

13 PROCEEDINGS

14 (In open court at 8:45 a.m.)

15 THE COURT: Be seated, please.

16 Good morning.

17 ALL: Good morning, your Honor.

18 THE COURT: Let's see. We're ready with 82.

19 Good morning.

20 JUROR: Good morning.

21 THE COURT: Would you please raise your right
hand and

22 take the oath from the clerk.

23 (Juror No. 82 affirmed.)

24 THE COURTROOM DEPUTY: Thank you.

25 THE COURT: Please be seated there in the
chair by the

2178

1 microphone. And feel free to move that chair around.
It

2 swivels, and whatever's comfortable for you. You don't
have to

3 talk right into the microphone. Anything close will
do.

4 VOIR DIRE EXAMINATION

5 BY THE COURT:

6 Q. You understand that the case now on trial refers to
case of

7 the United States against Terry Lynn Nichols.

8 A. Yes.

9 Q. And that you received a summons sometime back with
respect

10 to your having been through a computer process and
selected,

11 your name came up as a potential juror in this case,
and we

12 sent you a summons telling you that and asking you to
return a

13 short questionnaire, and you did. And then after that,
we

14 asked you to come out to the Jefferson County
Fairgrounds on

15 the 17th of September with others to answer a long

16 questionnaire; and before giving you that questionnaire
to

17 answer, I introduced myself, explained something about
the

18 background of this case -- excuse me -- and also
introduced to

19 you the people who were there with me who are directly
involved

20 in this case. And I want to do that again so you are

21 comfortable knowing who's here. And we wouldn't expect
you to

22 remember everybody's name, but let me reintroduce them.

23 Mr. Lawrence Mackey and Miss Beth Wilkinson at
this

24 first table as attorneys for the Government. They're
joined

25 now by Mr. Patrick Ryan and Mr. Geoffrey Mearns,
additional

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1 counsel for the Government.

2 You recall Mr. Michael Tigar and Mr. Ronald
Woods as
3 attorneys for Terry Nichols; and Mr. Nichols is here
now and
4 was then.

5 And then after these introductions and after
my
6 general explanation of the charges and so forth, we
asked you
7 to fill out a questionnaire, and you did that; and here
it is
8 in front of you now, and we also have copies. And as I
told
9 you and the others, we would make copies for the
limited

10 purpose of having you in for some additional
questioning but

11 that your answers would not be made public. We respect
your

12 privacy and try to protect it as far as we can,
recognizing

13 also that this is a public trial. So these copies have
not

14 been made public. We're not using your name in public.
We

15 arrange for you to come and go to the courthouse
without being
16 photographed and so forth, and that is just by way of
17 protecting your privacy. Obviously there are some
things that
18 we need to discuss with you here, and we are in a
public
19 proceeding now so that what I say and what you say and
what
20 everybody else here says is public, you understand. Do
you?
21 A. Yes.
22 Q. And that's another thing. You have to answer out
loud. I
23 understand when you nod, but it has to go into the
record.

24 Now, getting back to that original
questionnaire, one
25 of the questions that we asked of you -- you don't have
the

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1 original there, I don't think, the first one, the
little one.
2 You got the big one?
3 A. Uh-huh.
4 Q. But I'm sure you remember we had a question about
is there
5 any reason that would prevent you from serving on the
jury, and

and 6 you responded about your beliefs, your personal beliefs
the death 7 religious faith; that you're a -- you cannot justify
you could 8 penalty, and that's why you told us you didn't think
that the 9 serve on a case, understanding, as I guess you did,
death 10 nature of the charges in this case are such that the
Right? 11 penalty is a possibility upon conviction under the law.

12 A. Yes.

your 13 Q. And then of course it isn't that we didn't hear
you can 14 answer -- I mean read it. We understand that. But as
There are 15 appreciate, we call in people from a cross section.
for a 16 no sort of prequalifications to sit on the jury except
this 17 few requirements, like citizenship and the like. But
asked 18 didn't disqualify, and that's why we brought you in, or
19 you to come in.

20 So we're not going to ask you to repeat
everything 21 that you have written already in your answers, but I do
want to 22 go over a few things and perhaps ask you a few
additional

23 questions and also give you some additional
explanations about

24 the process and what is required of jury service with
respect

25 to this case, and then the lawyers on each side have an

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1 opportunity to ask questions as well. Okay?

2 A. Yes.

3 Q. Now, you live now here in the Denver area, in
Littleton?

4 A. Yes, I do.

5 Q. Yes? You were born in New York?

6 A. Yes.

7 Q. Is that Upstate New York?

8 A. Northern New York.

9 Q. Yeah. And then you grew up on a dairy farm?

10 A. Yes.

11 Q. Was that also in Upstate New York -- or northern
New York?

12 A. Yes, uh-huh.

13 Q. And then you moved to Goshen, Indiana?

14 A. Yes.

15 Q. Lived there I guess at two different times.

16 A. Yes.

17 Q. One time you were attending the college, Goshen

College.

18 A. Yes. And then lived there the first four years
after

19 college.

20 Q. Okay. Now, you also identify yourself as a
Mennonite?

21 A. Yes.

22 Q. And in the part of New York where you grew up, was
that a

23 Mennonite community?

24 A. When I was growing up, it was -- I would say it was
divided

25 between Mennonite and Catholic, and it was one of the
few

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1 communities. At this point there are quite a few more
2 throughout the state.

3 Q. Well, as I understand it, there are some
communities that

4 are strictly Mennonite and follow community practices
that are

5 different from the surrounding area, the general
culture and

6 environment, including some non-modern things. Did you
grow up

7 in that kind of an environment where you used horses
and not

8 mechanical things?

9 A. No.

10 Q. Okay.

11 A. When I was small we did have horses, but that's
just
12 because we were using at that point.

13 Q. How long did you live on the farm?

14 A. I started to college when I was 17 and would be
back there
15 in the summers until I was 21. So I guess you could
say I was
16 a farm girl for 21 years.

17 Q. Yeah. And it was dairy cattle?

18 A. Yes.

19 Q. So there was milking and all of those --

20 A. Oh, yes.

21 Q. -- things that go on seven days a week. You can't
take a
22 day off from that.

23 A. Twice a day.

24 Q. Uh-huh. And also did your family have crops, cash
crops on
25 the farm as well that -- unrelated to supporting the
cattle?

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1 A. No, we did not.

2 Q. Focused entirely on milk production?

3 A. Uh-huh.

4 Q. And how big a farm was it?

5 A. Seems like it was about 325 acres. But a lot of
that was
6 woods because we made maple syrup in the spring.

7 Q. All right. And that part of New York is heavily
wooded.

8 A. Uh-huh. Yes, it is.

9 Q. And was this a farm that was just your family, or
was there
10 another family or other families with you on the farm?

11 A. No, it was just our farm, but it was a third-
generation
12 farm.

13 Q. What happened to that farm, ultimately?

14 A. At this point my brother is no longer farming, and
it has
15 been sold. And I haven't been home for a few years,
but I you
16 know the barn has been torn down. It was bought by a
couple

17 from New York City.

18 Q. Not for farming --

19 A. No.

20 Q. -- I take it.

21 And your brother did continue on the farm
after you

22 left, did he?

23 A. Yes, he did, until his health was bothering him.
24 Q. Now, you went -- let's see, you went to college
there at
25 Goshen. Then you went where right after college?

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Elkhart 1 A. I lived in Goshen for four years and taught in the
2 County schools or Elkhart community schools for four
years.
3 And then we moved to Colorado where my husband was
pursuing his
4 master's degree, and we lived there for three years --
or lived
5 here for three years. Moved back to Indiana for about
20
6 months, and then we've been back here in Colorado since
that
7 time.

8 Q. When you went back to Indiana, was that the Goshen
area
9 again?

10 A. Yes, it was. Uh-huh. My husband was in hospital
11 administration, and he was at the hospital there.

12 Q. In Goshen or Elkhart?

13 A. Goshen, the Goshen Hospital.

14 Q. I understand there is a community of the type I've
15 described near Goshen, called Nappanee or something

like that?

16 A. Yes, there are several of them. Nappanee and
Shipshewana.

17 And the school I went to was a church school, a
Mennonite, in

18 Goshen. So the community I wouldn't say is
predominantly

19 Mennonite, but it's very heavily influenced by the
Mennonites.

20 Q. And there are other groups that are similar in
nature in

21 their beliefs but a different sect or organization; is
that

22 right?

