huh.

death 20 Q. Would -- is that the same as whether you think the

your 21 penalty should be appropriate for murder? Not as to

facts 22 questionnaire, because I realize you wrote some other

23 that you think are appropriate.

24 A. Yeah. So repeat the question.

25 Q. I'm sorry. I probably didn't phrase it properly.

2072

Juror No. 80 - Voir Dire

without 1 You said you wouldn't determine life in prison

2 parole for murder automatically; you'd want to consider

the

3 circumstances.

4 A. Uh-huh.

death

5 Q. Would that be true also in determining whether the
6 penalty was the appropriate --

7 A. Yes.

8 Q. -- punishment for murder?

9 A. Uh-huh.

10 Q. So you would consider both of those?

11 A. Yes.

12 MS. WILKINSON: I don't think I have any more
13 questions. Thank you very much for answering them.

14 THE COURT: Mr. Tigar.

15 VOIR DIRE EXAMINATION

16 BY MR. TIGAR:

17 Q. Good afternoon.

18 A. Good afternoon.

appointed

19 Q. My name is Michael Tigar. I'm one of the lawyers
20 by the court to help Terry Nichols.

evidence

21 And our job in this case is to challenge the

from all

22 that the Government presents. I mean, you're clear

proof;

23 these other questions that they have the burden of

24 right?

25 A. Right.

2073

Juror No. 80 - Voir Dire

a 1 Q. And if there's a reasonable doubt, the jury returns
2 verdict of not guilty?

3 A. Correct.

4 Q. So our job is that from the very first witness, to
5 cross-examine every one of the witnesses; and then when
they 6 finish, then we have a turn.

7 A. Uh-huh.

8 Q. And we will present witnesses to you, or to the
jurors that 9 are seated here, and put on a case.

10 A. Uh-huh.

11 Q. Not to prove anything but to raise those reasonable
doubts.

12 A. Yes.

13 Q. Okay. When you first saw Mr. Nichols out there at
14 Jefferson County Fairgrounds, what did you think?

15 A. Looked like a regular person. I, you know

16 Q. Well, I mean --

17 A. Is that what you wanted?

18 Q. No, no --

19 A. I don't know.
20 Q. I'm sorry. All I'm looking for is just answers to
21 questions. And some of them seem a little odd and if
they're
22 way outside the bounds, they can object and I won't get
to ask
23 it.
24 A. Okay. I really didn't think too much. I was
surprised to
25 see him, I guess.

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1 Q. Why were you surprised?
2 A. I don't know. I knew the Judge was going to be
there, but
3 I didn't know anybody else was going to be there.
4 Q. Were you surprised to see the lawyers, too?
5 A. Yes, I was.
6 Q. I noticed that your relatives, if you look at page
3 of
7 your questionnaire -- you have three brothers; and one
works
8 for the Navy, one works for the Postal Service, and one
for the
9 Soil Conservation Service. What is it about public
service,
10 which is what all of your family does, that seems to
attract?

11 A. My mother used to work for Soil Conservation
Service, and I
12 know she encouraged the boys to go into soil
conservation. And
13 two of them did, and one liked it and one didn't.
That's how
14 those two -- I don't know about the Navy one. He just
decided
15 on his own.
16 Q. Decided to go ahead and do that?
17 A. Yes.
18 Q. Now, I know this is a personal question. I'd just
like you
19 to turn to page 5.
20 A. Uh-huh.
21 Q. And just look at Question 20 and 21.
22 A. Uh-huh.
23 Q. Are you still taking medication of that sort?
24 A. No.
25 Q. Okay. Nothing like that. You can understand why
we would

2075

Juror No. 80 - Voir Dire

1 ask that --
2 A. Sure, uh-huh.
3 Q. -- that question.
4 When you were growing up on the farm, I guess

you were

5 only on there till you were nine years old?

6 A. Uh-huh.

7 Q. Did you have anything to do with tilling,
fertilizing, you

8 know, putting -- you said you raised corn -- you know,
seed

9 drill and all the rest of it or with the milking the
cows or

10 anything?

11 A. I was responsible for bringing the cows in to be
milked,

12 and I did drive a tractor when we baled hay.

13 Q. You drove a tractor. Square bales, or round bales?

14 A. Square. And rectangular.

15 Q. The rectangular bales, and you drive it, rake up
into

16 windrows and come along and bale it up?

17 A. Uh-huh.

18 Q. Did you enjoy that work?

19 A. I wasn't very old, so, no.

20 Q. Okay.

21 A. I was like very young.

22 Q. When your family moved off the farm, did that have
anything

23 to do with government policies about the farms or
anything?

24 A. Not to my knowledge.

25 Q. Okay. You understand there may be some evidence in

the

2076

Juror No. 80 - Voir Dire

1 case -- in this case about that. Is there anything
about that

2 that sticks in your mind that might influence you?

3 A. Huh-uh.

4 Q. Okay. And in your work at page 9, you say that you
coach

5 and medicate moms that are in labor.

6 A. Correct.

7 Q. And so by -- when you say "coach," is that -- does
your

8 hospital use the psychoprophylactic method, also known
as

9 Lamaze?

10 A. Lamaze; yeah, we do that.

11 Q. Do you teach the classes as well as coach the moms?

12 A. No, I don't. I don't teach.

13 Q. And when you say "medicate," that would be for the
mothers?

14 A. Yeah.

15 Q. That is saddle blocks and --

16 A. Epidurals or i.v. medications.

17 Q. And that's based on the doctors -- working with a
physician

18 on a team?

19 A. Yeah, the doctors' and the mothers' preferences.

20 Q. And you said that you especially care for high-risk
21 obstetrical patients?

22 A. Yeah.

23 Q. Is that a life choice you've made to focus on that
as an

24 RN?

25 A. I just kind of fell into it and liked it. So I
mean, not

2077

Juror No. 80 - Voir Dire

1 all of my patients are high risk, but I can -- they
fall into

2 that category when you're in labor.

3 Q. Does that -- and does that take some special
training to do

4 that?

5 A. It takes . . . well, it does; and I guess it's more
of an

6 experience training. I mean, we do train people, new
people to

7 be labor and delivery nurses; but a lot of that, you
can learn

8 the basics, but a lot of instincts come in time.

9 Q. Where is the triage point there to identify the
people at

10 high risk or not?

again. 11 A. I'm not sure what you're -- rephrase that or ask me

Is 12 Q. I'm sorry. How do you identify a high-risk person?

13 that when the labor starts?

changes while 14 A. Sometimes when they come in, and sometimes it

15 they're in labor, from low risk to high risk.

I want 16 Q. Now, I notice with -- if you look at page 16 -- and

you get 17 to make sure this is right -- Question 72. Looks like

18 a lot of information from television.

television. 19 A. I watch a lot of cable. I do watch a lot of

entertainment 20 Q. Now, do you focus on more, shall we call it,

21 and sports, or more on informational-type programs?

22 A. More entertainment and sports.

23 Q. But you also find time to read?

24 A. Uh-huh.

novel? 25 Q. Now, that book, the Horse Whisperer: Is that a

2078

Juror No. 80 - Voir Dire

1 A. Yes.

2 Q. So that is a novel about a horse whisperer?

3 A. Uh-huh.

way to 4 Q. Did that interest you, the horse-whispering, as a
5 gentle a horse, as opposed to breaking them?
6 A. Yes, it did.
7 Q. What was it about that that interested you?
whimsical story 8 A. I don't know. I'm not sure what about the
9 of it all, I think.
know 10 Q. And you also -- one more question about reading: I
John 11 this sounds somewhat intrusive. You've read a book by
because he 12 Grisham, and somebody was going to ask you about it,
13 writes about lawyers.
14 A. I don't know that I actually read.
15 Q. You own?
16 A. I have one in the house.
John 17 Q. But the fact that you have a book in your house by
18 Grisham didn't mean that you read it; right?
19 A. Right.
did? 20 Q. And B doesn't mean that you'd agree with it if you
21 A. Correct.
about, 22 Q. In that prior jury service that the Judge asked you
the 23 were there -- it's a little hard for me to understand

24 charges because, as you can probably hear, I'm not from
here.

25 Were there greater offenses and lesser offenses --

2079

Juror No. 80 - Voir Dire

1 A. Yes. One in particular was.

2 Q. Okay. And how did you make that decision? Could
you share

3 that with me?

4 A. I'm trying to think back, because I'm not even sure
if

5 there was a difference between a DUI and a DWI. Is
that --

6 Q. I'm the wrong person to ask.

7 A. It's like one like under the influence and one
while . . .

8 I can't remember, either. I mean, there was a
difference.

9 Q. So there were elements of the offenses, and the
elements

10 were different for the different ones; right?

11 A. Uh-huh. For the one, yeah.

12 Q. And then you had to make a choice?

13 A. Yeah.

14 Q. For that one.

15 A. Yeah.

16 Q. And do you remember if you came in with the
greater, or the

17 lesser?

18 A. I think we went with the greater.

19 Q. Okay. And that was after considering the evidence
as to

20 each -- as to how those two charged offenses were
different

21 from each other?

22 A. Uh-huh.

23 Q. And what the different theories were?

24 A. Uh-huh.

25 Q. Okay. If you would look at page 25, please,
Question 116.

2080

Juror No. 80 - Voir Dire

1 A. Uh-huh.

2 Q. You had a chance to check a box, and you didn't
check

3 either one. I wonder if you could let me know which
box you'd

4 check --

5 A. Which one?

6 Q. See Question 116, there at the bottom? It says,
"If yes,

7 are you sometimes persuaded to change your opinion?"

8 A. Sometimes.

9 Q. Sometimes?

10 A. Uh-huh.

11 Q. Okay. And now you work together with a team of
people,

12 obviously?

13 A. Uh-huh.

14 Q. And you've been on a jury before. Are you someone
who

15 feels able to listen to the views of other people?

16 A. Yes.

17 Q. But if you feel real strong about it, you'll stand
up for

18 your view?

19 A. Uh-huh.

20 Q. Is that fair to say?

21 A. Yes.

22 Q. Now, one -- you've obviously said that you've read
quite a

23 bit about this case -- or I don't want to put words in
your

24 mouth. Could you look at page 33, please.

25 A. Uh-huh.

2081

Juror No. 80 - Voir Dire

1 Q. And page 1 -- Question 144. You get news on TV;
right?

2 A. Uh-huh.

3 Q. Newspapers. Which paper, papers?

boyfriend 4 A. Both of them. The Post and the -- actually, my
5 gets both newspapers.

or other 6 Q. Okay. And it said magazines. Any news magazines
7 magazines --

8 A. I don't get any of those.

9 Q. Pardon?

10 A. I don't receive those at home.

something 11 Q. Okay. But did you -- you'd said you'd heard
12 about the case in a news magazine?

13 A. Yeah, the bombing.

14 Q. Oh, about the bombing itself?

15 A. Yes.

them. 16 Q. And I guess there were some pictures in all of
17 A. Correct.

people 18 Q. And then it said "conversations" and "heard other
19 discussing the case." That's what I wanted to focus
on.

20 A. Okay.

21 Q. Did you talk about the McVeigh case at work?

22 A. Not much.

the 23 Q. Do you remember where you were when you heard about
that jury 24 verdict in the McVeigh case; that is, the decision by

25 that based on the evidence presented by that team of

2082

Juror No. 80 – Voir Dire

1 prosecutors, facing a different team of defense
lawyers, for a

2 different person, that he was guilty?

3 A. It was probably at home.

4 Q. And what did you think about that?

5 A. Well, I don't know. Either way, I just thought,
hmm, they

6 found him guilty, okay. I don't know, I don't have a
real

7 strong opinion either way 'cause I just never did
follow it

8 that much.

9 Q. And how -- where were you, if you can remember,
when you

10 heard about the jury's recommendation about -- that he
should

11 receive the sentence of death?

12 A. Yes, I was home then, too, I believe.

13 Q. And what did you think about that?

14 A. Well, I thought that they made the right decision,
when

15 they found him guilty. I guess it didn't surprise me
that they

16 would find -- impose the death penalty, yeah.

17 Q. And can you help me a little more with that? Why
didn't
18 that surprise you?
19 A. Because a lot of people were killed, and I . . . I
don't
20 know. It just seemed planned out -- like I said, I
didn't
21 follow it a lot; but from what I gathered that it was a
22 planned-out deal and that, yeah, it was awful. And a
lot of
23 people were killed. So because of that, that didn't
surprise
24 me. The death penalty did not surprise me.
25 Q. And then, if you look at page 37, if you would, you
said

2083

Juror No. 80 - Voir Dire

1 that -- and Question 162: "What have you heard or read
about
2 Terry Nichols as a result of the trial of Timothy
McVeigh?"
3 And you've written, "The two were associated with each
other
4 and the bombing."
5 A. Uh-huh.
6 Q. Based on what you've seen, heard, or read, as
you've talked
7 about it here, what was it that stands out in your
mind? What

8 information did you get from those sources?

9 A. What was common there, between the two?

10 Q. Yes. What did you hear about their association?
What did

11 you hear about Mr. Nichols and the bombing? That's
really what

12 I'm focusing on here.

13 A. Well, from what -- this is all that I really know
-- or

14 think, would be that Mr. Nichols was . . . was a friend
of

15 McVeigh's and kind of believe -- I'm not even sure what
they

16 believe in, but it was more militant-type beliefs and
helped

17 with the bombing. Or planned it.

18 Q. Now, now that Mr. McVeigh has been convicted by a
jury and

19 sentenced, what are your feelings, based on what you've
seen,

20 heard, or read about whether Mr. Nichols is also
guilty?