23 A. Such as the Amish.

24 Q. Yeah, Amish.

25 A. Around Nappanee is where there would be more Amish.

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1 Q. And there are some -- there are some commonality
there,

2 isn't there, in belief?

3 A. Yes, there is. I think probably the big one would
be the

4 pacifism.

5 Q. And that's the one that's significant --

6 A. Right.

7 Q. -- to you in thinking about this case?

8 A. That's right.

9 Q. Now, you know you're not on trial for your
religion.

10 A. No, I understand that.

11 Q. Forgive us in asking all these questions, because
just
12 because I suppose one could say that's a minority
religion in
13 terms of the numbers of people, that doesn't mean
there's
14 anything wrong with it; and we're not making judgments
about
15 your religion.

16 A. Yes, I understand that.

17 Q. Okay. I don't want to have you or anyone else get
the
18 notion that we're trying to suggest there's something
peculiar
19 about it.

20 When you came to Denver, then, again, after
this time
21 back in Indiana, wasn't there a big storm back there
about that
22 time?

23 A. The tornado?

24 Q. Yeah. Were you there then?

25 A. No. I'm not sure if it was just before we moved
back there

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1 or just after we left; but you're right, it took my
brother's
2 trailer. And I have a brother and a sister that live
in
3 Indiana, also. So, yes, and hit the home of my sister,
4 so
5 Q. Damaging these properties?
6 A. Yes. The trailer was completely taken. I mean
they didn't
7 find hard -- I don't think they found anything that he
had.
8 Q. I can't remember whether there were deaths and
injuries to
9 people.
10 A. Yes, there were. And I think it was on a Palm
Sunday.
11 Q. Yeah.
12 A. 'Cause there was a large group of -- actually
Mennonites
13 that were assembled there in Shipshewana.
14 Q. In church?
15 A. Either they were in or just getting there or just
leaving,
16 one or the other.
17 Q. And there were injuries and --
18 A. Yes, a lot of deaths.
19 Q. -- deaths.

20 A. Uh-huh.

21 Q. I thought -- my memory is a little hazy, but I
remember

22 hearing news about it.

23 Well, so that impacted some of your relatives;

24 correct?

25 A. Yes. Not through death. Only by losing property.

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1 Q. Or injuries. Were any of them injured?

2 A. No, they were neither of them. None of them were
injured.

3 Q. You coming back now to Colorado again, tracing sort
of your

4 history, you taught in the public school system.

5 A. Yes. When we were -- the first time we lived here,
I

6 taught in Jefferson County, and I was there for a half
a year.

7 Q. In the elementary grades?

8 A. Yes, uh-huh.

9 Q. Okay.

10 A. And then I subbed a total of seven years at the
time when

11 my children were small.

12 Q. And also taught Sunday school --

13 A. Yes.

14 Q. -- I think you've told us.

15 A. Yes.

16 Q. Now, you're not teaching now, are you?

17 A. No. No, I'm retired from teaching.

18 Q. And are you on a retirement pension of some sort --

19 A. Yes, I am.

20 Q. -- from -- that is like all other public school
teachers

21 who take the retirement under the state of Colorado?

22 A. Right, uh-huh.

23 Q. Your husband you said is in hospital
administration, has

24 been. And now, as I understand it, he's in financial
planning

25 for people retiring, pension plans, annuity --

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1 A. That's right.

2 Q. -- programs, that kind of thing?

3 A. Uh-huh.

4 Q. Now, does he do that by himself, or is he with some
group?

5 A. He's with a group.

6 Q. And works, you know, in an office with this group?

7 A. He has an office and probably gets into the office,
I would

visits 8 say, three out of the five days of the week. But

9 schools and hospitals.

and 10 Q. And is that because he's particularly consulting

workers 11 advising about programs that are available to hospital

12 and teachers?

13 A. Yes. It's a tax-deferred annuity plan.

some 14 Q. You -- I'll ask you to turn to page 19. You have

about. And 15 answers here that we'd like you to explain a little

organization 16 on page 19 you're identifying a Question 86, an

17 where you have donated called the Victim, Offenders

18 Reconciliation Program.

19 A. Yes.

know it. 20 Q. Tell us a little about that program, as far as you

church. 21 A. This is a program that has been started through our

would you 22 It began, I believe, in Pennsylvania. And it's for,

victim and 23 say, minor . . . well, anyway, they try to get the

victim 24 the offender together and talk about it so that the

how the 25 understands how -- or so that the offender understands

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1 victim felt such as if their home was broken into or
something

2 was stolen and just to get them to communicate on a
one-to-one

3 basis and then try through this, as they learn to
understand

4 and know each other -- then decide how they're going to
take

5 care of making compensation for what was done. And it
has been

6 found to be very effective because often it's young
people who

7 have done the crime, and when they actually come face
to face

8 with the person that they have

9 Q. Harmed?

10 A. Yeah, right. They realize that this is an
individual and

11 not just something else.

12 Q. Yeah. Now, is this mostly with respect to property
crimes

13 as opposed to violent crimes?

14 A. Yes, I believe it is, although I don't know for
sure.

15 Q. Has your connection with it simply been that you've
donated

16 moneys to it?

17 A. Yes. I had thought at one time I was going to get

the

18 training, myself, and I'm just -- I don't know. It
just sounds

19 like something that might be more difficult for me to
do.

20 Q. Yeah. Do you know any of the people who are
directly

21 involved, who bring the people together?

22 A. Yes, I do.

23 Q. Some friends of yours?

24 A. Yes.

25 Q. And are they all church members, the people who do
this?

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1 A. The ones that I'm aware of are.

2 Q. Okay. Now, let's see. You've never served on a
jury

3 anywhere, have you?

4 A. No, I have not.

5 Q. Have you been called for jury service?

6 A. No.

7 Q. Ever before?

8 And you don't have any ready familiarity with
the

9 criminal justice system, how trials go, that sort of
thing, do

10 you?
11 A. No, I do not.
12 Q. Well, I want to give you some explanations by way
of
13 background so that we can ask you a few more questions.
14 First of all, you remember back to the 17th
when I
15 explained about why you'd been summoned, what the case
is going
16 to be about. I reviewed with you and the others the
background
17 of why we were there and why we're here, explaining
that --
18 something that I'm sure you already knew -- that on
April the
19 19th of 1995, there was an explosion in Oklahoma City,
20 Oklahoma, resulting in the destruction of a federal
office
21 building there and the loss of life and injury to
people who
22 were in that building; that after that the Government,
23 Department of Justice, filed charges in Oklahoma City
in the
24 United States District Court there charging a man named
Timothy
25 James McVeigh, along with Mr. Terry Nichols, and then
the

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1 indictment reads, "and other persons not named," with
2 conspiring -- that is, criminal agreement -- to bomb
that
3 building; that the charges included, then, that they
carried
4 out such a bombing and resulting in deaths and injuries
and the
5 destruction of the building. And then also among the
charges
6 were eight charges of premeditated murder of law
enforcement
7 agents of the agencies of the government who were in
the
8 building.

9 And that both defendants named pleaded not
guilty,
10 thereby creating the reasons for a trial, requiring the
11 Government to prove these charges; that the case was
then moved
12 from Oklahoma City here to Denver because of concerns
about the
13 community was so impacted by this that it would be
difficult to
14 get jurors there who would be fair-minded and
objective.

15 And then in addition to moving the case to
Denver, an
16 order was entered separating the defendants for trial.
I mean
17 I entered that order, that because I determined that
each of
18 them -- the evidence may be so different with respect
to each

evidence 19 of them that they should be judged separately and that
at 20 should be judged separately with different juries and
for 21 different times and that as a result of that separation
it 22 trial, there has been a trial here of the evidence as
found that 23 relates to Mr. McVeigh and that a jury in his case
doubt 24 evidence sufficient to satisfy them beyond a reasonable
was a 25 that he was guilty of those charges. And then there

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and the 1 further hearing, a sentencing hearing, with that jury;
the 2 jury also came back with a recommendation of death as
3 punishment.

the 4 I also explained to you and the others that
case with 5 outcome of that case and in fact nothing about that
trial of 6 respect to Mr. McVeigh could be considered now in the
reason for 7 Mr. Nichols, because that would violate the whole
8 separate trials. And, you know, I presided at that

trial. I

9 know what the evidence was at that trial, but I don't
know what
10 the evidence is going to be in this trial, and neither,
really,
11 does anybody else. These lawyers have an idea what
they're
12 going to offer, but how it's actually going to come in
has a
13 lot to do with the trial process, with both sides
participating
14 and me.

15 So we are truly looking at the case now anew
without
16 these other things being -- you know, we can't consider
what
17 happened in the McVeigh case; and indeed there's also
been a
18 lot of publicity concerning all of this, beginning with
the
19 explosion itself, and those things have to be put aside
by a
20 jury in deciding, you know, does the evidence show
guilt.

21 Now, I explained a little about fundamental
principles
22 of the justice system in the United States, what's
required
23 under the Constitution of the United States; that any
person
24 charged with a crime, no matter who that person is or
what that
25 crime is or indeed in what court it is in the United

States, is

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innocence 1 presumed to be innocent. And that presumption of
an 2 carries throughout the trial, entitles that person to
come in 3 acquittal, a not guilty verdict, unless the prosecutors
the 4 with evidence that satisfies the jury, considering only
the 5 evidence and the law as is given in the instructions of
crimes 6 court that the defendant has been shown guilty of the
law 7 charged beyond a reasonable doubt. In other words, our
obligation to 8 says that no person charged has any duty or any
9 come in and prove himself not guilty or indeed to prove
himself to 10 anything at his trial or to offer any witnesses or
or in 11 testify. No person charged is required to be a witness
12 any way explain himself or herself to a jury or to the
court.
13 Understand these points?
14 A. Yes.
15 Q. So what that means is that Mr. Nichols sits with us
this

16 morning presumed to be innocent of the charges that
have been
17 made against him, and the jury has to hear and consider
the
18 evidence; and the jury cannot find him guilty, just as
any
19 defendant, unless they're persuaded that what they
heard and
20 saw at the trial showed guilt beyond a reasonable
doubt. All
21 jurors have to agree to this as to the unanimous
verdict of 12
22 jurors.

23 And indeed, to put it another way, if after
hearing it
24 all the jury has a reasonable doubt about whether the
evidence
25 shows guilt, then they must give Mr. Nichols, as they
would any

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1 defendant, the benefit of that doubt and find him not
guilty.

2 Do you understand that?

3 A. Yes.

4 Q. Now, do you have any hesitation to accept that as
5 principles of the law?

6 A. I know it has to be done, but I really have
difficulty

7 placing myself in the role of making judgment.

8 Q. Now, we're not talking about the punishment aspect
of this,

9 you understand; we're simply now talking about finding
whether

10 the evidence supports the charges, whether guilt has
been

11 proved and, if not, giving the defendant the benefit of
the

12 doubt that I've described as is required under our

13 Constitution. Tell us now your position on that.

14 A. I would -- I know I would always be giving the
benefit of

15 the doubt, and I would have to be a hundred percent
sure in my

16 mind, and that's I guess what you're asking for.

17 Q. Yeah.

18 A. And it seems like the only way I can know that is
if I have

19 actually witnessed what has happened or the person who
is

20 responsible for doing the act admits that they did do
it or

21 didn't do it and I could believe that. And I guess I
feel like

22 I need to have some relationship with that individual
to know

23 how much I can rely upon their honest word being
spoken.

24 Q. Suppose the case did not involve the death of
people.

25 Suppose that it -- the case involved some other kind of
crime,

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1 burglary. You talked about your church group has
sponsored
2 these programs to bring the victim and the perpetrator
3 together. If this were a burglary trial or you were
sitting --
4 asked to sit in judgment of whether somebody -- the
evidence
5 showed somebody broke and entered somebody's house,
could you
6 do that?
7 A. Again, in the setting such as VORP does, I would be
able to
8 because I think I would feel that both parties were
really
9 being honest and trying to work it out.
10 Q. But we're not talking about such a setting. We're
talking
11 about this setting and the question of, you know, the
defendant
12 says he's not guilty. I'm talking now about this
hypothetical
13 burglary case. The defendant says I'm not guilty, and
the
14 prosecutor says that, well, we're going to prove that
he is,
15 and so they bring in evidence, you know, circumstantial

and 16 evidence. Nobody saw it happen, but the evidence is --
things 17 nobody saw him do it. And the evidence is, you know,
shards of 18 like the window is broken in and, you know, there are
making it up, 19 glass on his sweater or something like that. I'm
20 you understand?
myself to 21 A. Right. And I really I guess have tried to train
22 not be judgmental. I suppose a lot of it comes from my
you just 23 background as a teacher where we try to . . . I mean
really 24 can't say that a child has done something unless you've
hard time 25 seen it or the child has admitted it. And I have a

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me to 1 separating that part of my life from what you're asking
2 do now.
3 Q. How did you handle discipline problems when some
the 4 third-grader comes to you and said, "He hit me out in
hurt," 5 playground, and I got a black eye, and, you know, I'm
6 and he points to another one and said, "This is the boy

who hit

7 me"? Or maybe we ought to say, "This is the girl."

bring 8 A. I would try to get the children -- I mean I would

also 9 them together, just the two of them and myself, and I

listen to 10 would try to have each of them speak. They had to

side of 11 each other and couldn't interrupt, and each told their

some 12 the story; and then once that was out and if there were

how are we 13 discrepancies, I would point that out and say, "Now,

an ivory 14 going to handle this?" And, you know, I'm probably in

work out 15 tower, but it seems that children really do want to

respect 16 their problems. And you have to have a great deal of

for the 17 for the children, and I think the children need respect

you can 18 individual that -- such as their teacher; and hopefully

19 get that respect across to the children for each other.

20 Q. Okay.

don't 21 A. So I really never did feel that I had to . . . I

they 22 know, I just wouldn't put myself in that place. And

the 23 always, then, would come up with what the discipline or

24 logical consequence would be.

25 Q. Well, so getting back to now being a juror at a
trial and

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1 hearing evidence -- and nobody, you know, can ask a
defendant

2 at trial to enter into the kind of process you're
talking

3 about. Process in court's much different, and it has
to be

4 proved by evidence. Are you able to do that, to sit in

5 judgment about whether the evidence shows somebody to
be guilty

6 of what he's charged with?

7 A. I have never had to do it, and I don't know. It
just -- it

8 feels very uncomfortable for me. I don't know. I
would like

9 not to be put in that situation because it does not
really feel

10 like the thing I should be doing. I really have
problems of

11 placing judgment on other people. It probably comes
from, you

12 know, my background, the way I've been trained, too. I
don't

13 know.

14 Q. We're not attacking your views here. We're just
asking you

15 to give them to us straight out. And, you know,
nobody's going
16 to judge you here and say anything about your answers.
We just
17 want your answers.
18 Now, let's go ahead with the second aspect of
it
19 because, just as I've explained as to what happened in
the
20 McVeigh trial, the jury -- in the event of a guilty
verdict,
21 all the jurors are convinced that the defendant, in a
case that
22 involves the question of capital punishment did the
crime, then
23 there's another hearing to determine what punishment
should be
24 imposed. In other kinds of cases, cases not involving
the
25 issue of the death penalty, the judge does that, and
the jury,

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1 having reached its verdict, their duties have been
fulfilled,
2 whether it's not guilty or guilty.
3 But if it's guilty, then a judge hears more
about the
4 case, circumstances of the crime, a lot about the human
being

5 who has been found guilty and things about him or her
as a
6 human being, some of the things like we've asked you
about, you
7 know, your background and that person's life history,
really,
8 everything that has happened in that person's life and
the
9 things that that person has done and then hears from
both
10 sides, the prosecution and the defense, and makes a
judgment
11 individual to that person. And that's the sentence,
and it's a
12 very individualized judgment.

13 Now, where the issue -- and we're talking
about
14 federal law now, being in Federal Court, because there
are
15 differences in the states. Under federal law, for
certain
16 kinds of crimes, including murder, then the law says
that this
17 person could be put in prison for life without ever
being
18 released, could be put to death, or there can be a
lesser
19 sentence than either of those. The life-or-death
question is
20 up to a jury, the same jury that decided guilty or not
guilty.
21 And if that jury decides guilty, then they're called
upon to

22 hear more, much in the manner as I have explained with
respect
23 to the judge in judge sentencing, and that more is
provided in
24 a second hearing that's just like a trial: Prosecution
comes
25 in with information thought to support death as a
justified

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Juror No. 82 – Voir Dire

1 punishment. Defense comes in with this information
about the
2 defendant as a human being, these same kinds of things
so that
3 the jury gets to know this as this person and
everything about
4 him that could relate to his life and the value of it.
And
5 then the court gives instructions as to how the jury
may
6 consider these things, aggravating factors that may
support a
7 sentence to death, mitigating factors that support the
view
8 that death is not justified for this person regardless
of the
9 crime. And then it's up to the jury to decide. The
court asks
10 certain questions in writing to help the jury analyze
what has

11 been heard, but there's no formula for it. It's a
moral
12 judgment to be made by each individual juror as to
whether a
13 particular person should live or die.