21 A. Well, I don't know, that's just -- I don't know if

22 he's . . . since they're friends, you know, that was my

23 assumption -- or not assumption, but what I gather is
that they

24 were friends. So I don't know anything past that and
if he was

25 actually involved, or not.

Juror No. 80 - Voir Dire

1 Q. And I know a little while ago in your -- when you
talked
2 about what you'd seen after the bombing, you saw the
pictures
3 of the children, the babies; right?

4 A. Uh-huh.

5 Q. And you mentioned the word "anger."

6 A. Uh-huh.

7 Q. If I have it down here right. Were you angry? Did
you
8 feel angry?

9 A. Yes, I was angry.

10 Q. And you heard a lot of people who were witnesses or
whose
11 lives were touched by this very directly. And did you
hear
12 them talking about their anger?

13 A. Some of them.

14 Q. And I guess I want to ask: Given your profession,
given
15 all that you've heard, and if you hear witnesses who
still
16 carry that -- you know, there may be some witnesses
here
17 directly that saw it; that still have that anger in
them --
18 would you be able to put aside these very graphic
things that

focus on 19 you saw, some of which may be in evidence again, and
Terry 20 the question: What is the Government's evidence about
and I 21 Nichols and what's the defense evidence about that?
22 A. I think I could. I mean, I would certainly try;
23 think I could.
24 Q. Okay.
25 A. That's my own opinion.

2085

Juror No. 80 - Voir Dire

you tell 1 Q. And how -- in making -- in trying to do that, can
pictures, 2 me how you'd try to go about it?
3 A. Oh, I'd just try and put it out of my mind, those
but as 4 and just -- and I would listen to the people talking;
my mind. 5 far as the visual thing, I would try and put it out of
death 6 Q. Now, did you talk with folks at work about the
7 penalty verdict in the McVeigh case?
it with 8 A. Actually, no. Well, we -- I remember talking about
McVeigh 9 some people, but I'm not sure if it was before the
10 case, or after, or, you know -- it's been a while ago.

It has

11 not been recently.

12 Q. Did -- and did you talk about it with your
significant

13 other?

14 A. A little bit.

15 Q. Now, did anybody that you talked to in your circle
of

16 friend or co-workers or significant other disagree with
the

17 McVeigh verdict?

18 A. Not the McVeigh verdict. The death penalty in
general.

19 Q. So you've heard both sides?

20 A. Both sides, yes.

21 Q. Well, that's what I'd like to spend a little time
on. If

22 you would look with me, please, at page 28 -- and now
that

23 we've opened to it, before you came in today and
listened to

24 his Honor, had you -- did you know what the procedure
was in

25 federal criminal cases where there's a possibility of a
choice

2086

Juror No. 80 - Voir Dire

1 between life and death?

2 A. Well, I knew there was a trial and then after that,
3 whatever that is, innocent or guilty; and then if it's
a
4 guilty, then, yeah, then you would have to go and
decide then
5 what to do about the guilty.

6 Q. So you knew that there were these two different
steps, as
7 it were?

8 A. Uh-huh, yeah.

9 Q. And did you also know before you came in that the
jury
10 starts out with the presumption of innocence --

11 A. Yes.

12 Q. -- and the idea that we may never get there. I
mean, we
13 don't think we're going to get that far; but if for
some reason

14 it did, we can't call everybody back and start asking
these
15 questions. We've got to do this just one time.

16 A. Yeah, I understand.

17 Q. You're clear about that?

18 A. Uh-huh.

19 Q. And based on that idea, you know, that there are
these two
20 phases, as you sit there today, if a -- if you were on
a jury
21 and found someone guilty of intentional, premeditated
murder of

22 more than one person, do you think you could
realistically
23 say -- is there any circumstance under which you could
24 realistically say that a life sentence is appropriate
for that
25 person?

2087

Juror No. 80 - Voir Dire

1 MR. MACKEY: Judge, objection.

2 THE COURT: Overruled.

3 I don't think you think you're being asked
which one

4 circumstance, but any circumstance.

5 MR. TIGAR: "Can you think of any
circumstances?"

6 Yes, your Honor, that was the question.

7 JUROR: I don't know. I can't think of any
8 circumstances. There may be one, but I can't think of
any

9 right now.

10 BY MR. TIGAR:

11 Q. Is it fair to say as you sit there right now, your
view is

12 the more heinous the crime, the more you're inclined
toward the

13 death penalty?

14 A. Correct. I can say that.

you've
look
15 Q. Okay. All right. And do you, as you think of what
16 seen, heard, and read about Oklahoma City -- does that
17 like a heinous crime situation?

18 MR. MACKEY: Objection.

19 THE COURT: Overruled.

20 JUROR: Yes.

21 BY MR. TIGAR:

I
of this
here.
22 Q. And the reason that there's these questions -- and
23 shouldn't put words in people's mouths -- my perception
24 is that we don't know what the evidence is going to be

25 A. Correct.

2088

Juror No. 80 - Voir Dire

be
kind of
you as
premeditated,
1 Q. And it would be wrong for me to suggest we want to
2 speculating about that, so that's why I'm making this
3 hypothetical. But my bottom-line question is this: If
4 a juror feel that a defendant is guilty of
5 intentional murder of multiple people -- right --
6 A. Uh-huh.

only 7 Q. -- would you say, I think the death penalty is the
8 appropriate punishment for that person?

9 A. Yes.

10 MR. TIGAR: Thank you very much.

11 VOIR DIRE EXAMINATION

12 BY THE COURT:

13 Q. Well, I've got to follow up on that a little
because --

14 A. Okay.

15 Q. -- we also talked about this matter of all of the
16 mitigating and aggravating factors that would come in.

And

17 what has been emphasized here is aggravating factors,

the

18 crime. Now, and don't -- I don't want you to think

that I'm

19 trying to change your answer or suggest something. But

what

20 has to be done is that the mitigating factors have to

be

21 considered as well, regardless of the crime.

22 A. Uh-huh.

23 Q. And regardless of any verdict that happened in the
McVeigh

24 case because, you know, I talked about individualized

25 determination here.

Juror No. 80 - Voir Dire

1 A. Uh-huh.

2 Q. And so, you know, as we are having a separate trial
on the

3 evidence, so we would have a separate sentencing
decision; and

4 what may be presented at that time may be quite
different from

5 whatever the jury heard with respect to Mr. McVeigh.
Do you

6 understand that?

7 A. I do understand that.

8 Q. And I think what you have just answered with Mr.
Tigar is

9 that you would focus on the crime itself and not the
10 circumstances, the individual characteristics, and the
11 background of the defendant.

12 A. Well --

13 Q. So that there's some confusion in my mind --

14 A. Okay.

15 Q. -- about what you're saying.

16 A. I mean, no -- no. That isn't -- that wasn't what
my

17 thinking --

18 Q. Well, tell us what you're thinking.

19 A. I mean, I would think of everything, you know. I
mean

20 granted, the crime is awful. We don't know if he's
involved,

21 if Mr. Nichols is involved, so I would listen --
22 Q. Listen: This assumes that he was involved --
23 A. Yes. Yes.
24 Q. We have to make the assumption --
25 A. Correct.

2090

Juror No. 80 - Voir Dire

there
1 Q. -- because we wouldn't be talking about this if
2 weren't a guilty verdict.
3 A. Right.
4 Q. So you have to answer this question in terms of,
yes, the
5 jury found him involved.
6 A. Uh-huh.
7 Q. Now, you have to answer: Are you open to
consideration of
8 everything else besides -- in addition to the crime?
9 A. Yes.
10 Q. You know, I'm not trying to get a yes answer
because I'm
11 asking you the question. I want you to honestly tell
us that
12 because it's an important thing to us.
13 A. Well, I would. I feel I would hear everything, all
14 information --

15 Q. And not just hear, but give it weight, give it
16 consideration.

17 A. Yeah. I think I would. I don't think -- I'm not
one to
18 make rash decisions.

19 Q. Okay. Well, you understand we come at this from
little
20 different approaches. That's the way it is. That's
part of

21 the process, so that we can explore these things with
you. And
22 we're not trying to trick you or trip you up or, you
know,

23 anything like that that some of your TV shows might
suggest

24 lawyers and judges do. We just want you to tell us
your

25 approach. And I guess you have, have you? I mean, how
you

2091

Juror No. 80 - Voir Dire

1 would approach the question of sentencing if it came to
that?

2 A. If it came to sentencing?

3 Q. And consider all that you've heard and give it
weight.

4 A. Uh-huh. Well, that's what I would do. I would
think of

5 everything and give it weight.

6 Q. Okay. Well, we can't -- you know, we don't know
what's
7 going to be presented; that's why it's difficult to
deal with
8 this subject. We have to talk about it in the dark
almost.
9 A. Uh-huh. Yeah, I can understand that.
10 Q. Okay. I think you've told us, you know, that you
can
11 approach this with the instructions. Is that what
you're
12 saying?
13 A. Yeah, uh-huh. Yeah, with the -- I feel I could. I
did it
14 before, you know, as long as I had the instructions
that kind
15 of helped guide me.
16 Q. Yeah, but you didn't have a sentencing decision
before.
17 A. That's true.
18 Q. And you could here, and that's why we've belabored
this and
19 gone over it and over it.
20 A. Yeah.
21 Q. Well, you go ahead and go on your trip, and we hope
you
22 have a good time --
23 A. Thank you.
24 Q. -- and that you come back on schedule. We don't
know what

25 schedule we'll be on, but we'll, you know, stay in --
stay in

2092

Juror No. 80 - Voir Dire

1 contact with us.

2 You're not going to Oklahoma on this trip, are
you?

3 A. No, I'm not.

4 Q. It just occurred to me. I wondered about that
possibility.

5 A. No.

6 Q. Will you be leaving word -- I mean is there -- do
you have

7 a recording machine, or something?

8 A. I do, uh-huh.

9 Q. So we can leave word there, if need be?

10 A. Yes.

11 Q. But you don't need to worry about us now. Just
enjoy the

12 trip.

13 A. Okay, thank you.

14 Q. But, don't talk about it.

15 A. I won't.

16 Q. Or read about it or do anything that would change
your

17 situation and your outlook as you've explained it to us
in some

18 depth here.

19 A. Okay.

20 THE COURT: You're excused for now, and we'll
be in 21 touch.

22 JUROR: Okay, thank you, sir.

23 (Juror out at 3:45 p.m.)

24 THE COURT: 315. Did you get the completed --
the 25 next one did this --

2093

Juror No. 80 - Voir Dire

1 MR. TIGAR: Yes.

2 THE COURT: You got them, the completed
answer?

3 MR. RYAN: Yes, your Honor.

4 THE COURT: Okay.

5 Good afternoon. Would you raise your right
hand, take

6 the oath from the clerk, please.

7 (Juror No. 315 affirmed.)

8 THE COURTROOM DEPUTY: Thank you.

9 THE COURT: Please be seated there in that
chair by

10 the microphone. And you can move it around, get into a
11 comfortable position. You don't have to lean into the

hear me 12 microphone or anything. We'll pick you up. Can you
13 all right?

14 JUROR: Fine.

15 VOIR DIRE EXAMINATION

16 BY THE COURT:

17 Q. You know that the trial that we're talking about in
that
18 oath is the trial of the United States against Terry
Lynn
19 Nichols.

20 A. Yes.

21 Q. And you got a summons several weeks back advising
you that
22 your name came up through a chance process as
potentially being

23 a juror for this trial.

24 A. Yes, sir.

25 Q. And then you sent us in a short questionnaire; that
is, you

2094

Juror No. 315 - Voir Dire

1 answered one. And then we asked you to come out to the
2 Jefferson County Fairgrounds' auditorium building on
the 17th
3 of September to answer a lot more questions, and you
came out
4 there.

5 A. Correct.

6 Q. And when you came out there, I met with you and
other
7 jurors who were there and also introduced some people.

8 want to make sure you know who's here in front of you
Now I
9 because you met most of these people before.
now

10 But let me reintroduce Mr. Lawrence Mackey and
11 Ms. Beth Wilkinson, lawyers for the Government. They
are now
12 joined by Mr. Patrick Ryan and Mr. James Orenstein, who
were
13 not there with us before.

14 But we did have Mr. Michael Tigar and Mr.
Ronald
15 Woods, the attorneys for Terry Nichols. And Mr.
Nichols, of

16 course --

17 A. Yes.

18 Q. -- was with us as well.

19 And we gave you a questionnaire to answer, a
lot of
20 questions in writing. And then before answering those
21 questions, I told you something about why we were doing
it,
22 including the background of the case, how it originates
as a
23 result of the explosion of a federal office building in
24 Oklahoma City, Oklahoma, on the 19th of April of 1995.

25 A. Correct.

2095

Juror No. 315 – Voir Dire

and I 1 Q. And there was then filed charges by the Government,
2 told you a little about those charges; that, generally
named 3 paraphrasing them, the Government has charged a man
not 4 Timothy James McVeigh and Mr. Nichols and other persons
5 named in the indictment with conspiring to blow up that
6 building and kill and injure people in it and also with
7 carrying out such a plan and the murder of eight law
that 8 enforcement agents who were working in the building and
9 the defendants entered their not guilty pleas, thereby
10 requiring trial, and that the case was moved from
Oklahoma City
community 11 to Denver, here, because of a concern about the
12 feeling there and the difficulty in getting a fair jury
there.

13 So we came here with the trial.

14 And then also there was an order separating
two 15 Mr. McVeigh and Mr. Nichols for trial so there would be
16 separate trials and separate consideration given to
whatever

that? 17 the evidence may be as to each person. Do you recall

18 A. Yes, sir.

had been 19 Q. And you know that I reported to you all that there

a jury 20 a trial of Timothy McVeigh, the evidence about him, and

sentenced to 21 found him guilty and also recommended that he be

without me 22 death. And you probably were aware of that even

23 telling you. Were you?