14 What is your view of your ability to make that
15 decision?

16 A. I would not be able to make a decision for the
death, and I
17 do feel that there are people that are dangerous to the
18 community and we need to look out for the other
citizens. They
19 need to -- probably at that point would be prison or --
for
20 life. But I would not be able to justify death.

21 Q. So that -- well, you know, there's debate in
Colorado today
22 about a death sentence that was in a state court.
You're aware
23 of that?

24 A. Yes, I am.

25 Q. And there is indeed a man who is sentenced to --
has been

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1 sentenced to death and it's I guess now expected to be
carried
2 out next week. You've seen the news about differing
opinions

3 about that, I take it?

4 A. Yes.

5 Q. I guess one way to ask this question -- and of
course you

6 don't know what the evidence was in that case. But
insofar as

7 you know about it, could you have sentenced --
participated in

8 the jury sentencing him to death?

9 A. No, I do not believe I could.

10 Q. So would it be fair to us to understand your view
that it

11 doesn't make any difference about how bad it all was,
you don't

12 believe in putting a person -- you know, involving your
13 decision, putting a person to death as punishment? Is
that

14 what you're telling us?

15 A. Yes. I could not do that.

16 THE COURT: Okay. Well, we appreciate your
coming

17 forth with these views and telling us.

18 Any questions from the Government?

19 MR. RYAN: No, your Honor.

20 THE COURT: Any from defense?

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

22 THE COURT: Mr. Woods.

23 VOIR DIRE EXAMINATION

24 BY MR. WOODS:

25 Q. Good morning.

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Juror No. 82 – Voir Dire

1 A. Good morning. As the Judge introduced me, my name
is Ron
2 Woods. I'm one of the attorneys that was appointed by
another
3 court in Oklahoma, along with Mike Tigar, to represent
Terry
4 Nichols, who stands accused of these crimes that you
just heard
5 about from the Judge.

6 Would you hold it against Terry Nichols that
he did
7 not have money to afford an attorney and that the court
asked
8 Mr. Tigar and myself to aid and assist him in this
case?

9 A. No, I would not.

10 Q. Okay. Does it seem strange to you that there's all
this
11 discussion about punishment before we've even had a
trial?

12 A. No.

13 Q. Okay. Let me state right up front that we do not
concede
14 that there will be a punishment hearing in this case.
The

15 Government has a theory that Mr. Nichols was
responsible for
16 that bombing, and we challenge that theory. We don't
agree
17 with it. When the Government puts on the witnesses to
prove up
18 their theory, we will challenge and cross-examine each
of those
19 witnesses thoroughly to show that we do not agree with
that
20 theory. After they put on all of their witnesses, we
will call
21 a number of witnesses that will likewise challenge that
theory
22 of Mr. Nichols' involvement. So I wanted to make clear
to you
23 that merely because there is a discussion here about
the
24 punishment stage, we don't feel we'll ever get to that
stage.
25 Is that something that you can accept?

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Juror No. 82 - Voir Dire

1 A. Yes, I can. But there's also a 50-50 chance that
that
2 would not be the way it would go.
3 Q. All right.
4 A. And that the punishment would be part of it.
5 Q. All right. And what do you base that statement on,
the

6 50-50 chance?

7 A. Well, I just feel like, you know, you have your
chance to

8 say your side and the other side has their chance, and
the

9 evidence that's presented would probably be very -- try
to be

10 very persuasive on both sides.

11 Q. Right. Now, you indicate in your questionnaire on
page 33,

12 Question 144, that you've read and watched television,
looked

13 at magazines, had conversations, and heard other people
discuss

14 the case. Is that correct?

15 A. Yes. I did, earlier.

16 Q. And you also indicate -- indicated at the next
question

17 where it asked, "What is the extent of your reading and
hearing

18 about this case?" -- and you checked off, "Quite a
bit"; is

19 that correct?

20 A. Uh-huh.

21 Q. Have you formed an opinion based on all of the
information

22 you've seen, read, or heard over the past two and a
half

23 years -- have you formed an opinion about this case?

24 A. You mean about individuals or about the case? I
know that

about 25 the case happened, but I haven't formed any opinions

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Juror No. 82 - Voir Dire

1 individuals.

2 Q. All right. On page -- I believe it's 37. The
3 questionnaire asked, "Please summarize what you've
seen, read,
4 or heard about Terry Nichols."

5 And you stated that "He's had marriage
difficulties,
6 seems like a follower who hasn't made good decisions
for
7 himself."

8 First off, what marriage difficulties are you
speaking
9 of?

10 A. Well, I guess I was just thinking that he's been --
I think
11 been married a couple of times, and somehow this second
12 marriage I think wasn't going well at the time of the
bombing
13 or whatever. Seemed like he was out of the country or
I don't
14 remember. There was just something -- or she was,
maybe.

15 Q. And that's based on what you've seen, read, or
heard over

16 the past two and a half years?

17 A. Yes.

18 Q. All right. Are you aware that he -- at the time of
this

19 occasion, that he was married and had a child, based on
what

20 you've seen, read, or heard?

21 A. I knew he was married, but I wasn't aware of
children.

22 Q. All right. And you said that he'd been married a
couple of

23 times. How many times is it that he's been married, as
to your

24 recollection?

25 A. I thought twice.

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Juror No. 82 - Voir Dire

1 Q. All right.

2 A. That he's currently married the second time.

3 Q. Yes, ma'am. And then you said that he seems like a
4 follower. What do you mean there?

5 A. I think that's -- that's a judgment statement on my
part,

6 just in the way that I have seen him when he was shown
on

7 television. But that's -- I really don't have any
other

8 background for that.

9 Q. Just a visual image --

10 A. Yeah.

11 Q. -- on television?

12 A. I guess.

13 Q. As a follower following someone on television, or
what do

14 you mean by that?

15 A. No, I don't know. He doesn't -- when I first saw
him, he

16 didn't seem like a person who had a lot of self-
confidence and

17 just -- I don't -- it was a demeanor part on what I saw
in his

18 face.

19 Q. All right. And then the last one, a person who
hasn't made

20 good decisions for himself, what are you referring to
there?

21 A. I think I was thinking of some of the things that
happened

22 early when he was -- there was something about him and
his

23 brother being involved with Timothy McVeigh and
something on

24 the farm. But it just -- there were parts of it that
didn't

25 feel like he was at the right place at the right time
or if he

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1 was aware of some of these problems. I guess I would
have been

2 a little more careful of who I would have been with or
where I

3 would have been.

4 Q. And you're speaking there, I assume, the fact that
he knew

5 Tim McVeigh?

6 A. Yes.

7 Q. From what you've seen, read, or heard over the past
two and

8 a half years, do you remember where Mr. Nichols was at
the time

9 of the bombing?

10 A. No.

11 Q. Do you remember how he initiated contact with the
federal

12 authorities after the bombing?

13 A. No.

14 Q. But back to your statement as to our contesting the
guilt

15 or innocence, and your statement is it's a 50-50
chance; is

16 that correct?

17 A. Yes.

18 Q. Okay. And if that 50 -- if you were on a jury and
that

19 50-50 chance went against the defendant, then you would
be in a

20 punishment stage -- do you understand the way the Judge
21 explained that -- in a capital murder case; not this
one, but a
22 capital murder case?

23 A. Yes, I do, uh-huh.

24 Q. And he asked you questions about your ability to
follow the
25 Court's instructions along those lines. You recall
that?

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Juror No. 82 - Voir Dire

1 A. Yes.

2 Q. Okay. Now, on page 1 -- let's see, it's Question
129, and
3 that's on page 30. The questionnaire stated, "Do you
agree or
4 disagree that it's important to follow this court's
5 instructions?"

6 And you checked off "Agree strongly."

7 Is that your position at this time?

8 A. I think I was thinking that that just meant that I
needed
9 to be where I'm supposed to be and follow through that
way.

10 Q. Okay.

11 A. But not in light of what you just mentioned.

12 Q. All right. How would you check it off now?

13 A. It would be one of the disagrees.

14 Q. All right. Let me state to you up front that in a
death
15 penalty case, the law does not require that the jury
has to
16 return the death penalty. Do you understand that?

17 A. Yes.

18 Q. Okay. The only requirement is that if a jury finds
a
19 defendant guilty of a capital murder offense, that they
be able
20 to look at the evidence that is presented to them in
the second
21 stage of the trial and consider both a life
imprisonment
22 sentence and a death penalty sentence. Do you
understand that?

23 A. Yes.

24 Q. Now, in one of the answers you gave on the
questionnaire --
25 and I would like to discuss that. It's on page 27,
rule --

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1 Question No. 122. The question is, "The Constitution
says that
2 everyone is entitled to their own political and
religious
3 opinions no matter how unpopular those opinions may be.

How do

4 you feel about this?"

5 And can you read me your answer there.

6 A. I said, "In theory I believe this is true, but in
reality

7 it is difficult for me to embrace since we were told to
put God

8 first and then to give to Caesar what we owe him,
Caesar being

9 the government."

10 Q. Okay. Now, what is it that you feel that the
citizens owe

11 to the government?

12 A. Personally I feel that I need to pay taxes and I
need to be

13 law-abiding and be what I -- I guess I feel that if I
take my

14 faith strongly, I will be a good citizen. But I don't
know how

15 this all fits in with fitting on a jury -- I mean
sitting in on

16 a jury.

17 Q. All right. And basically what you're saying is if
you were

18 chosen on a jury, that as -- I understood you to say
that

19 "Sitting in judgment of someone makes me feel
uncomfortable" --

20 A. Uh-huh.

21 Q. Is it such an uncomfort that you would not be able
to even

or 22 sit on a jury to determine the first question of guilt
23 innocence?
not ever 24 A. I think it would be very difficult for me. I've
25 been on a jury, so, you know, I don't have any
background.

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Juror No. 82 - Voir Dire

1 Q. Okay. Would you agree with the statement that it's
called to 2 probably not very comfortable for anybody that gets
3 sit on a jury and sit in judgment of someone?

4 A. I think that's probably true, although I have heard
some 5 people who say that they really, you know, wish that
they could 6 be doing -- doing that.

7 Q. Okay. Would you agree that for a defendant to
receive a 8 fair trial, that it's essential that he be able to draw
on the 9 jury from a wide spectrum of the people in the
community where 10 the trial's being held?

11 MR. MACKEY: Objection.

12 JUROR: Yes.

13 THE COURT: Sustained.

14 BY MR. WOODS:

15 Q. And in that wide spectrum --

16 THE COURT: I sustained the objection.

17 MR. WOODS: Yes, your Honor.

18 BY MR. WOODS:

19 Q. What statements did you hear from people who served
on a

20 jury that they enjoyed it? Was it the fact of making
the

21 decision, or was it the fact of seeing the system in
operation?

22 A. I haven't really gone into this with people; but I
think

23 for many of them, it's just to see how the jury system
works.

24 Q. And is it your position, then, that you would not
sit on a

25 jury in judgment of someone on the guilt-or-innocence
stage?

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Juror No. 82 - Voir Dire

1 A. Would you please repeat?

2 Q. Yes. Is it your position that because of your
beliefs that

3 you would not be able to sit on a jury at the guilt-or-

4 innocence stage in determining the guilt or innocence
of

5 someone?

6 A. That's right.

7 Q. Okay. And then I take it, certainly from what
you're

8 telling me, you wouldn't be able to make a decision on
9 punishment, because of your beliefs?

10 A. No. I would not be able to.

11 MR. WOODS: Okay. That's fairly clear. Thank
you
12 very much, ma'am.

13 THE COURT: We do appreciate your coming in
and
14 responding to these questions, and we'll get back to
you with

15 respect to your status and advise you of it --

16 JUROR: Thank you.

17 THE COURT: -- as soon as we can. You're now
excused.

18 JUROR: Thank you.

19 THE COURT: Please don't talk about it with
other
20 people, you know, on this process. We appreciate your
doing

21 that.

22 JUROR: Thank you.

23 THE COURT: All right. Let's see. 817.

24 I should mention to you that I think the
signal is

25 down again.

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1 817. 817, yes.

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

4 (Juror No. 817 affirmed.)

5 THE COURTROOM DEPUTY: Thank you.

6 THE COURT: If you'll please be seated there
in the
7 chair by the microphone. And you can adjust that to
the
8 microphone as you choose. You don't have to look right
in the
9 microphone. And talk anywhere near. We ought to be
able to
10 pick it up -- pick you up.

11 VOIR DIRE EXAMINATION

12 BY THE COURT:

13 Q. You understand, of course, that that oath refers to
the
14 case now on trial. It refers to a trial of United
States --
15 case, United States against Terry Lynn Nichols?

16 A. Yes.

17 Q. And you knew that before, obviously, when you got a
summons
18 from this court identifying that the trial that you'd
been

19 summoned as a possible jury for -- juror for and a
little
20 questionnaire asking you to send back some information
about
21 you. You remember doing that?
22 A. Yes, I do.
23 Q. And then you remember getting another
communication, a
24 letter advising you to come out to the Jefferson County
25 Fairgrounds on the 17th of September; and you did,
along with a

2211

Juror No. 817 - Voir Dire

1 lot of other people.
2 A. Yes.
3 Q. And at that time I appeared there and had some
people with
4 me, and I introduced them. And I'm going to do that
again,
5 because we want you to know who's here with us this
morning.
6 And I introduced at that time Mr. Lawrence
Mackey --
7 and he's here again, right in front of you at this
first
8 table -- and Miss Beth Wilkinson as attorneys for the
9 Government. They're joined now by Mr. Patrick Ryan and
10 Mr. Geoffrey Mearns as additional lawyers for the
Government.

11 You also met Mr. Michael Tigar and Mr. Ronald
Woods,
12 attorneys for Mr. Terry Nichols; and Mr. Nichols as
well.

13 And then after these introductions were made
out
14 there, I explained to you and to the others something
about the
15 background of the case, talking about the fact that an
16 explosion occurred in federal building in Oklahoma
City,
17 Oklahoma, on the 19th of April of 1995. Do you recall
that?

18 A. Yes, I do.

19 Q. And I explained that -- and this is something you
knew
20 about, I'm sure, before hearing it from me, that there
had been
21 such an explosion, people were killed and injured who
were in
22 the building; and then that the Government filed
charges in a
23 court in Oklahoma City, Federal Court there, charging a
man
24 named Timothy James McVeigh, along with Terry Lynn
Nichols --
25 and then the charge says "and other persons not named"
-- with

1 a conspiracy and agreement or plan to blow up that
building and
2 to kill and injure people in it and that in the
indictment,
3 there are also charges that they went ahead and did it
and
4 that -- and intended to do it and that there was the --
that
5 they were also charged with the premeditated murder of
eight
6 law enforcement agents of the federal government who
were
7 occupying the building at the time that it was
destroyed. You
8 understand that.

9 A. Yes, I do.

10 Q. Then as I explained, the case was moved from
Oklahoma City,
11 where it was filed, here to Denver and that the reason
for the
12 move was of a concern about because it happened in
Oklahoma
13 City, it would be difficult to get a jury, a fair-
minded jury
14 there, and that case was brought over here for trial.
And then
15 after it was brought over here, I entered an order
separating
16 the defendants -- the named defendants for trial so
that
17 Mr. McVeigh would be tried separately from Mr. Nichols
because

18 the evidence would be different and each -- each man
should
19 have the case with respect to him judged separately,
and we did
20 that.

21 And then the trial of the evidence relating to
22 Mr. McVeigh was held here and a jury was selected, the
case was
23 presented, and the jury found Mr. McVeigh guilty. And
then
24 there was a second trial or long hearing about the
penalty, and
25 the jury returned -- after hearing a lot more, returned
a

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1 recommendation for the death penalty, and he's been
sentenced.