24 A. Yes, sir.

25 Q. Because you became aware of it in the news.

2096

Juror No. 315 - Voir Dire

1 A. Yes.

case cannot 2 Q. And then I explained that what happened in that

to be 3 be considered in this case; here the question is going

Nichols 4 what is the evidence that the Government has as to Mr.

the 5 and a separate jury will consider that and determine

would -- 6 sufficiency of that evidence under the law. And it

were 7 you know, this is the very reason that separate trials

be 8 ordered, because the evidence against one person cannot

9 considered against the other. You follow that?

10 A. Yes.

11 Q. You understand it?

12 A. Yes, sir.

13 Q. Okay. And accept it?

14 A. Yes.

15 Q. And then I talked a little about what a trial
involves and

16 the principles of law that are applicable to all
trials, and

17 included in that is the constitutional principle, the

18 constitutional protection that says before any person
in any

19 court in the United States can be found guilty of a
crime, the

20 government, whatever government it is, you know,
whether it's a

21 state government or the federal government or local,
has to

22 prove to the satisfaction of a jury beyond a reasonable
doubt

23 by legal evidence that the defendant did what they say
he did.

24 You understand that.

25 A. Yes.

Juror No. 315 – Voir Dire

1 Q. So we start always at every trial with a
presumption of
2 innocence that the person accused is not guilty of the
crimes
3 with which he is charged.

4 A. I understand.

5 Q. Okay. And so Terry Nichols is sitting here this
afternoon
6 presumed to be innocent of crimes charged against him.
You
7 understand that?

8 A. Yes.

9 Q. Are you prepared to apply that in this case?

10 A. Yes.

11 Q. And no defendant, including Mr. Nichols, has any
burden or
12 duty of proving anything at his trial. It's up to the
13 Government to bring in the evidence. No defendant has
to
14 produce witnesses, and certainly no defendant has to
take the
15 witness stand and testify, answer any questions, or
explain
16 anything. A defendant can choose to remain silent and
simply
17 challenge the Government's evidence through his
lawyers,
18 cross-examining witnesses and making objections to the
19 admissibility of evidence and all of those things; and

the jury

20 cannot consider the defendant's silence as in any way
21 suggesting that he's guilty; or actually what I tell
juries is
22 you can't even talk about that in your deliberations.
Do you
23 understand these things?

24 A. Yes, sir.

25 Q. And accept them and agree to follow them if you
were to be

2098

Juror No. 315 - Voir Dire

1 on this jury?

2 A. Yes.

3 Q. Now, after explaining these things -- and I want to
be

4 clear that I'm not suggesting you didn't remember. But
for the

5 record, we review these things just to make sure that
there's a

6 common understanding of what we're talking about; and
that's

7 why I went over them with you. And then we asked you
all these

8 questions, and some of them are pretty private matters,
but we

9 asked you anyway; and we appreciate your cooperation in

10 answering.

11 We do respect your privacy and will try to
continue to
12 do so. Your name is not used here. Your answers were
not
13 given to anybody but the people who are right here
14 participating in this process, and they're not going to
give
15 them out to anybody else. And we even make sure going
and
16 coming to the courthouse that people can't take
pictures of you
17 or, you know, identify you. And that's a matter of
privacy,
18 our concern for that.

19 But, you know, here in open court, and that's
where we
20 are now, the things that we say are public. You
understand
21 that.

22 A. Yes.

23 Q. Now, when you went through the questionnaire, you
ran out
24 of time; and I said, "Well, we'll finish it up down at
the
25 courthouse." And in fact, you did that today; right?

2099

Juror No. 315 – Voir Dire

1 A. Yes.

2 Q. And you took another one of these forms and filled

out,

the rest 3 starting with where you left off before, and answered
4 of the questions.

5 A. Correct.

Now, we're 6 Q. And we have those additional answers here, too.

Don't 7 not going to go over all the questions all over again.

ask you 8 worry about that. But there are a few things that we

questions 9 to explain or expand on, and then we have some other

you've 10 to ask as well. So let me turn for a minute to what

11 told us. You were born in Kansas?

12 A. Yes.

13 Q. Raised on a farm there?

14 A. Yes.

15 Q. And where was that in Kansas? What part of Kansas?

16 A. Central part. Salina, Kansas. Near Salina.

parents own 17 Q. And was that your family farm? I mean did your

18 it?

19 A. They did.

the 20 Q. Did their parents -- I mean was that passed on from

21 grandparents?

22 A. Yes.

23 Q. Farm had been in the family for years?

24 A. Yes.

25 Q. And is it still owned in the family?

2100

Juror No. 315 - Voir Dire

1 A. Yes.

2 Q. Do you have an interest in it?

3 A. Yes.

4 Q. Somebody else farms it now, I take it?

5 A. Right.

6 Q. Are there family members farming it?

7 A. No.

8 Q. You --

9 A. We have a renter.

10 Q. A renter.

11 A. Uh-huh.

12 Q. Do you do that on a sharecrop basis or a cash rent?

13 A. Sharecrop.

14 Q. What kind of --

15 A. I have a small piece that's cash rent.

16 Q. For pasture?

17 A. No.

18 Q. Or for crops?

19 A. For crops.

20 Q. What kind of crops are growing on there?

21 A. Wheat.

22 Q. The whole farm in wheat?

23 A. Yes.

24 Q. Is that true when you were in the family there
growing up?

25 A. Yes. The part that we rent, we do have some milo
crops in

2101

Juror No. 315 - Voir Dire

1 it, too.

2 Q. Okay.

3 A. As well as wheat.

4 Q. But going back to the time that you lived on the
farm, were

5 there some other crops?

6 A. We used to call it "capricorn." It's milo now.
But we had

7 corn.

8 Q. Did you raise some animals?

9 A. Some.

10 Q. Have some livestock?

11 A. Right, we had livestock.

12 Q. Did you have any hogs?

13 A. Yes.

called
14 Q. They used to pay the mortgage. Hogs used to be
15 mortgage payers. I don't know if those days --
16 A. I don't think we had that many.
family
17 Q. Okay. But you did -- I assume everybody in the
18 worked the farm.
19 A. Right.
left the
20 Q. And including you. Then how old were you when you
21 farm?
22 A. About 18. Went to college.
well,
23 Q. Yeah, and you went to college. Now, was that in --
24 you went to Kansas State.
25 A. Right.

2102

Juror No. 315 - Voir Dire

1 Q. And got an engineering degree.
2 A. Yes.
the
3 Q. Then you went in the Army, and the Army sent you to
4 University of Illinois?
5 A. Yes.
degree.
6 Q. And there you got a different kind of engineering
7 A. Yes.

worked 8 Q. That's how I understand it. Tell us about how that
9 and why the Army sent you there, a little bit.
certain 10 A. They were interested in the -- sending us to -- a
going 11 number of people to the Far East when the war was still
12 on. And it was -- we tried to get a degree in sanitary
13 engineering, which we did.
occupying 14 Q. And was this looking toward the occupation stage,
15 Japan?
16 A. No, it was -- the war was still going on then.
17 Q. So this was '45, 1945?
18 A. Right, uh-huh.
care of 19 Q. And so would the -- this be looking toward taking
20 these conditions for troops?
and 21 A. Yeah. There were so many -- parasites, bacteria,
22 things like that.
23 Q. Making people sick?
24 A. Wanted us to take care of.
overseas? 25 Q. After you completed your work there, did you go

1 A. Went to the ETO.

2 Q. And what did you do?

3 A. Was with the 482d Engineers Battalion. And we were
4 processing equipment, heavy construction equipment to
send to
5 the CBI theater.

6 Q. Okay. And then when the war ended, you were still
in the
7 Army, were you?

8 A. Yes.

9 Q. And then did you get an early discharge, or what
happened
10 then?

11 A. Well, I was just in the Army for two years. And I
would
12 have probably gotten out sooner, but I was in Europe --

13 Q. Yeah.

14 A. -- and a lot of the fellows that had been over
there for so
15 long came back first. And I was there a little longer.

16 Q. Well, they still needed troops in the area. ETO
means
17 European Theater of Operations; right?

18 A. Right.

19 Q. Now, when you came back into civilian life, is that
when
20 you went to work, then, with the Bureau of Reclamation?

21 A. Yes. You might say so. I started with another
company and

offer came 22 worked about a day and a half, and then the Bureau
23 through.
to the 24 Q. Okay. You had expected -- I mean you had applied
25 Bureau --

2104

Juror No. 315 - Voir Dire

1 A. Right.
2 Q. So you took another job while you were waiting?
3 A. Uh-huh.
there, what, 4 Q. Now, with the Bureau of Reclamation, you were
agency 5 for your professional career? Did you go with another
6 for a while?
7 A. No.
8 Q. All at --
9 A. I was with the Bureau of Reclamation.
10 Q. And part of that time were you in Arizona?
11 A. Right.
Arizona? 12 Q. And were for a part of that time at Kingman,
13 A. Yes.
14 Q. What were you doing in Kingman?
15 A. Oh, that was where we were living before they built

16 government camp down at -- at the Davis Dam, when the
17 Colorado And we used to commute from Kingman
to Davis
18 Dam.

19 Q. And that was the project that you were on, that
dam?

20 A. Right.

21 Q. So when that got built, what year was that built?

22 A. 1947 to

23 Q. Well, about '50 --

24 A. It escapes me there, the years.

25 Q. Sure. I think you showed us in here that you were
in

2105

Juror No. 315 - Voir Dire

1 Arizona '47 to '50.

2 A. Okay.

3 Q. And then they -- the project was done, so you moved
on?

4 A. Right.

5 Q. And where did you go then? Was that up to South
Dakota?

6 A. Yes. We went from Davis Dam to Pactola in the
Black Hills,

7 Pactola Dam.

8 Q. So in the Bureau of Reclamation, your job was dam
building,

9 primarily, was it?

10 A. Construction, yes. Dam construction.

11 Q. And you retired about when, '79?

12 A. '77. Well, I went back to work for the Bureau for
a little

13 while as a -- but then after 1980, I didn't work for
the Bureau

14 of Reclamation.

15 Q. You had a -- you did some consulting work, did you?

16 A. Yes.

17 Q. With private companies or with the Bureau?

18 A. Private companies.

19 Q. And how long --

20 A. Except for the Corps of Engineers. I spent a few
days with

21 them.

22 Q. Okay. And what kind of consulting -- consulting
23 engineering work?

24 A. Foundation and contracted joint routing and
construction.

25 Q. Of buildings?

2106

Juror No. 315 - Voir Dire

1 A. No, of dams.

2 Q. Always dams?

3 A. Uh-huh.

4 Q. And I take it in that kind of work, you do some
assessment
5 of the geology, the under -- under the dam and where
the dam's
6 going to be?

7 A. Right.

8 Q. To determine whether it's going to hold.

9 A. We treated the foundation for any -- any
discrepancies or
10 cracks or things like that.

11 Q. And including the possibility of earthquakes or
movements
12 of the soil?

13 A. Well, that was part of the strength that was done
to the
14 foundation.

15 Q. Now, since -- when did you stop the consulting
work?
16 A. About 1986, I believe.

17 Q. And what -- have you since then just enjoyed
retirement?
18 Have you done some other things?

19 A. That's all the work I've done. I do a lot of
investing.
20 Q. In the --

21 A. -- stocks.

22 Q. -- securities? Stocks and bonds?

23 A. Uh-huh.

that. 24 Q. You also watch a lot of TV, I guess. You told us

25 A. Yes.

2107

Juror No. 315 - Voir Dire

1 Q. You enjoy that?

2 A. We watch a lot of the news.

I think 3 Q. All right. And you belong to some organizations.

4 you're in a Masonic lodge.

5 A. Yes.

6 Q. Are you? Are you active with the Masons?

7 A. No.

8 Q. Were you at one time?

9 A. Yes.

10 Q. And did you hold any --

11 A. I started through the chairs, and then we moved.

12 Q. Okay. So you didn't complete it to the 32d or --

13 A. No.

Masonic lodges 14 Q. When you -- so were you in several different

15 as you moved around?

16 A. Not very much.

17 Q. Was that a -- you know, were you active with the --

18 A. I joined at Davis Dam, the Masonic lodge.

19 Q. That's in Kingman?
20 A. And then we organized one in Page, Arizona. And
then I
21 haven't been active, really, since I worked at Glen
Canyon.
22 Q. And was -- were you at Page when you were working
Glen
23 Canyon?
24 A. Yes. At first, and then moved to Page.
25 Q. In what you have added today, you've got -- you've
got your

2108

Juror No. 315 - Voir Dire

1 answers right here in front of you. I don't mean to --
2 A. Yes.
3 Q. -- test you on your memory about your answers. But
you did
4 in what you told us today say something over here on
page 31 I
5 wanted to ask you about. And at Question 134 -- and
this goes
6 to your work with dams, I think. That you took a
course from
7 Du Pont in explosives.
8 A. Yes.
9 Q. When was that?
10 A. I can't tell you. It was when I worked for the
Bureau of

11 Reclamation.

12 Q. Did you have a responsibility to design and
supervise shots

13 to move earth or whatever you were using explosives
for?

14 A. No.

15 Q. Why did you take the Du Pont course?

16 A. Well, I was in construction and covered more than
just

17 foundations and things like that.

18 Q. Yeah. Well, have you ever --

19 A. Went through a number of Bureau of Reclamation
employees.

20 Q. Did you ever work with explosives?

21 A. Not to any degree.

22 Q. Do you remember what this course taught about
explosives?

23 As you sit here today, do you remember the subject
matter of

24 the course?