2 You understand that?

3 A. Yes, I do.

4 Q. All right. And then I said words to the effect
that, look,

5 what happened in -- with the jury's decision in the
trial of

6 Timothy McVeigh cannot be considered now with respect
to

7 Mr. Nichols, this is a separate trial, we start over
and on a

8 clean slate, as it were. And so we're picking a jury
to decide

of this 9 this case; and this case should not be -- the outcome
have 10 case should not be considered to be foreshadowed by or
the 11 anything to do with the outcome -- or the outcome of
Do you 12 McVeigh case should have nothing to do with this case.
13 understand that?
14 A. Yes, I do.
on a 15 Q. Now, you've never been through a jury -- never been
16 jury before, have you?
17 A. No, I haven't.
explained 18 Q. And most of the people there hadn't, and so I
before we 19 some more things that are important to understand
are 20 even start talking about a particular case; and these
cases, 21 principles of the law that apply across the board, all
courts, 22 under the United States Constitution. So in all of our
that 23 no matter who the defendant is or what the charges are,
innocence; that 24 person starts the trial with a presumption of
been 25 is, that he or she is not guilty of whatever they've

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1 charged with. And no person who is accused in a
criminal court
2 in this country has any burden or duty of proving
himself or
3 herself to be not guilty. They don't have to prove
anything or
4 explain anything. No person who is a defendant has to
take the
5 witness stand and answer any questions or give any
explanations
6 or call any other witnesses. Do you understand that
principle?
7 A. Yes, I do.
8 Q. So what the law says is, look, whatever government
has
9 filed this charge -- and, you know, I'm talking about
whether
10 it's a national government, Department of Justice, or
the state
11 or the county, whoever it is -- you better come in with
the
12 evidence; and if your evidence doesn't prove guilt
beyond a
13 reasonable doubt, the defendant is going to be found
not
14 guilty. So it's up to the prosecution to bring in the
15 witnesses and the exhibit and whatever's relied on to
support
16 what it says are the charges.

the 12 17 And a jury -- the jury selected in the case,
18 people hearing the case, have to limit their
consideration of
19 the evidence to the evidence, what is presented in
court.
20 Anything they've seen or read or heard outside has to
be put
21 aside. And so they have to focus just on the evidence
and then
22 follow the law and the instructions of the court about
the law
23 which will explain what has to be proved in detail for
each of
24 the charges and then decide -- those jurors decide
whether the
25 evidence proves the crime beyond a reasonable doubt.
Put it

2215

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heard 1 another way, unless all 12 jurors agree that what they
2 and saw shows the defendant guilty beyond a reasonable
doubt,
3 they have to find him not guilty. Do you understand
that?
4 A. Yes, I do.
5 Q. And, you know, to put it a different way, and it's
a phrase
6 often used, you give the benefit of any reasonable
doubt to the

7 defendant. That's the law. Now, do you understand
that?

8 A. Yes, I do.

9 Q. And do you accept that as principles that you agree
to

10 follow?

11 A. Yes.

12 Q. And would if you were selected as a juror for this
trial,

13 would you?

14 A. Yes.

15 Q. Now, we then, after all these explanations that I
gave

16 you -- and I don't want to suggest to you that I think
you

17 don't remember what was said, but I have to go over it
with you

18 just to be sure; and it makes sort of a foundation for
the

19 questions that we will ask you. That's why I did it.

20 Then we gave you a written questionnaire with
a lot of

21 questions. You went through it carefully and answered
all

22 these questions. And then as I told you we would do,
we have

23 taken your answers, I've shared it with these lawyers
here, the

24 people who are participating in this process, but not
with

25 anybody else. So these answers are personal, and some

of these

2216

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1 things are private; and we respect your privacy, and
we'll try
2 to do all we can to protect your privacy. But as a
part of
3 that, of course, there are some things that we need to
ask you
4 here in open court. And your answers now and what I
say and
5 what you say and anybody else says here is public. You
6 understand that?

7 A. Yes.

8 Q. But we're not going to use your name, and we
arranged for
9 you to come and go to the courthouse without anybody
taking
10 your picture or anything like that. All those
arrangements are

11 just so that we can protect you as much as possible
with
12 respect to your personal life. Okay?

13 A. Okay.

14 Q. Now, I'm going to ask you a few questions; and as I
ask
15 these questions, I'll be careful sometimes to not say
things
16 that maybe somebody would identify you by. So you also

can be

17 careful in your answers in that regard.

18 A. Okay.

19 Q. I don't mean to suggest you got anything to hide,
you

20 understand, but I just want to have you and I
understand the

21 process.

22 We're not going to ask you all these questions
over

23 again. Don't worry about that.

24 A. Okay.

25 Q. But there are a few things that we'd ask for some
more

2217

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1 details about, some explanation about; and then I've
got some

2 additional questions, and then a lawyer for each side
will have

3 a chance to ask you some more. So bear with us as we
do this.

4 I'm sure you understand the importance of it, because
this is

5 an essential part of every trial, to make sure the
trial is

6 fair and that the people who decide the case are fair.

7 Now, there are no right or wrong answers here.
You

8 know, it's not a test. This is just getting
information from

9 you; and to the extent that we're asking for your
opinions,

10 it's up to you to answer what you believe, what your
opinions

11 are, not to try to please any of us; okay?

12 A. Okay.

13 Q. Now, you were born here in Denver.

14 A. Yes.

15 Q. And you've remained in Denver in your life so far.
You've

16 lived here since you were born; is that right?

17 A. No.

18 Q. Okay. When were you gone?

19 A. When I turned, maybe about -- I left a month, a
month old.

20 Q. Oh, yes. That's right. Your family went to
Sacramento, I

21 guess.

22 A. Yes.

23 Q. Okay. I got you mixed up with somebody else. I
apologize.

24 Well, you don't remember when you moved to Sacramento;
but you

25 lived there, I guess, through a number of your growing-
up

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1 years?

2 A. Yes.

3 Q. And were you there with your family?

4 A. Yes.

5 Q. And then you went to Fort Worth --

6 A. Yes.

7 Q. -- Texas, for a couple of years. And then you came
to

8 Colorado again?

9 A. Yes.

10 Q. All right. Now I've got it straight.

11 I want to ask you something about a question
that is

12 somewhat sensitive, on page 3. You've got your
questionnaire

13 there; right?

14 A. Yes.

15 Q. Okay. Would you turn to page 3, and the question
is at

16 No. 11. And you answered yes. And then I think if we
go over

17 to page 23 and Question 104 at the bottom of the page.

18 A. Uh-huh.

19 Q. Are these connected answers, these . . . ? This
relates to

20 the death of an infant; right?

21 A. Yes.

about, 22 Q. Now, so, the yes answer on 11 is -- are we talking
event? 23 are you talking about the same thing as on 104, same
24 A. Are you asking me if one of these people?
25 Q. Pardon me?

2219

Juror No. 817 - Voir Dire

1 A. Are you asking me if one of these persons?
being 2 Q. No, I'm not asking you about the persons. I'm
carefully to 3 careful in what I ask you here, and please listen
interviewed, as 4 the question. I'm just asking: When you were
5 you say here -- right?
6 A. Uh-huh.
what you 7 Q. Are we talking about an interview that relates to
8 answered on 11, the same -- the same baby?
9 A. Yes.
probably, and 10 Q. Okay. And this is a painful subject for you
11 I would understand that. But how old was this child?
12 A. Seven months.
13 Q. And what relationship to you?
14 A. Just a close friend. Close -- yeah.

15 Q. Family friend?

16 A. Yes.

17 Q. How old were you at the time?

18 A. 23.

19 Q. And was -- where were you living then? Well,
you're here;

20 right?

21 A. Yes.

22 Q. So it wasn't very long ago?

23 A. No.

24 Q. Now, was there an inquiry, then, and it included
somebody

25 asking questions of you as to what you knew about how
this

2220

Juror No. 817 - Voir Dire

1 child, baby died? Was it that kind of thing?

2 A. No.

3 Q. Can you tell us about it a little, without
revealing the

4 names of the people?

5 A. Yes.

6 Q. Go ahead.

7 A. The baby was in foster care.

8 Q. Uh-huh.

her 9 A. And while the baby was sleep, it died. She died in

10 sleep.

11 Q. Now, sometimes there's what's called SIDS, or
sudden infant

12 death syndrome. Have you heard that?

13 A. Yes.

14 Q. Was that mentioned in connection with this death?

15 A. No.

16 Q. Well, did somebody suggest that somebody harmed the
child?

17 A. Yes.

18 Q. In the foster care home?

19 A. Yes.

20 Q. Did you have any information to give on that?

21 A. No.

22 Q. And was the little one in a foster home because of
some

23 problem with his or her parents --

24 A. Yes.

25 Q. -- abusing her? Was it a boy, or girl?

2221

Juror No. 817 - Voir Dire

1 A. It was a girl.

2 Q. And some suggestion that one or both parents or
somebody

the child 3 was abusing the child; so they put it -- the law put

4 in a foster home. Is that the kind of thing it was?