25 A. Vaguely. Because I've never -- never really used
it to any

2109

Juror No. 315 - Voir Dire

1 great extent. It was how to -- how to make shots and
in

2 tunnel -- tunneling and things like that.

3 Q. And where -- did the course focus on a particular

kind of

4 explosive material?

5 A. Various kinds there.

6 Q. Do you remember what kinds?

7 A. Well, TNT and your prills. Well, it's fertilizer
type.

8 Q. Ammonium nitrate prills?

9 A. Yeah, ammonium nitrate, that's it.

10 Q. Now, there may be some testimony in this case about
11 explosives and the effects of explosives and all that.

You can

12 imagine that. Do you have enough recollection about
the things

13 that you read about and studied and heard in the course
that

14 you think that if there were some disputes among
witnesses

15 about explosive material, you could listen open-
mindedly, or do

16 you think you, you know, are going to be your own
expert on it?

17 A. No, I'm not an expert on it.

18 Q. All right. So you'd listen along with the rest of
the

19 jurors if this were the subject of some controversy
here?

20 A. Pardon?

21 Q. If explosions and the makeup of explosive material
and so

22 forth -- if that became a subject of dispute among the

to 23 witnesses, would you be willing to and able, you think,
heard 24 listen like the other jurors and be guided by what you
prior 25 and judge it just like they do even though you had some

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Juror No. 315 - Voir Dire

1 knowledge of explosives?
2 A. Oh, I think so, uh-huh.
3 Q. Well, that's why we're asking it.
4 A. Yes.
at 5 Q. And then you -- on this same page, up above that,
something 6 Question 133, you -- as you recall here, thought that
have in 7 said by the governor of Oklahoma was very good. Do you
8 mind any particular statements by the governor?
I heard 9 A. Not today. I know I was very impressed every time
came 10 him speak on the news. I thought he -- I thought he
11 through very, very clear.
12 Q. And when is the last time that you can remember
hearing the 13 governor of Oklahoma speak on this subject?
14 A. I don't recall. It's been some time.

15 Q. Did you hear -- you watched a lot of TV. You
watched some

16 things about this Oklahoma bombing, obviously.

17 A. Yes.

18 Q. And did you watch reports about the trial in this
court of

19 Timothy McVeigh?

20 A. Yes.

21 Q. Do you recall the governor of Oklahoma saying
anything

22 during that trial or about the trial?

23 A. I don't recall.

24 Q. Is what you have in mind here things that he said
before

25 that?

2111

Juror No. 315 - Voir Dire

1 A. Yes.

2 Q. Okay. Now, we have to ask you some additional
questions

3 beyond what's on the questionnaire and talk about what
the jury

4 has to do. And in the course of your TV watching, have
you

5 watched trials like on Court TV where they televise
some

6 trials?

7 A. No. I think I just watched the news.

8 Q. Did you watch --

9 A. I don't recall seeing any court.

10 Q. You have cable television where you live?

11 A. No.

12 Q. So the TV you watch is what comes over the networks

--

13 A. Right.

14 Q. -- and the local stations here in the Denver area?

15 A. Yes.

16 Q. The jury has to decide, you know, whether the
evidence at

17 the trial of a particular defendant supports the
charge; that

18 is, does it prove the charge against that person beyond
a

19 reasonable doubt. We've talked about that; right?

20 A. Yes.

21 Q. And you understand that?

22 A. Yes.

23 Q. Now, in cases that do not involve, under murder
charges,

24 the case -- the possibility of a sentence to death, the
jury

25 doesn't get involved with punishment at all. Do you
understand

2112

Juror No. 315 - Voir Dire

1 that?

2 A. Yes.

3 Q. In other words, in cases that don't involve the
issue of
4 whether the defendant should be put to death or whether
he
5 should be put in life -- in prison for life without
release,
6 the jury doesn't consider punishment; they just
consider
7 whether the evidence proves the charge. And then if it
8 doesn't, it's a not guilty verdict, that's the end of
it. If
9 it does satisfy all of the jurors, unanimous verdict,
then they
10 render a return -- return a verdict of guilty. And in
cases --
11 the usual case, the matter goes to the judge to decide
the
12 sentence. Are you aware of that?

13 A. Yes.

14 Q. And judges don't decide sentences just on the basis
of the
15 crime, what the person did. They don't decide it on
the basis
16 of the evidence at the trial because sentencing is a
very
17 individual decision to be made about a particular
individual.
18 And so before a judge decides a sentence, there's
another

19 hearing; and before that hearing and during the
hearing, more
20 information is given to the court about how not only
additional
21 circumstances concerning the offense but also things
about the
22 defendant as a human being. And those are things that
are
23 personal to him, individual characteristics, and all
about his
24 background, where he was born and raised, a lot of the
kinds of
25 things that we've talked about here with you, but much
more

2113

Juror No. 315 – Voir Dire

1 than that, all about family relationships, the things
that have
2 been a part of his life, what he's done in life, all of
the
3 things that, you know, add up together to make each
person
4 unique and different from all other persons. Do you
5 understand?

6 A. Yes.

7 Q. And the court has to weigh and consider all of that
8 information and at a hearing hears from the lawyers on
both
9 sides and then makes a decision as to what is the just
sentence

10 for that person found guilty of that crime; not just
the crime,
11 but also the things about that person, and that's the
sentence.
12 And even though the judge may have two people with the
very
13 same conviction, same offenses, the sentences might be
14 different with respect to the two of them because they
consider
15 things beyond the offense itself.

16 Do you hear and understand what I've said?

17 A. Yes.

18 Q. If you have any question, go ahead and ask me. I
mean, I
19 want to be sure --

20 A. No, but I'm learning from you today.

21 Q. Okay.

22 A. I wasn't aware of all the things you've told me.

23 Q. I realize. And we wouldn't expect you to be.

24 A. Uh-huh.

25 Q. But because in a Federal Court the jury gets
involved in

2114

Juror No. 315 - Voir Dire

1 punishment, in the sentence decision, when the issue is
life or
2 death, we have to talk about that part of it as well,

even

that

But

must

'cause

of the

things

about the

on page

please

starting on

sort of

views

of the

3 though, of course, right now we presume under the law

4 Mr. Nichols is not guilty and won't be found guilty.

5 because of the way the law works and the way the jury

6 consider the sentence, we have to talk about it anyway,

7 we can only do this now before the trial starts. You

8 understand.

9 A. Yes.

10 Q. And we asked you some questions here as we did all

11 other prospective jurors in this questionnaire, some

12 about your views concerning punishment before talking

13 law at all. And that's why we asked you the questions

14 28. And I want you to turn to your answers. And

15 understand -- well, go ahead and read your answers.

16 A. Okay.

17 Q. Now, there was a preliminary explanation here

18 page 27, before these questions were asked, and it's

19 what I just reviewed again, that we wanted to get your

20 about it without your knowing exactly what is required

21 jury so that we could find out sort of what you think
coming
22 into this process. And these questions were asked very
broadly
23 of you, as it says here, if you had the power to decide
what
24 the law should be.

25 So I guess what I'd like you to do for us is
tell us a

2115

Juror No. 315 - Voir Dire

1 little more about what you said here. But before doing
that,
2 tell us this: Have you given a good deal of thought to
the
3 question of when people should be -- if they should be
put in
4 prison for life with no chance for release, no parole
at all,
5 so whether people should be put to death for a crime?
Have
6 you -- is that something that has been of interest to
you?

7 Before this, before this?

8 A. Well, I have opinions about it, yes.

9 Q. Yeah, and you've had opinions before you ever got
asked
10 these questions?

11 A. Oh, indeed, yes.

time? 12 Q. Has your opinion or have your opinions changed over

13 A. No.

varying 14 Q. And you know this is a matter on which there are

people 15 opinions. And people feel strongly at each end, some

16 that, no, never a death penalty, it's wrong, morally,

say, 17 religiously, or whatever, and people on the other end

then 18 look, if you kill somebody, you should be killed, and

19 there's a lot of in between; right?

20 A. Right.

21 Q. I mean --

22 A. Very, very -- yeah, it's a touchy subject there.

convictions 23 Q. Absolutely. And people come to this with moral

different 24 about it, with strong religious beliefs, and a lot of

a trial 25 things can enter into a person's opinion about whether

2116

Juror No. 315 - Voir Dire

what 1 should result in somebody being put to death, which is

2 we're talking about.

3 A. Yes.

4 Q. So -- and since you've answered these questions,
have you

5 thought about it some more?

6 A. Not particularly.

7 Q. Now, I want you to give us a little explanation
about what

8 you mean with the answers that you gave on A and B,
which are

9 the same, the same words used there, favorable. What
are you

10 telling us there?

11 A. Well, I think it's -- "What is your view as to
whether the

12 penalty of life in prison without the
possibility" I'm

13 in favor of -- in certain cases of so judging.

14 Q. All right. And the same is true with respect to
death

15 sentence --

16 A. Correct.

17 Q. -- is that what you say the next time?

18 A. Yes.

19 Q. And then we asked you, you know, to follow that up,
sort

20 of, with what kinds of cases, if you could make the
law, do you

21 think it would be appropriate for life in prison.

22 And you answer, "It's a complex question,"
which I

23 wouldn't disagree with that. But then you say, "Many

factors,

24 including the nature of the crime and if release is a
danger to

25 society."

2117

Juror No. 315 - Voir Dire

1 So you're thinking about whether the person
might

2 commit more crimes; is that --

3 A. Yes.

4 Q. -- is that -- I'm not trying to put words in your
mouth. I

5 just want you to expand on this a little.

6 A. That's right.

7 Q. All right. And can this be crimes of all kinds,
like

8 somebody -- you know, in places they talk about, well,
let's

9 pass a law, three felonies and you stay in prison. Are
you

10 thinking about that kind of thing in answering this
question?

11 A. Well, I disagree with three felonies, depending on
the

12 seriousness of the felonies.

13 Q. All right. So the nature of the crime affects your
view?

14 A. Right.

that is, 15 Q. And that in the next answer, you focus on murder;
16 punishment of death.

17 A. Yes.

of 18 Q. So -- and then you say, "Maybe others, other kinds
19 crimes"?

20 A. That's a little vague, isn't it?

want you 21 Q. Well, we're not criticizing your answer. We just
22 to give us a little more of your thinking. This is not
a test.

23 There's no right or wrong. It's what do you think.

murders, I 24 A. I believe in cases of where there are deaths or
25 mean, it would be appropriate.

2118

Juror No. 315 - Voir Dire

views 1 Q. And I think you told us back here earlier that your
2 are not based on some religious opinion or doctrine,
but just 3 what you think?

4 A. They are not, yes.

these 5 Q. Okay. Well, I want to explore your having told us
of what 6 things. I want to explore this a little more in terms

7 the law is and what the procedure is, because we want
to find
8 out whether you can participate under the law.

9 What happens in a case -- well, first of all,
under
10 federal law, we don't talk about the death penalty for
crimes
11 other than murder. There has to be a killing of some
kind or
12 we don't ever get to this question. So other kinds of
crimes,
13 federal crimes, do not involve this sentence.

14 A. I see.

15 Q. And I suppose there could be an exception to that
for
16 treason, but we're not dealing with that. We're
talking about
17 crimes that involve killings.

18 A. Okay.

19 Q. So what the law says, then, is that if a defendant
is
20 convicted of a crime that involved a killing, then --
and of
21 course the first question is does the evidence prove
that. If
22 not, the verdict's not guilty, and that's the end of
it. But
23 if the verdict is guilty, the jury has found the
defendant
24 committed the crime, the evidence showed it beyond a
reasonable
25 doubt, we go on and ask the jury about punishment. But

we

2119

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1 don't just stop there and say, All right, here's the
evidence,
2 you found him guilty, what happens. There's more to
it, and
3 the more to it is really a second trial. Sometimes we
refer to
4 it as a penalty phase hearing or a sentencing hearing,
but it's
5 really a trial after the guilty verdict. And it is at
that
6 trial that, just like the trial on the question of
guilt, we
7 have two sides, lawyers representing the prosecution
and the
8 defendants; and they put on more information for the
jury to
9 consider. The prosecutors bring in information that
they think
10 tends to suggest to the jury that death is deserved for
the
11 crime and for the defendant.

12 A. Are witnesses involved in this?

13 Q. Yes, exactly. Witnesses, exhibits. And then just
like at
14 trial, argument, too, persuasive argument. And the
defense
15 puts on information, witnesses, exhibits, in the same

way as

16 the prosecution, only the defense focuses on things
that

17 support the view that death is not a deserved
punishment for

18 the particular defendant. And it isn't just the
circumstances

19 of the crime. It isn't just a question of are you sure
he did

20 it, because if you're not sure he did it, we oughtn't
to be in

21 the sentencing phase anyway, we wouldn't be talking
about it.

22 But the things that are involved now in the
sentencing

23 hearing include these same kinds of things I talked
about when

24 a judge sentences, things about the defendant as a
human being,

25 distinct from others, individual person, all of these
things

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1 about his background, his life story, and things that
may

2 relate to his role or why he was involved, his
employment,

3 things he's done that have been helpful to other
people. All

4 of that can be involved. So it's a question of
background and

5 individual characteristics of the defendant.

6 And then when all that has been heard, all of
that has

7 been received in that hearing, the Judge instructs
again about

8 what the jury should do in terms of how to consider
what

9 they've heard. And the Court explains, well, now, what
you've

10 heard, these are the aggravating factors that have been
11 presented to you and outlines them based on that
information or

12 evidence that the jury has heard. And then turns and
says, and

13 these are the mitigating factors, meaning the things
that might

14 support a death verdict and the things that might
support a

15 sentence other than death. And the jury here is going
to be

16 deciding life in prison without the possibility of ever
being

17 released or death or they can come to a decision,
neither of

18 those, something else, something less, and then it goes
back to

19 a judge to decide. You follow me on this?

20 A. Right.

21 Q. And so in deciding life or death, the Court gives
these

22 additional explanations and instructions, and then
gives a

factors, 23 series of questions to help the jury focus on these
adding up 24 but there's no formula for it; it's not a question of
balance or 25 aggravating or adding up mitigating and see if they

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what 1 anything like that. That's not the way it goes because
on all 2 the jury is asked to do is make a moral decision based
defendant 3 of the things that have been presented, should the
4 live or die; that's the decision.

5 Now, do you have any question about what I've
6 explained here?

7 A. No.

8 Q. You understand what I've said?

9 A. Yes, sir.

need to 10 Q. And what I need to hear from you -- what we all
whether 11 hear from you is your honest appraisal of yourself and
would 12 you think that having this explanation now in mind, you
should 13 be able to make a decision about whether the defendant

14 be sentenced to life or death on his personal
background and
15 individual characteristics about him that you've heard
as well
16 as the circumstances of the crime itself. Do you
understand
17 the question?

18 A. Yes.

19 Q. What is your answer?

20 A. Yes.

21 THE COURT: The -- I think what we're going to
do is
22 take a little break here, recess. I know you want to
get this
23 completed, and we do, too, but we're going to take a
recess
24 because everybody needs a break now and then. We're
going to
25 have you back in 20 minutes, and then I'm going to ask
the

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1 lawyers to ask you some additional questions 'cause
they should

2 have a chance to hear from you, too.

3 So we'll just pause for 20 minutes, come back
in, and

4 then, if you can believe it, we'll have more questions
of you.

5 JUROR: Okay.

6 THE COURT: Please bear with us. This is a
very
7 important part of the whole process, as I'm sure you
8 understand.

9 JUROR: Uh-huh.

10 THE COURT: You may step out now.

11 (Juror out at 3:30 p.m.)

12 THE COURT: Okay. I believe it will then be
10
13 minutes to that we'll resume. Recess.

14 (Recess at 3:30 p.m.)

15 (Reconvened at 3:50 p.m.)

16 THE COURT: Be seated, please.

17 All right. We'll resume.

18 Mr. Ryan?

19 MR. RYAN: Thank you, your Honor.

20 VOIR DIRE EXAMINATION

21 BY MR. RYAN:

22 Q. Good afternoon.

23 A. Hello.

24 Q. How are you?

25 A. Fine.

1 Q. My name is Pat Ryan. I'm the United States
Attorney in
2 Oklahoma City. I'm here with my fellow prosecutors to
present
3 the evidence the United States has against Mr. Nichols.

4 I have a few questions. His Honor covered
many of
5 them before the lawyers have an opportunity to talk to
you; but
6 if you'll bear with me and answer just a few.

7 I understand you were with the Bureau of
Reclamation
8 for, what -- I mean 33, 34 years, something like that?

9 A. Yes, uh-huh.

10 Q. And you've told us about a couple of dam projects
that
11 you've worked on, one outside of Kingman and another
one in the
12 Dakotas?

13 A. Davis Dam and Glen Canyon Dam, I think we
mentioned.

14 Q. Right. What other projects have you worked on?

15 A. Canyon Ferry Dam near Helena, Montana, and Pactola
Dam in
16 South Dakota; and then when I was working out of
Denver, the
17 chief engineer's office, I probably worked or visited
probably
18 up to 50 dams during construction.

19 Q. When you were in the ET0, did you work on dams in
Europe?

20 A. Not in Europe.
21 Q. Was that more sanitary conditions?
22 A. No. I was -- in Europe, I just worked in the Army,
for the
23 Army. I was in the Army.
24 Q. What kind of work did you do in Europe?
25 A. After the war in Europe ended is when I went to
Europe to

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1 ETO, and I was stationed in Belgium, where they had
beaucoup
2 heavy-construction equipment. And we were processing
that
3 heavy-construction equipment to be shipped directly to
the CBI,
4 because the war in Japan was still going.
5 Q. I see.
6 A. And then while I was there, the war in Japan ended;
and
7 then we cleaned up the construction equipment, and it
was sold,
8 then, to -- it was auctioned off, I guess, or sold to
various
9 countries.
10 Q. Now, you and your wife celebrated your 50th wedding
11 anniversary this past year?

12 A. Yes.

13 Q. And you have three children?

14 A. Yes.

15 Q. And do they live here in Colorado, or where do they
live?
and one

16 A. One in Grand Junction, Colorado; one in Las Vegas,
17 in Argentina.

18 Q. What -- is it your son, or daughter in --

19 A. Daughter in Argentina.

20 Q. Argentina? Is her work or her husband's --

21 A. Her husband works for Chevron Corporation, and they
have
22 been in a lot of different countries.

23 Q. Now, I understand that you grew up around the
Kansas area.

24 Is that right?

25 A. Yes.

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1 Q. Do you still have friends or family that live in
the area?

2 A. Yes. I just attended my brother's funeral this
last week.

3 Q. I'm sorry to hear about that.

4 A. In Salina, Kansas.

5 Q. You went to Kansas State University?

6 A. Yes.

7 Q. Are you still a Wildcat fan?

8 A. Yes.

9 Q. They have a better team now than they did when you
were
10 there, don't they?

11 A. They have a good coach now, don't they?

12 Q. Now, some of the -- some of the names of central
Kansas --
13 some of the towns and cities there you may hear about
in this
14 case: Grand Junction (sic) and Herington, towns like
that. Do
15 you think your knowledge or having lived there will
influence

16 you in any way?

17 A. What was that last question?

18 Q. Let me rephrase --

19 THE COURT: Excuse me. I think you meant
Junction
20 City.

21 MR. RYAN: I'm sorry, your Honor. Did I
misspeak?

22 BY MR. RYAN:

23 Q. You're familiar with the towns like Junction City?

24 A. Quite. It's close to Manhattan, where I went to
college.

25 Q. And Herington?

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for a
1 A. I worked for the State Highway Commission of Kansas
2 while.
3 Q. Oh, when did you do that?
4 A. On surveys.
5 Q. When was that? Before you graduated?
6 A. Before I graduated.
7 Q. Now, you're going to hear some of those names in
this case,
8 names of some of these towns.
9 A. Some of them are very familiar.
10 Q. Have you ever -- did you actually -- have you
actually
11 worked on the farm in any way, any capacity since when
you were
12 a child?
13 A. Not since I left -- not since -- when I was 18
years old, I
14 haven't worked on the farm.
15 Q. So in terms of going to any of the stores or the
various
16 locations in those towns, are you familiar with them
today?
17 A. The stores, you say?
18 Q. Yeah, stores where people would buy things and
restaurants

19 and motels. Do you still have some familiarity with
that

20 region?

21 A. Well, I know a few stores in Salina, Kansas,
because I

22 visit there once or twice a year usually.

23 Q. Have you ever heard of the store McPherson's in
McPherson,

24 Kansas, Mid-America Co-op?

25 A. No.

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1 Q. Or Mid-Kansas Co-op?

2 A. No.

3 Q. Now, let me ask you to follow up on some of the
questions

4 of his Honor with respect to publicity. It's my
understanding

5 from reading your questionnaire that you've seen quite
a bit of

6 news about this case.

7 A. Yes.

8 Q. You seem to know some of the facts that are being
reported

9 in the media. Are you with me?

10 A. Yes.

11 Q. Let me direct your attention to Question 159 on
page 37.

12 Top of the page asks to you summarize the information
you heard

13 about Terry Nichols.

14 A. Yes.

15 Q. Do you see that?

16 A. Yes.

17 Q. Is that all information that you have heard on
television?

18 A. No -- well, a lot of it was from newspaper
articles.

19 Q. Uh-huh. In either the newspaper or television,
you've

20 heard these things?

21 A. Yes.

22 Q. You've also told us that you don't always believe

23 everything you read in the newspaper. Is that fair?

24 A. When you know the facts, they vary considerable.

25 Q. Right. Now, you may have heard some things about
this

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1 case; but do you realize that what you heard may be
true, may

2 not be true?

3 A. True.

4 Q. We don't know what the facts are because they
haven't been

5 presented in this case.

6 A. Yes.

7 Q. Do you appreciate that?

8 A. I agree.

9 Q. And there hasn't been any witnesses testify and
there

10 hasn't been any exhibits introduced in this trial
because we

11 haven't even started the trial.

12 A. Right.

13 Q. So I guess the question I have for you: Do you
think you'd

14 be able to set aside what you've read in the news
media, either

15 read in the newspaper, heard on television, push that
aside,

16 push it out of your mind altogether, and decide the
case just

17 on the evidence that you hear in the courtroom?

18 A. I would certainly try.

19 Q. Do you think you could do that?

20 A. Yes.

21 Q. Now, you indicated that you heard something -- you
had seen

22 the governor of Oklahoma on television.

23 A. Yes.

24 Q. Did I understand that correctly?

25 A. Uh-huh.

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1 Q. Can you remember anything that he said?

2 A. Not really.

3 Q. Okay.

4 A. Except I was impressed with him.

5 Q. He was a nice-looking man?

6 A. Well, he gave -- he talked well. It made sense
from what
7 he said.

8 Q. Can you remember -- but you can't remember any
specific
9 thing that he said?

10 A. Not really.

11 Q. All right. And have you ever heard anything that
the

12 President of the United States has said or the Attorney
General

13 or anybody else about this case?

14 A. Oh, I think I saw the President probably talking
about it.

15 I don't recall anything specific.

16 Q. You can't recall anything that he said?

17 A. No.

18 Q. Now, do you understand that doesn't make any
difference

19 what any of those people say about this case? The only

thing

20 that matters is what happens in this courtroom?

21 A. I understand.

22 Q. All right. So you can -- even though you can't
presently

23 recall any of these statements, can you agree with me
that it

24 would be best to just push it out of your mind
altogether?

25 A. I think -- yes.

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1 Q. And you can do that?

2 A. Yes.

3 Q. All right. Now, if we could, I'd like to talk to
you about

4 this issue of the death penalty that his Honor spoke to
you

5 about. And if you'll recall, his Honor talked --
you've never

6 served on a jury, have you?

7 A. No.

8 Q. His Honor was telling you about cases in which the
death

9 penalty is not involved, just a normal criminal case
that does

10 not involve murder, does not involve the death penalty.
The

guilt or 11 jurors, ordinary citizens, come in and they decide the
12 innocence. You understood that?
13 A. Yes.
of how 14 Q. Did you understand what happens after that in terms
15 the punishment is figured?
16 A. It's practically another trial, yes.
Honor or 17 Q. Right. And when there is not a death penalty, his
information 18 a judge like Judge Matsch would gather additional
19 about the defendant. Did you understand that?
20 A. Pardon, now?
there is 21 Q. Did you understand that after a guilt verdict, if
22 a guilt verdict, that more information is received?
23 A. Yes.
practice 24 Q. And what do you think about that as a policy, as a
after a 25 of the court system, to receive additional information

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1 finding of guilt about the defendant?
2 A. I wouldn't criticize it.
3 Q. Does it make sense?

4 A. Yes.

Matsch 5 Q. Now, in a case involving the death penalty, Judge
6 explained to you that the judge doesn't make a decision
about 7 life or death; jurors do.

8 A. Yes.

9 Q. The very same jurors who sat on the case if they
found the 10 defendant guilty.

11 A. Yes.

12 Q. Now, we don't have an automatic death penalty in
Federal 13 Court. In other words, no matter what crime you
commit, no 14 matter whether it's murder or it's premeditated, there
is no 15 automatic death penalty. Do you understand that?

16 A. I do now.

17 Q. Yeah. Because if we had an automatic death
penalty, we 18 wouldn't need this second trial, would we?

19 A. Right.

20 Q. So in the second trial, we have witnesses who come
and 21 testify and they talk about various features of the
case. The 22 United States will call witnesses to give you more
information 23 about the crime and what happened; but there also may
be

24 additional information that is presented about the
defendant,

25 about who he is. Can you understand that?

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1 A. I understand.

2 Q. Okay. Now, are you going to be able to listen to
that

3 evidence?

4 A. Yes, sir.

5 Q. And you can take it into account?

6 A. Yes.

7 Q. I mean, I'm not suggesting any which way you should
decide

8 it because you don't know what the evidence is going to
be;

9 right?

10 A. Right.

11 Q. I don't know what it's going to be. We have to
wait.

12 A. Right.

13 Q. Okay. So if you were to sit on a jury in a death
penalty

14 case -- and I'm not talking about this case; any case
-- will

15 you be able to wait until all the evidence is in before
you

16 make up your mind?
17 A. Yes, sir.
18 Q. Or are you going for just say, well, if he killed
somebody
19 and did it intentionally, I'm just going to give him
the death
20 penalty and I don't care -- I don't care to hear any
more about
21 him?
22 A. No, I wouldn't. The answer was yes to your first
question.
23 Q. You'd listen?
24 A. Right.
25 Q. And you'd consider?

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1 A. Uh-huh.
2 Q. Okay. Now, I understood you took some courses when
you
3 were in the Bureau, but you never actually personally
detonated
4 any explosives?
5 A. Not in the field, no.
6 Q. Did you personally handle any of the explosives?
7 A. No.
8 Q. Now, do you follow any criminal cases at this time?
9 A. No.

I didn't
that in
it was.

10 Q. Now, for example, the JonBenet case -- I'm sorry.
11 make my question clear. You mentioned something about
12 your questionnaire, and I can't remember right now what

13 A. The JonBenet case, I think everyone follows, yes.

14 Q. Do you have any views about that case?

15 A. Yes.

16 Q. What are your views?

Boulder Police
17 A. I think it's been handled very poorly by the
18 Department and county attorney.