5 A. No, not the parents.

6 Q. A relative?

7 A. No.

8 Q. Somebody living in the household?

9 A. No.

10 Q. Well, tell us -- I don't want to --

11 A. The child was abused while he was in foster care.

12 Q. I see. But I was asking how the child got to
foster care?

13 A. Because of the parents were in -- was incarcerated.

14 Q. Okay. Well, is this something that hit you pretty
hard

15 emotionally?

16 A. In somewhat, but, no.

17 Q. How close were you to the parents?

18 A. Maybe about -- know them maybe about a year.

19 Q. You knew them a year?

20 A. Yes.

21 Q. Real close friends?

22 A. Yes.

23 Q. Well, I -- you know, the importance of asking these
24 questions, I'll just come to it -- is there anything
about that

25 whole experience and the way you see in which the law,
so to

2222

Juror No. 817 - Voir Dire

child in 1 speak, that handled it by first of all putting this
the 2 foster care and then what happened in foster care and
ability to 3 death -- any of these things you think affect your
4 be a fair juror?

5 A. No.

negative view 6 Q. I mean, did you come away from that with some
social 7 of the police, if the police were involved, or the
8 welfare office, or somebody?

9 A. No.

no 10 Q. All right. So, you know, what I hear you saying is
you're 11 relationship of any of that to your focus here is what
12 saying.

13 A. Yes.

-- you 14 Q. Don't let me put words in your mouth. If I don't
I'm 15 know, if I don't say what you mean, you tell me, 'cause
answers. 16 just trying to help us move along by suggesting

17 A. Okay.

18 Q. All right. Now, with respect to your employment,
if we

19 would turn, please, to page 9. And I'm not using names
here,

20 but as I understand it, you are now working and have
been for

21 the last couple years as a teacher's aide?

22 A. Yes.

23 Q. And what kinds of -- is this a children's program?

24 A. Yes.

25 Q. And how old are they, the children you work with?

2223

Juror No. 817 - Voir Dire

1 A. From the age six weeks to 11 years old.

2 Q. And do the parents of the children pay to go, for
them to

3 go to this place?

4 A. Yes.

5 Q. And why aren't they in a public school? Is this
just a

6 private school and does ordinary schooling, or is there
7 something special?

8 A. It's a day care.

9 Q. All right. So the children who are school-age go
to school

10 and then come there, and you take care of them -- you

and the

11 others, in the non-school hours, before or after
school?

12 A. Yes.

13 Q. Okay. Now I understand. Thank you.

14 You also have a part-time -- now, is that a
part-time

15 job, or is that your regular job?

16 A. It's a part-time job. Well, I'm no longer employed
there.

17 Q. Oh. You were when you answered the questionnaire,
but

18 you're not now; is that --

19 A. Correct. As of tomorrow.

20 Q. Okay. And does getting a jury summons have
anything to do

21 with that?

22 A. No.

23 Q. So are we now, then, saying that your job is this
phone

24 marketing job?

25 A. Yes.

2224

Juror No. 817 - Voir Dire

1 Q. And where do you do that from? Do you go to a
phone bank,

2 or do it from home?

3 A. Go to the phone.

4 Q. Place where there are a lot of other people doing
the same

5 thing?

6 A. Yes.

7 Q. How long have you been at that? Couple of months
now?

8 A. Yes.

9 Q. And again, is that part-time?

10 A. Yes, it is.

11 Q. What hours do you work there?

12 A. I work five to ten.

13 Q. In the evening?

14 A. Yes.

15 Q. Have you talked to somebody there about your
getting a jury

16 summons --

17 A. Yes.

18 Q. -- and what it would mean to your job? Have you
talked

19 about that?

20 A. Yes.

21 Q. And what did they tell you?

22 A. That it was okay.

23 Q. Did they say anything about helping you with
finances if

24 you were on the jury and -- or scheduling you at a
different

25 time or something?

2225

Juror No. 817 - Voir Dire

1 A. Yes. I do get paid for it.

2 Q. You do?

3 A. Yes.

4 Q. So you're not worried about losing that job or that
income

5 while you're on the jury; is that what you're saying?

6 A. Yes.

7 Q. 'Cause, you know, we may be here nine to five, if
you were

8 on this jury, nine to five for several months --

9 A. Yes.

10 Q. -- Monday through Friday. Okay.

11 Now, are you also going to school?

12 A. No.

13 Q. You'd like to go and complete, I guess, a course in
14 criminal justice that you mention on page 7.

15 A. Yes.

16 Q. And you mention a particular place that you would
like to

17 go to do that.

18 A. Yes.

19 Q. Do you have -- have you had some experience with
this

20 college, university?

21 A. No.

22 Q. Why is it that you would like to study criminal
justice at

23 that particular school?

24 A. Just to get away from home.

25 Q. Well, when you say "away from home," you're living
by

2226

Juror No. 817 - Voir Dire

1 yourself now, aren't you?

2 A. Yes.

3 Q. So you're talking about getting completely out of
Denver

4 for a while?

5 A. Yes. Just a different change.

6 Q. Okay. Do you have parents here?

7 A. Yes.

8 Q. Living in Denver?

9 A. Yes, I do.

10 Q. And have you talked with them about your jury
summons?

11 A. Yes.

12 Q. And have they given you any suggestions or advice
with

13 respect to it? Now, please understand, there's nothing

wrong

14 with that; I'm just asking you.

15 A. Okay. No.

16 Q. Did you tell them what the case was that you were
summoned

17 for?

18 A. Yes.

19 Q. And did they say, Well, you don't want to do that
-- you

20 know, something like, You don't want to do that, you
can give

21 the judge some answers that will get you excused? Any
22 conversation like that?

23 A. No. My mother just told me to pray.

24 Q. Okay. And your father: Did he give you any
advice?

25 A. He doesn't know.

2227

Juror No. 817 - Voir Dire

1 Q. You didn't talk to him about it?

2 A. No.

3 Q. Are they living together?

4 A. No.

5 Q. Okay. Well, you say on page 8 at Question 38,
something

6 about your interest in constitutional law and, I guess,
your

7 interest in studying the criminal justice system. And
what you
8 say, I guess, is that you'd like to make a difference
in the
9 world and make things more fair for people. Is that
what
10 you're saying?

11 A. Yes.

12 Q. And what do you mean when you say "more fair"? Or
"as fair
13 as possible," I guess you said.

14 A. Because there is so much racism in the world today,
and as

15 far as, you know, the television, the news and
everything,

16 everybody feels that, you know, they're right all the
time; but

17 they're not, and you just have to basically
hear If he

18 wasn't there, then you shouldn't really judge on things
about

19 the situation.

20 Q. Okay. So one of the things is racism.

21 A. Yes.

22 Q. And you feel that racism has affected your life, do
you?

23 A. No, I haven't, myself. No problem.

24 Q. All right. But, in our whole society, you would
like to

25 make things more fair by reducing the amount of racism
you

Juror No. 817 - Voir Dire

1 think exists generally; is that what you're saying?

2 A. Yes.

3 Q. And then the second part of it, I think I heard you
talk

4 about judging fairly.

5 A. Yes.

6 Q. Like what we're doing here. Is that what you mean?

7 A. Yes.

8 Q. And as a part of the criminal justice system.

9 A. Yes.

10 Q. And making sure that things are proved before
somebody

11 decides whether somebody's guilty or not. Is that the
kind of

12 thing you mean?

13 A. Yes.

14 Q. There was a time that you were a witness, I guess.
I'm

15 looking at page 22. If you'll turn to that, please.
And

16 Question 102. And then there's a -- it goes over to
page 103.

17 A. Uh-huh.

18 Q. That's the same thing, isn't it, what you're
talking about

19 at 102 and also at 103?

20 A. Yes.

21 Q. Tell us what -- tell us generally what happened
there.

22 A. One evening, across the hall from -- across the
hall from

23 me, I guess a guy was assaulting his girlfriend; and
they asked

24 them to open up the door, and he wouldn't let his
girlfriend

25 open up the door. So she finally opened up the door,
they

2229

Juror No. 817 - Voir Dire

1 tried to handcuff the gentleman.