19 Q. Any other opinions beyond that?

20 A. Pardon?

21 Q. Any other opinions beyond that?

22 A. No.

time?
23 Q. Do you follow any other criminal cases at this

24 A. Can you mention some more?

25 Q. Yes. For example, his Honor and earlier jurors has

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scheduled
1 mentioned the Davis case; that apparently there is a
2 execution in the state of Oklahoma -- in Colorado.

3 A. Yes, I've followed that.

4 Q. Do you know what the crimes were?

5 A. Yes.

6 Q. Do you know anything about the defendant himself?

7 A. No.

8 Q. About his life history?

9 A. Oh, I've read a little bit about it.

10 Q. Well, what have you read?

11 A. There was an article not too long ago there, but I
-- let's

12 see. I think, well, he was in trouble with the law
before

13 he -- before he committed that crime, I believe.

14 Q. Is that a fact that do you think would be
significant in

15 your mind in determining what the punishment of an
individual

16 would be?

17 A. It might be.

18 Q. You'd at least consider it --

19 A. Yes.

20 Q. -- and make your judgments after you heard all the
21 information?

22 A. Yes, uh-huh.

23 MR. RYAN: I thank you very much for answering
my

24 questions, and I think the defense has some questions
that

25 they'll ask.

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1 JUROR: Thank you.

2 MR. RYAN: Thank you.

3 THE COURT: Let me, if I can just ask: Do you
have a
4 little trouble hearing from time to time?

5 JUROR: No, not too much. Maybe a little.

6 THE COURT: But I mean here as we've talked,
sometimes
7 you've asked to repeat. And I'm not trying to
embarrass you.

8 If you have any trouble hearing, we have a device to
help you.

9 JUROR: No, I think I'm doing pretty well
here.

10 THE COURT: Okay. All right. I didn't mean
11 otherwise.

12 Mr. Woods?

13 MR. WOODS: Thank you, your Honor.

14 VOIR DIRE EXAMINATION

15 BY MR. WOODS:

16 Q. Good afternoon.

17 A. Good afternoon.

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

assist 19 of the attorneys that was appointed by another court to
Tigar is 20 Terry Nichols, who stands accused of this crime. Mr.
to help 21 the other lawyer that was appointed by the other court
22 defend Mr. Nichols.

23 Do you understand --

24 A. What is your name, did you say?

25 Q. Yes, sir. My name is Ron Woods.

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1 A. Ron Woods.

court to 2 Q. And you understand that we're appointed by the
3 represent Mr. Nichols.

4 A. Yes.

retained 5 Q. And do you understand the difference between a
6 lawyer and an appointed lawyer?

7 A. Well, I'm not sure.

8 Q. Okay. Well, let me ask you this --

9 A. A retained lawyer?

money 10 Q. Yes, sir. Let me ask you this: Does it make any
11 difference to you whether or not Mr. Nichols had enough

for 12 to hire his own lawyer, or the court appointed a lawyer

13 him?

14 A. No, it doesn't make any difference.

by the 15 Q. All right. And you understand that we're appointed

16 court?

17 A. Right.

18 Q. Okay. Thank you.

after you 19 Now, as I understand it, you put in 40 years

most of 20 got out of the Army in '46 -- you worked for 40 years,

'86, you 21 it at the Bureau of Reclamation; but then from '80 to

22 were a consultant. Is that correct?

23 A. Yes.

if you 24 Q. So you've worked till '86; and the Court asked you

you're still 25 were retired and enjoying your life, but actually,

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1 working pretty hard, aren't you, in your investments?

2 A. Right.

3 Q. And you do a lot of reading and a lot of watching

the 4 television, "Wall Street Week," listening to the radio,

5 business and investment programs on the radio. Is that
6 correct?

7 A. Yes.

8 Q. How much time of day do you do that? What
percentage of
9 your day is spent working on your investments?

10 A. Oh, it varies, because a lot of monthly -- monthly
deals
11 come in at different times.

12 Q. Yes, sir.

13 A. And other various times. But I probably spend at
least
14 four hours a day average.

15 Q. Still working, still watching the market, doing
your
16 research?

17 A. Keeping track of various -- various investments.

18 Q. Yes, sir.

19 A. And for income tax purposes and things.

20 Q. Yes, sir. And I take it that you do some research
through
21 the newspaper, looking at the business news, economic
news and
22 then through "Wall Street Week" -- you watch that
weekly?

23 A. Right.

24 Q. I take it you're in the process of taking in
information so
25 that you can form an opinion on what to do with your

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1 investments. Is that correct?

2 A. Yes.

3 Q. Okay. And when you get this information, does it
help you

4 form an opinion one way or the other?

5 A. Yes.

6 Q. And is that the purpose of taking in information,
is so

7 that you can form opinions?

8 A. Right.

9 Q. Okay. Now, Mr. Ryan, the prosecutor, went over
with you

10 the fact that you're familiar with some of the sites.
You've

11 read a lot about this case and heard a lot about this
case, the

12 way I understand it. You lived in Kingman -- is that

13 correct -- at one time?

14 A. Yes.

15 Q. Are you familiar with what the connection with
Kingman,

16 Arizona, is to this case?

17 A. Yes.

18 Q. And can you tell us what that is, sir?

there 19 A. Terry -- or McVeigh lived in Kingman for some time

20 with some friends.

21 Q. Do you recall who those friends are?

supposed 22 A. I don't recall their names now. But one guy was

recall 23 to have taken -- taken him to Oklahoma City, if I

24 correctly.

Kingman 25 Q. Do you recall whether or not any of his friends in

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1 were witnesses at his trial?

2 A. No, I don't recall.

I 3 Q. All right. Now, you grew up in Salina, Kansas, as

4 understand it.

5 A. On a farm.

that 6 Q. Yes, sir. And the family still has that farm; is

7 correct?

8 A. Up --

9 Q. You're renting it out?

10 A. Yes.

Salina; is 11 Q. And you still have a sister that lives there in

12 that correct?

13 A. Right.

14 Q. All right. And you were just back there this past
week for

15 your brother's funeral. I'm sorry to hear about that.

16 A. Thank you.

17 Q. Did you happen to visit any of the sites, like in
Junction

18 City or Manhattan or Herington, concerning this case
during

19 that trip?

20 A. No, sir.

21 Q. Have you ever done that over the past two and a
half years?

22 A. No, sir.

23 Q. Does your sister keep up with the case as much as
you do?

24 A. I doubt it.

25 Q. Does she --

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1 A. I don't think so.

2 Q. There are probably few that do, but does she keep
up with

3 the case, to your knowledge?

4 A. Not that I know of.

5 Q. Have you ever talked to her about it?

6 A. No.

7 Q. Okay. And how many times have you been back to
Salina over

8 the past two-and-a-half years?

9 A. Twice -- let's see. Twice this year and then once
-- about

10 four times.

11 Q. During those times did you ever go to Junction
City?

12 A. No.

13 Q. Or to Manhattan?

14 A. No.

15 Q. Or Herington?

16 A. No.

17 Q. Do you know where Marion is?

18 A. Is that on 24?

19 Q. Yes, sir.

20 A. Uh-huh.

21 Q. Do you recall what happened in Junction City that
made it

22 relevant to this case?

23 A. What happens, you say?

24 Q. Yes, sir. Based on what you've seen on television
or read

25 in the newspaper or heard on the radio or in
conversations with

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1 people, can you recall what you heard about Junction
City that 2 connected it to this criminal case?

3 A. The fact that the truck was rented there that was
used to 4 blow up the building and, oh, that's about all.

5 Q. All right. Do you recall from what you've seen,
read, or

6 heard any connection with Terry Nichols to that rental
of that 7 truck?

8 A. No, I don't recall that he had anything to do with
renting 9 the truck.

10 Q. Let me go to the questionnaire, if you would, on
page 33,
11 which is going to be your supplement that you filled
out. And

12 this Question 144 there in the center of the page --

13 A. Uh-huh.

14 Q. -- the questionnaire asked, "If you heard or read
anything

15 about the Oklahoma City bombing, please indicate where
you

16 heard or read about it. Check all that apply."

17 You checked TV news, radio news, newspaper,
and

18 magazines.

19 What newspapers do you subscribe to and read
on a
20 regular basis?
21 A. Well, on a regular basis, we subscribe to The
Denver Post;
22 however, we're getting the News about six times a week
now.
23 Q. Okay. So the two local Denver papers; is that
correct?
24 A. Yes.
25 Q. And then as to TV news, which stations do you
favor, or do

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1 you watch them all?
2 A. I listen to "Business for Breakfast" there quite a
bit in
3 the morning and -- what's his name, Don McDonald?
4 Q. I'm not familiar with that.
5 A. At 1:00 or something.
6 Q. That's midday?
7 A. Yes, from -- what is it -- I think it's 10 till 1
he's on,
8 I believe. But I don't listen to him all the time, of
course.
9 Q. What about as to the -- the news itself?
10 A. Investments -- oh.
11 Q. When you check --

12 A. Just the news?
13 Q. Yes, sir. The TV news as to Oklahoma City bombing.
14 A. TV news, we start about 5:00 with the local news
and go to
15 Channel 9, Brokaw, and then we go to Dan Rather at 6:00
to
16 6:30, and then a lot of times we'll watch the local
news again
17 till 7.
18 Q. Okay. And then are you still up at 10 when that
10:00 series of news programs comes on?
19 series of news programs comes on?
20 A. Yes. I don't always watch that.
21 Q. Okay.
22 A. I try to get Jay Leno later.
23 Q. Pardon?
24 A. Or Letterman. I try to get Jay Leno or Letterman
later.
25 Q. Of course, they come on at 10:30?

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1 A. 10:30, yeah.
2 Q. Do you ever watch "Nightline"?
3 A. Occasionally.
4 Q. Now, on those programs, I take it that you've seen
news

is that 5 broadcasts concerning the Oklahoma City bombing case;

6 correct?

7 A. Oh, yeah -- you mean on the total --

8 Q. On the total ones that you've listed.

9 A. Oh, sure.

What 10 Q. And you've listed the newspapers that you read.

case 11 magazines have you read about the Oklahoma City bombing

12 in?

13 A. Newsweek.

14 Q. And do you take Newsweek?

15 A. Yes.

or U.S. 16 Q. All right. Is that the only one? Do you take Time

17 News?

18 A. No. Newsweek is the main one.

case in 19 Q. All right. And have you read stories about this

20 Newsweek?

21 A. Yes.

describe 22 Q. Okay. Now, next question asked, "How would you

Oklahoma 23 the amount of media coverage you've seen about the

24 City bombing?" That's Question 145.

articles or 25 And you checked, "Quite a bit. Read a few

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1 watched a few television specials."

2 Would that be accurate as to the amount of
coverage

3 you've seen: Quite a bit?

4 A. Yes.

5 Q. All right. Then if you would, sir, flip over to
page 37;

6 and the first question there is 159; and the
questionnaire

7 asked, "Please summarize what you've seen, read, or
heard about

8 Terry Nichols."

9 And you stated that "He lived on a Kansas
farm." Is

10 that correct?

11 A. Yes.

12 Q. Do you recall where in Kansas that he lived on a
Kansas

13 farm?

14 A. Near Herington, I believe, wasn't it?

15 Q. All right. And you have a comma there and then
said,

16 "Visited brother in Michigan." Can you tell me what
you're

17 talking about there, what you recall?

18 A. His brother lived on a farm, as I recall, and he --

he

19 visited there, I believe.

20 Q. Any particular period of time this visit went on?

don't

21 A. No. I don't recall. McVeigh was there, too; and I

22 recall whether they were there at the same time or not.

small

23 Q. All right. And the next thing you list is "Testing

seen,

24 bombs." What do you recall about that from what you've

25 read, or heard?

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neighbors or

1 A. Well, I remember reading about some of the

there, I

2 something, said that there were some small explosions

3 believe.

4 Q. Neighbors where?

5 A. On the -- in Michigan.

6 Q. Oh, this is the Michigan farm?

7 A. Yes.

8 Q. Okay. And then comma, "Twice married." That's to

9 Mr. Nichols; is that correct?

10 A. Yes.

you've

11 Q. All right. What is your recollection from what

second 12 seen, read, or heard? Is he currently married to the
13 wife?
14 A. As far as I know. I'm not sure about that, but --
15 Q. All right --
16 A. -- his ex-wife is in Las Vegas, as I recall.
17 Q. That's your next --
18 A. Pardon?
19 Q. That's the next answer. We're going to get to
that. But
20 you recall sticking to this one right here, "twice married," do
21 wife? whether or not he has any children with the current
22 A. I'm not sure.
23 Q. All right. And then there is a comma and you
stated,
24 "Visited ex-wife in Las Vegas." What did you read,
see, or
25 hear about that?

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1 A. Oh, that was in an article in The Denver Post, I
believe.
2 And I happen to have a boy living in Las Vegas.
3 Q. Yes, sir?
4 A. And his children go to the same school that Josh

Nichols

5 goes to.

6 Q. Oh, do they?

7 A. Uh-huh.

8 Q. And have -- has your brother talked to you about
that?

9 Your son, rather.

10 A. My son?

11 Q. Uh-huh.

12 A. He's mentioned it.

13 Q. What did he say about that?

14 A. Oh, that they just attend the same school.

15 Q. Okay. Has he stated anything about the son Josh?

16 A. Not that I recall anything specific there.

17 Q. Did you form any opinion as to what you heard about
18 visiting the wife in Las Vegas and has a son named Josh
in

19 Las Vegas in school?

20 A. No.

21 Q. All right. What did you read about this visit of
the -- to

22 the ex-wife in Las Vegas? What -- can you tell us what
you

23 read there?

24 A. As I recall, he left some money with her or
something and

25 he was going to the Philippines, I believe, or
someplace.

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1 Q. Do you recall when that was in relation to April,
'95,

2 which was the time of the bombing?

3 A. I don't recall.

4 Q. All right. Now, we've covered the son Josh. And
then your

5 next information you put in here is he worked on a
Kansas farm.

6 A. Yeah. Terry Nichols did.

7 Q. All right.

8 A. He was working -- working for a farmer near where
he lived

9 is the way I understood it. The farmer spoke very
highly of

10 him.

11 Q. All right. You read that?

12 A. Yes.

13 Q. Do you remember where that farm was?

14 A. No.

15 Q. When you say --

16 A. It was close -- close to where he lived, uh-huh.

17 Q. And where are you stating it is that he lived?

18 A. Uh-huh.

19 Q. Are you stating that it was close to Herington?

20 A. Yes.
21 Q. Okay. And then on Question 162, down the page
there a
22 little further, "What have you heard or read about
Terry
23 Nichols as a result of the trial of Timothy McVeigh?"
24 And you stated that you've read reviews of his
25 possible connection of helping build the bomb used in
Oklahoma.

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1 Can you give me some information about what you read or
saw or
2 heard concerning building a bomb?
3 A. No. Nothing but allegations or something that he
was -- I
4 don't have any specifics.
5 Q. Any specifics at all as to what he allegedly did in
helping
6 build the bomb?
7 A. Well, there certainly hasn't been any proof or
anything
8 that I've read.
9 Q. Right. We're just covering the publicity that
you've read
10 and what you read, saw, or heard in all this publicity.
Can
11 you recall what the publicity was as to his involvement
in

12 helping build a bomb?
13 A. No. It's just a fact that -- well -- that it was
possible
14 that McVeigh had help in assembling the bomb. They
didn't
15 think it was too possible to -- for one person to be
involved.

16 Q. And what you read was the allegation was that Terry
Nichols
17 was the one that helped him?

18 A. Well, it was a possibility.

19 Q. All right. Based on what you've read, seen, or
heard about

20 the case, do you recall how many people were killed in
the
21 federal building?

22 A. 167 or something like that, I believe.

23 Q. All right. Do you recall whether or not there were
any
24 children killed?

25 A. Yes.

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Juror No. 315 - Voir Dire

1 Q. And do you recall why there were children in a
federal
2 building?

3 A. They -- the parents left their children there while
they

4 were working.

5 Q. In some type of center?

6 A. In the building, Murrah Building there.

7 Q. Do you recall how many children were killed?

8 A. No.

9 Q. Do you recall how the bomb was placed at the
federal
10 building?

11 A. Yes.

12 Q. And how was that?

13 A. Truck was parked in front of the building and
detonated.

14 Q. Do you recall reading anything about Mr. Nichols'
being
15 anywhere near or having anything to do with parking
that truck
16 at the federal building?

17 A. No.

18 Q. Do you recall from what you saw, read, or heard
what type
19 of bomb that it was?

20 A. It was the fertilizer bomb there.

21 Q. All right.

22 A. Made out of farm fertilizer.

23 Q. Do you recall from what you saw, read, or heard how
24 Mr. McVeigh was arrested?

25 A. No.

Juror No. 315 - Voir Dire

1 Q. Do you have any image in your mind of him being in
custody

2 of the federal authorities?

3 A. Oh, I saw his picture on TV many times there in a
colored

4 suit there and -- yes.

5 Q. Was that the one where he was surrounded by other
people?

6 A. Yes.

7 Q. Do you know how he came into their custody?

8 A. No.

9 Q. Okay. From what you've seen on television or read
in the

10 newspaper or heard from other sources, do you have any

11 recollection of how Mr. Nichols initiated contact with
the

12 federal authorities?

13 A. Oh, well, I've read that he -- he came to them and
-- and

14 they talked to him for several hours, as I recall.

15 Q. And what happened then after he talked to them for
several

16 hours?

17 A. I don't know.

18 Q. Okay. Can you just summarize for us, then, what,
based on

19 everything you've seen, read, or heard -- what the
allegation
20 is as to Mr. Nichols' involvement in the case?
21 A. That he assisted in the -- in the bomb, I think, I
believe,
22 is what he's supposed -- or I mean supposedly --
23 Q. All right. And that's based on what you learned
from
24 television, newspaper, magazines, and conversations; is
that
25 correct?

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1 A. Yes.
2 Q. And I take it you followed the McVeigh trial fairly
closely
3 while it was going on this past summer; is that
correct?
4 A. Yes.
5 Q. Do you recall where you were when you heard the
verdict of
6 the death penalty for Mr. McVeigh?
7 A. No.
8 Q. Do you recall having any conversations with any of
your
9 friends or your family concerning that verdict of the
death
10 penalty?

11 A. No.

12 Q. Do you recall any conversations about it at all one
way or

13 the other, whether it was appropriate or inappropriate?

14 A. No.

15 Q. Do you do all of your research at home, or do you
ever go

16 down to the brokerage and watch the ticker tape come
across?

17 A. Very little. I go to the library a lot, or other

18 newspapers and magazines.

19 Q. All right. Had any conversations with anybody at
the

20 library about this case?

21 A. No.

22 Q. Okay. Now, you list that part of your leisure
activities,

23 you like to go out, and ballroom dancing, traveling,
and going

24 out to eat. Is that correct?

25 A. Right.

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Juror No. 315 – Voir Dire

1 Q. All right. Where do you do the ballroom dancing?

2 A. Usually at the Lakewood Elks.

3 Q. So I take it you're still active in the Elks?

4 A. Yes.

5 Q. Have you had any conversations with any of the
members or

6 do you keep in contact with the members there at the
Elks?

7 A. Well, we see a lot of people at the dances.

8 Q. Yes, sir. Do you go to the meetings during the
week?

9 A. Not very often.

10 Q. Okay. I take it --

11 A. I'm not active that way.

12 Q. Did you used to go to the meetings?

13 A. No.

14 Q. Okay. What other organizations are you in that you
15 occasionally attend?

16 A. Well, I haven't been active in the Masons for
several

17 years.

18 Q. Yes, sir.

19 A. And that's about it, I guess.

20 Q. Recall any conversations at all at the Elks
concerning the

21 death penalty verdict?

22 A. No.

23 Q. Well, what was your opinion of the death penalty
verdict

24 for Mr. McVeigh?

25 A. I thought it was probably deserved.

Juror No. 315 - Voir Dire

Keating 1 Q. All right. You stated that you've heard Governor
he was 2 several times. I take it on television. You thought
3 impressive and what he said made sense?

4 A. Uh-huh.

people 5 Q. Did you hear him call for the execution of the
6 involved in this case?

7 A. I don't recall.

former FBI 8 Q. Okay. Did you hear him talk about that he's a
9 agent and this case is being investigated by the FBI?

10 A. I don't remember.

said that 11 Q. Okay. Can you give me just the area of what he
12 you thought made sense?

13 A. No, I don't -- I don't --

14 Q. Okay.

but I 15 A. I just liked his presentation at the time, and I --
16 remember he --

17 Q. No reason why that should stick.

18 The course that you took from Du Pont on the
19 explosives course: You mentioned that you studied or

they gave

Is that 20 lectures or lessons on dynamite and ammonium nitrate.

21 correct?

22 A. Yes.

nitrate 23 Q. Did they have a demonstration of an ammonium

24 explosive for you?

Grand 25 A. No. I have seen it used, though, at the dam sites.

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Juror No. 315 - Voir Dire

mix, 1 Coulee, they used a lot of ammonium nitrate with diesel

2 oil mix.

oil? 3 Q. The mixture between ammonium nitrate and a fuel

4 A. Uh-huh.

5 Q. And then how was it detonated?

6 A. Through caps.

the 7 Q. After those detonations, would you ever see any of

8 prills around?

9 A. No.

10 Q. Were they always all consumed in the explosion?

11 A. I really didn't investigate that closely.

12 Q. And at the school that you went to, Du Pont, did

they ever

13 touch on that?

14 A. No.

15 Q. Give any explanation about what happens in an
ammonium

16 nitrate fuel oil explosion?

17 A. Not that I recall.

18 Q. Okay. Now, I want to talk to you briefly about the
death

19 penalty issue in this case. Did you understand --
well, what

20 was your understanding before you came down here today
as to

21 the federal procedure where the death penalty is an
option on

22 punishment? What was your understanding of how that
worked in

23 the event a jury found the defendant guilty?

24 A. Well, I recall when Judge Matsch reviewed it there
that

25 that's what happened in the McVeigh case; that they had
to --

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1 the second almost trial there and --

2 Q. Do you recall any type of evidence that you read
about that

3 was presented in that second hearing?

4 A. No.

5 Q. Okay. Now, before you had that explanation on the
6 about the procedure, you were asked some questions on page 28
7 death penalty.

8 A. Uh-huh.

9 Q. And on C and D, the questions were, "What kind of
10 cases is it appropriate to impose the punishment of life in
11 prison without the possibility of parole?" And then also, "In
12 what kind of cases is it appropriate, if ever, to impose a
13 punishment of death?"

14 And your first answer was very thoughtful:
15 "Complex question. Many factors are involved, including nature
16 of the crime and if release is a danger to society."

17 And that's what you felt about life in prison
18 without release; is that correct, sir?

19 A. Yes.

20 Q. Okay. And then as to "What kind of cases is it
21 appropriate, if ever, to impose the punishment of
22 death," you put, "Murder cases and maybe others."

23 Can you give me an idea of what kind of other
24 cases you were thinking of?

really 25 A. Maybe we should scratch that. I don't know. I

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1 can't think of --

2 Q. Okay.

3 A. -- of any.

courts 4 Q. And as the Court explained to you, in the federal

becomes 5 and in most state courts, also, the death penalty only

You 6 an issue when someone has been found guilty of murder.

7 understand that?

8 A. Yes, I understand that now.

premeditated 9 Q. In fact, only when it's involving intentional,

10 murder.

11 A. Uh-huh.

12 Q. You understand that?

13 A. Yes.

various 14 Q. Okay. And I assume that you understand there are

during 15 kinds of murder. There are murders that are committed

death 16 the heat of passion, which don't even call for the

17 penalty. Are you familiar with that?

18 A. I've heard about them, yes.

19 Q. But we're talking in this case about crimes which
are

20 alleged against Mr. Nichols. And do you understand
that he

21 stands accused of the same 11 crimes that Mr. McVeigh
stood

22 accused of and was convicted of?

23 A. I'm not aware of the 11.

24 Q. The -- when we were out at the fairgrounds, the
Court

25 explained to you that both Mr. Nichols and Mr. McVeigh
were

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1 accused of conspiring to bomb a federal building that
caused

2 the death of several people; likewise that both of them
were

3 accused of actually committing the crime of using a
truck bomb

4 to bomb a federal building resulting in the death of
several

5 people. Then there was a third crime involving arson
which

6 involved the death of several people. Then --

7 THE COURT: Excuse me. It isn't arson.

8 MR. WOODS: Yes, your Honor.

9 BY MR. WOODS:

10 Q. There was a third crime involving the use of a
truck bomb
11 involving a federal building resulting in mass
destruction,
12 wherein people were killed. Likewise, there were eight
13 separate murders counts of eight federal agents that
were on
14 duty in the building.

15 Do you recall the Court explaining that Mr.
Nichols
16 and Mr. McVeigh stood accused of those 11 separate
crimes?

17 A. You say that was presented at the --

18 THE COURT: Just to help out, I don't think I
19 mentioned 11. Maybe I did, but I can't remember
exactly what I
20 said.

21 MR. WOODS: You're right, your Honor. You
summarized
22 it.

23 THE COURT: Sort of lumped them together
without
24 specifying that there were 11. I think maybe that's
the
25 confusion.

1 MR. WOODS: You're right.

2 BY MR. WOODS:

3 Q. And the Court did enumerate eight counts involving
the
4 deaths of eight federal agents.

5 A. Eight federal agents, right. I recall that.

6 Q. But he also stated that there were two other crimes
7 involved, conspiracy and the actual commission of the
truck
8 bombing of a federal building resulting in the death of
9 numerous people. Recall that?

10 A. No.

11 Q. Okay.

12 THE COURT: Well, that's what is charged.
There
13 shouldn't be any question about it in your mind.

14 JUROR: I understand now.

15 BY MR. WOODS:

16 Q. The question is -- and I don't mean to get
technical with
17 you. I just want to make sure you understand that Mr.
Nichols
18 stands accused of the same offenses that Mr. McVeigh
stood
19 accused of in this case.

20 A. Precisely the same?

21 Q. Yes, sir.

22 A. Uh-huh.

to get
guilt

23 Q. Now, as the Court explained to you, we're not going
24 to a punishment hearing unless there is a finding of
25 against Mr. Nichols. You recall that?

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going to
and I are
Nichols'
stand,
They
examine
a number
this

1 A. Uh-huh.

2 Q. And we certainly are not conceding that there is
3 be a finding of guilt against Mr. Nichols. Mr. Tigar
4 going to challenge the Government's theory of Mr.
5 involvement with every witness they put on the witness
6 and we're going to call witnesses after they go first.
7 get first ups. They put on all their case. We cross-
8 their witnesses, and then we're going to be presenting
9 of witnesses to show you Mr. Nichols is not guilty of
10 crime. You understand that process?

11 A. Yes.

12 Q. And only in the event that a jury finds Mr. Nichols
guilty
13 of these crimes of premeditated, intentional murder --

only in

14 that event do we get to a punishment stage. Do you
understand

15 that?

16 A. Well, I have a question.

17 Q. Yes, sir. Let me try and clear anything up. My
questions

18 might not be clear.

19 A. He has to be found guilty of those specific crimes
and not

20 a lesser crime or something?

21 Q. It can be any of those 11, any of those separate 11
crimes.

22 Only in the event he's found guilty of one of those 11
crimes

23 does a jury hear a punishment stage involving a
decision of the

24 death penalty.

25 A. Okay.

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1 Q. Okay? And that was a good question; and I wasn't
clear on

2 that, and I apologize on that. But any of those 11,
the

3 jury -- and if you're on the jury, you would be sitting
there

4 making the decision as to life imprisonment or the
death

5 penalty. You understand that?

6 A. (Juror nods head.)

7 Q. If you would go back to this page 28 on your
questionnaire.

8 A. Uh-huh.

9 Q. When you stated "In what kind of cases is it
appropriate,

10 if ever, to impose a punishment of death" -- you list
murder.

11 What kind of murder cases are you thinking of where the
death

12 penalty is the appropriate verdict?

13 A. Probably premeditated.

14 Q. All right. That's one factor. Are there others?

15 A. Well, I haven't given it much thought, there.

16 Q. What's your feeling if there is more than one
death, a

17 murder case involving more than one death, multiple
murders?

18 A. It would be much more serious.

19 Q. Certainly would. You feel that those are cases
appropriate

20 for the death penalty?

21 MR. MACKEY: Judge, objection.

22 THE COURT: Sustained.

23 MR. WOODS: Okay.

24 THE COURT: I mean, I assume, you know -- I
interpret

25 your question meaning, without more.

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1 MR. WOODS: Yes. The question had to do with
what
2 kind of murder cases he feels are appropriate, your
Honor.
3 We're just filling out this blank and then moving on to
another
4 area.

5 THE COURT: I know, but we've gone beyond that
blank.

6 MR. WOODS: Thank you.

7 BY MR. WOODS:

8 Q. In a case where a person has been convicted of an
9 intentional and premeditated murder, what would be
important to
10 you in deciding if the punishment should be life or
death?

11 A. Well, haven't we already discussed that under the
murder
12 cases here?

13 Q. No, sir. You're listing here in the murder cases
those
14 kind of cases that you feel the death penalty should be
an
15 option. My question now is if a person has been
convicted of
16 an intentional and premeditated murder, what would be
important

17 to you in deciding if the punishment should be life or
death?

18 A. Well, the following determination, the second --
second

19 trial, you might say.

20 Q. All right. And at that second trial, do you feel
that the

21 death penalty is the only appropriate sentence for a
person

22 found guilty of a crime that resulted in many people
being

23 killed or injured?

24 MR. MACKEY: Objection.

25 THE COURT: Well, can we add "without
considering the

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1 things heard at the second trial"? Is that agreeable
to you,

2 Mr. Woods?

3 MR. WOODS: I'm sorry.

4 THE COURT: I was going to suggest that we add
"in

5 addition to the crime, the other things heard at the
second

6 trial, the punishment phase trial."

7 MR. WOODS: All right.

8 THE COURT: You understand what we're talking

about?

again? 9 JUROR: Now, what -- what was the question

10 BY MR. WOODS:

told you 11 Q. Yes, sir. Let me see if I can clarify. The Court

12 that if we get to a punishment stage --

13 A. Yes.

the 14 Q. -- of the case -- this is after the jury has found

15 guilt -- found the defendant guilty of premeditated,

be 16 intentional murder. If we're at that stage, there will

17 aggravating circumstances and mitigating circumstances

18 presented to the jury. You recall him stating that?

19 A. Yes.

both 20 Q. If after hearing the circumstances presented by

21 sides -- do you feel that the death penalty is the only

crime that 22 appropriate sentence for a person found guilty of a

23 resulted in many people being killed or injured?

24 MR. MACKEY: Same objection.

25 THE COURT: I'm overruling it.

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1 JUROR: Still depends on the mitigating

circumstances

2 or the aggravating circumstances.

3 BY MR. WOODS:

4 Q. And those would be the factors that you would
consider

5 before you made a determination?

6 A. Right.

7 Q. All right. Now, you had stated earlier that you
have had a

8 view about death penalty and it's been a long-held
view; is

9 that correct?

10 A. Capital punishment, yes.

11 Q. And what is that view?

12 A. I'm in favor of it.

13 Q. And that view has never changed over the years, has
it?

14 A. No.

15 Q. Would you say that you're a strong supporter of the
death

16 penalty?

17 MR. MACKEY: Judge, objection.

18 THE COURT: I think we've covered that. I
mean, I

19 think we've covered this man's views about punishment.

20 MR. WOODS: All right.

21 BY MR. WOODS:

22 Q. Can you think of any mitigating circumstances that
in your

on a 23 mind would be appropriate to assess a sentence of life
24 case where there were multiple murders involved?

25 MR. MACKEY: Same objection.

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out, 1 THE COURT: Yes. I'm going to rule that one

2 Mr. Woods.

3 MR. WOODS: All right.

exchanges here. 4 THE COURT: We're going to have these

lot of 5 We're having them now; but in a trial, there would be a

represent the 6 them. That's what lawyers are here for, is to

for, to 7 different sides in the case. And that's what I'm here

these 8 make some rulings about it. So don't be troubled by

9 exchanges.

10 JUROR: I appreciate it.

11 BY MR. WOODS:

12 Q. And you understand that what we're talking about is
13 theoretical as to the punishment hearing, because we're
14 certainly not conceding that there is going to be a
punishment

15 hearing.

16 A. Right.

17 Q. All right. If you're chosen on the jury, can you
look

18 Terry Nichols in the eye and state, "Terry, I will give
you a

19 fair trial"?

20 A. I can.

21 MR. WOODS: Thank you, sir. I appreciate your
time.

22 THE COURT: We all appreciate -- you're
finished;

23 right?

24 MR. WOODS: Yes, sir.

25 THE COURT: We all appreciate your time and
effort in

2165

1 answering all of these questions, not only what we've
gone

2 through here but also what you went through before.
And we

3 know that, you know, under the circumstances of your
brother's

4 passing, that hasn't been easy to come back in here and
do

5 that; so we very much appreciate your cooperation.

6 JUROR: Well, that was okay. He was 86 years
old. He

7 had a good life.

8 THE COURT: Well, there is still, you know --
it's
9 still something that happens to us, and we have some
feelings
10 about those things.

11 JUROR: Thank you.

12 THE COURT: But what we now have to tell you
is we're
13 not going to be able to tell you today whether you're
going to
14 be on this jury, and we're not going to be able to tell
you
15 when we will tell you. You understand?

16 JUROR: Okay.

17 THE COURT: Other people are going to be in
here.
18 We're going to be talking with quite a few people, and
we don't
19 have a way to say, well, on this date, we'll have a
decision.
20 We can't do that. It's a human process.

21 JUROR: That's fine.

22 THE COURT: So, you know, keep in touch. If
you
23 change your address or your phone number or something
happens
24 where you have to go on a trip or something, you've got
our
25 number; let us know. And then we'll -- excuse me --
we'll let

1 you know when we can.

2 JUROR: Thank you.

3 THE COURT: And in the meantime, of course,
please do

4 as you were told before and as you have been doing: Be

5 careful, as you watch the news programs and read the
papers and

6 magazines that you do to stay away from anything about
this

7 matter now. Will you do that?

8 JUROR: Right.

9 THE COURT: And don't talk about it with
anybody.

10 JUROR: Uh-huh.

11 THE COURT: Okay. You're excused for now.
We'll be

12 in touch.

13 JUROR: Uh-huh.

14 THE COURT: We'll start with 713.

15 You've got both hands full. Would you put
something

16 down and raise your right hand.

17 (Juror No. 713 affirmed.)

18 THE COURTROOM DEPUTY: Thank you.

19 THE COURT: Please be seated there now in the
chair by
20 the microphone, and it swivels around so you can make
yourself
21 comfortable. And you don't have to talk right into the
22 microphone. You can be anywhere near it.

23 VOIR DIRE EXAMINATION

24 BY THE COURT:

25 Q. You've been waiting all day to get in here, and
it's late

2167

Juror No. 713 - Voir Dire

1 in the day. We'll get right to the things that concern
you the
2 most; but before we do -- I mean, because of your work
and
3 school and so forth; but I want to again let you know
who is
4 here with us. You met some of these people before.
You came
5 out to the Jefferson County Fairgrounds on the 17th of
6 September to answer questionnaires after receiving a
jury
7 summons; right? And you know that this case we're
talking
8 about is United States against Terry Lynn Nichols.

9 And there with us -- I was there, and I talked
with
10 you and the other jurors; and I introduced some people.

And

right 11 among those introduced were Mr. Lawrence Mackey, who is
12 here, first table, Ms. Beth Wilkinson; lawyers for the
Patrick 13 Government. They're being joined today with -- by Mr.
14 Ryan, Mr. James Orenstein, additional lawyers for the
15 Government who will be participating in the trial.

Woods, 16 You met Mr. Michael Tigar and Mr. Ronald
Nichols, then. 17 attorneys for Mr. Nichols; and you also met Mr.

of the 18 And I gave explanations about the background
but I 19 case and all of that, which we won't review right now;
in a 20 want to go back to your original summons. And you sent
things 21 questionnaire there -- I mean answers. And one of the
question 22 that you told us at that time when we asked you a
serving 23 about is there any reason that would prevent you from
student 24 on this jury -- and you said, "I'm a full-time graduate
that 25 of the University of Colorado at Denver. My concern is

classes. 1 jury duty would conflict with the times I must attend
2 If I am unable to complete the classes at this time, my
3 graduation would be postponed and the tuition I've paid
for the 4 semester would be non-refundable."

5 I just want to let you know we didn't ignore
that, but 6 we did ask you to come out to the fairgrounds and
complete the 7 full questionnaire. But I want to go right to this
issue or 8 question about your studies, because I'm a little
confused with 9 what you said on the full questionnaire. You teach,
too, do 10 you?

11 A. I taught the past three years -- I taught. I took
this 12 year off from teaching to work on my master's.

13 Q. All right. And now, does your master's program
include 14 classroom work?

15 A. No.

16 Q. All right. So it's independent research-type --

17 A. Well, I go to classes, but I don't have to go into
the -- 18 into it like a school. Does that -- I don't teach. I
don't 19 have to teach. I go to classes at Auraria.

20 Q. I meant classroom, where you sit as a student?

21 A. Yeah. As a student, I sit in class.

22 Q. What's your schedule?

23 A. My classes start every day at 4 in the afternoon.

24 Q. And then go till?

25 A. Well, on Tuesdays and Thursdays, I have one from 4
do 5:15;

2169

Juror No. 713 – Voir Dire

1 and then Monday, I have one from 4 to 6:00, and
Wednesdays is 4

2 to 6:45.

3 Q. Okay. And your -- that will last -- this is at the

4 University of Colorado?

5 A. Right.

6 Q. In Boulder?

7 A. At Denver.

8 Q. At Denver?

9 A. At Auraria.

10 Q. Oh, yes. Okay. Down the street here a ways; but
if you're

11 on this jury, you'd have to leave here in time to get
over

12 there by 4:00?

13 A. Right.

14 Q. And that is on a semester?

15 A. Yes. So the semester ends in December.
16 Q. In December. And it would be the fact, then, I
take it
17 that if we had you here with us working 9 to 5 -- I
mean, I'm
18 not talking about study time. I assume you have to
spend some
19 preparation time before the classroom work.

20 A. Right.

21 Q. But not counting that, you would be missing at
least an
22 hour of class if we worked you 9 to 5 on the jury.

23 A. Uh-huh.

24 Q. So you want us to excuse you from service here so
you can
25 keep up with your studies?

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Juror No. 713 - Voir Dire

1 A. Well, of course. I mean --

2 Q. All right. Well, that's why we wanted to come in
and get

3 clear on this, because I hope you understand that we
were a

4 little -- I was, at least, a little confused about what
your

5 schedule might be.

6 A. Okay.

and 7 THE COURT: I'll call counsel up to the bench,

8 we'll talk about it here right now. Hold on.

9 (At the bench:)

court 10 (Bench Conference 18B1 is not herein transcribed by

transcript.) 11 order. It is transcribed as a separate sealed

12

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1 (In open court:)

2 THE COURT: Well, we're all in agreement here
that
3 we're going to excuse you. And, you know, I hope you
4 understand we didn't keep you waiting all day to punish
you in
5 some kind of way; but jury service involves sacrifice
of people
6 always, and people have to set aside their regular life
7 routine, including people missing work and missing --
losing
8 income, and the like. But we've agreed that it would
be too
9 much to ask of you to give up your already-paid-for
studies and
10 lose everything that you've got invested in this
semester, so
11 we're going to let you go.

12 And I do ask you, being excused, that you
don't go
13 over the questionnaire questions with somebody. I
mean, we're
14 trying to keep the questionnaire questions private as
much as
15 possible; and that form hasn't even gone out to
anybody, let
16 alone your answers, and your answers won't go to
anybody. They
17 went to us here and we considered them, but please
follow that
18 caution.

19 With that, you're excused; and we wish you
well in

20 your studies.
21 JUROR: Thank you.
22 (Juror out at 4:57 p.m.)
23 THE COURT: Well, there are only three minutes
left.
24 I think we'll wait to start the next one; so we'll
recess till
25 8:45.

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1 (Recess at 4:57 p.m.)
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18 REPORTERS' CERTIFICATE

19 We certify that the foregoing is a correct
transcript from

Dated 20 the record of proceedings in the above-entitled matter.

21 at Denver, Colorado, this 8th day of October, 1997.

22

23

24

Paul Zuckerman

25

Kara Spitler