2 Q. The police did?

3 A. Yes. And so he bit one of the police officers; and
since I

4 live right across the hall, I can see through my peek
hole, and

5 I see -- when they found that -- they came to my door
and asked

6 did I see anything, and I said, yes, I seen through the
peek

7 hole; and then I was summonsed to go to court.

8 Q. And what was the hearing that you went to, as you

9 understand it? What was the hearing about where you
went in as

10 a witness?
11 A. About if the gentleman had -- if he bit the police
officer.
12 Q. Okay. So he was charged --
13 A. Yes.
14 Q. -- with biting the police officer?
15 A. Yes.
16 Q. Did you see what the police officers did right
after one of
17 them was bitten?
18 A. Yes.
19 Q. What did they do?
20 A. Nothing. Just continued trying to handcuff him.
21 Q. All right. No use of weapons or anything?
22 A. No.
23 Q. Do you think the police handled that situation the
way it
24 should have been handled?
25 A. Yes.

2230

Juror No. 817 - Voir Dire

1 Q. Do you see any, you know -- anything wrong with
what was
2 done there, excepting the man doing the biting?
3 A. No.
4 Q. Did you know this person, the one who was charged?

5 A. No.

6 Q. Do you know the outcome of the case, what happened?

7 A. Yes.

8 Q. What did?

9 A. He was found guilty.

10 Q. And so did you testify at a trial with a jury
sitting there

11 like here and in the jury box?

12 A. No, there wasn't no jury there.

13 Q. No jury. And when you answered questions, lawyers
on each

14 side: Were they there?

15 A. Yes.

16 Q. And so the lawyer for this man asked you some
questions,

17 did he, or she?

18 A. Yes.

19 Q. And were -- did you get upset about the way you
were

20 questioned?

21 A. No.

22 Q. Anything from that experience that you think
carries over

23 to your being a juror now?

24 A. No.

25 Q. Sometimes, you know, in cross-examination of
witnesses,

Juror No. 817 - Voir Dire

1 lawyers ask questions that, to the witness, may sound
like the
2 lawyer's accusing him of lying or distorting the truth
or
3 something. Was there any -- anything like that in how
you were
4 cross-examined?

5 A. No.

6 Q. And that was, what, a year or so ago that you were
a
7 witness?

8 A. Yes.

9 Q. Then if you'll turn, please, to page 24 and
Question 108.
10 This involved you?

11 A. Yes.

12 Q. And this is back in 1992, so you were a teenager at
the
13 time?

14 A. Yes.

15 Q. And what -- I don't want to get into too much
detail, but
16 generally what happened there?

17 A. There was a girl, she was pregnant, and she asked
me to
18 help her to shop and everything.

19 Q. Uh-huh.

20 A. So as we finished shopping and everything, she had
set to
21 the side because the line was so long. And so when I
told her
22 that it was time for her to come up to pay for her
things, when
23 I turned around, she wasn't there, so the police
officer had
24 came up to the -- to the cash register and told me that
I was
25 arrested. So I can't do nothing but stay there. So it
would

2232

Juror No. 817 - Voir Dire

1 comes out to the outcome that the credit card that she
had was
2 stolen, and they thought I was a part of it. So that's
how it
3 kind of went.

4 And then I went to court and everything; and
5 basically, I wasn't really -- they found me not -- I
wasn't not
6 guilty. So I was charged just with a misdemeanor, and
I just
7 did a hundred hours of community service.

8 Q. Did you have a lawyer?

9 A. Yes.

10 Q. And did it come down to an agreement between you

and your

11 lawyer and whoever was the lawyer for the county or the
city?

12 A. Yes.

13 Q. So you didn't contest it; you agreed to a
misdemeanor, you

14 said?

15 A. Yes.

16 Q. Well, as I heard what you said, you didn't do
anything

17 wrong, in your view.

18 A. Correct.

19 Q. And you didn't know anything about what this woman
planned,

20 or if she planned anything, or anything about the
credit card

21 that was used by her. Is that what you're saying?

22 A. Yes.

23 Q. And did she just take off?

24 A. Yes.

25 Q. Have you seen her since?

2233

Juror No. 817 – Voir Dire

1 A. No. But they have her in custody.

2 Q. Oh, she got arrested?

3 A. Yes.

4 Q. How close a friend was she before this incident?
5 A. I didn't know her. She was a friend of my
sister's.
6 Q. Oh.
7 A. And my sister just asked me to help her.
8 Q. So what I think I understand you to be saying is
that you
9 weren't guilty of anything, but you pleaded guilty to
some kind
10 of a misdemeanor just to get it over with. Is that
what you're
11 saying?
12 A. Yes.
13 Q. And is that what your -- I mean you talked with
your lawyer
14 about it before you did this; right?
15 A. Yes.
16 Q. And with your mother? Did you talk with your
mother about
17 it?
18 A. Yes.
19 Q. And was your mother an influence on you in deciding
to go
20 this way?
21 A. No.
22 Q. You made your own decision?
23 A. Yes.
24 Q. As you look back on it, would you do it differently
if you

25 had it to do over again?

2234

Juror No. 817 - Voir Dire

1 A. No.

2 Q. But you feel that this was an injustice that this
happened
3 to you?

4 A. Say that again?

5 Q. Do you feel that it was not just, not fair, what
happened
6 to you in this incident?

7 A. Yes.

8 Q. And obviously, you think this friend of your
sister's has
9 some responsibility for it. I'm not asking you to
comment on
10 her case, but for your getting involved; is that how
you feel
11 about it?

12 A. That was her responsibility?

13 Q. Well, yeah, that she got you involved in something
that you
14 were innocent of. Do you have some feeling like that?

15 A. No.

16 Q. Well, I guess I'm having trouble understanding your
present
17 view of what happened there. Just tell us what you
think about

18 what happened and the outcome.
19 A. What happened to the -- well, they found her; I believe
20 she's still in . . . I believe she's still in jail to this
21 time.
22 Q. Yeah. But I'm asking as it affected you. As you sit here
23 now, what do you think about all that happened?
24 A. It really doesn't bother me. I just didn't want any kind
25 of felony on my record, anything like that. So it really

2235

Juror No. 817 - Voir Dire

1 doesn't bother me.
2 Q. But what I think I understand you to be saying is you think
3 you were innocent entirely and shouldn't have been charged with
4 anything. Is that what you think?
5 A. Yes.
6 Q. So, you know, you want to go into criminal justice and you
7 want to make things fair. Do you think that was fair?
8 A. No.
9 Q. That's what I'm -- you know, that's why I keep asking you

10 the questions, because -- again, I don't -- you're
11 uncomfortable now. I think you don't want to talk
about this
12 probably.

13 A. Oh, no. I'm fine.

14 Q. All right. But I guess you could, thinking back to
when
15 you were, what, 17, 18?

16 A. Yes.

17 Q. And thinking about it now, that maybe you should
have gone
18 to trial? Do you ever have a thought like that?

19 A. Yes.

20 Q. And 'cause you don't think they could have proved
it, or
21 what?

22 A. Yes.

23 Q. Okay. Well, you know, we come back to these
fundamentals
24 that I talked about. And you understand that you could
have in
25 that situation required a trial to be held and required
the

2236

Juror No. 817 - Voir Dire

1 prosecution to come in and prove you to be guilty and
go to a

2 jury and have a jury decide. And the jury may have
found you

3 not guilty because the evidence wouldn't have been
enough. You

4 understand that you had that right.

5 A. Yes.

6 Q. Now, the case that -- the situation we're in here,
where

7 we're now talking about -- with you about possibly
serving on a

8 jury and where Mr. Nichols is the defendant and the
charges

9 that I've mentioned -- all right? I'm shifting now to
your

10 role as a juror. I'm not talking any more about your

11 background or your experiences; okay?

12 A. Okay.

13 Q. Here we're looking for people who can put aside
anything

14 they've read and heard or seen about the Oklahoma City
bombing,

15 everything since, the trial of Mr. McVeigh and all
that, and

16 decide on the evidence to be presented, which we don't
know

17 what it's going to be as it relates to Mr. Nichols.
Now, do

18 you think you can do that?

19 A. Yes.

20 Q. And I want to talk a little about the role of the
jury in a

they 21 case where the charges include murder, the charges like
for the 22 are in this case, because, you know, the first issue
charged 23 jury is going to be: Does the evidence prove what is
the 24 beyond a reasonable doubt? That will be the trial, and
for the 25 matter of punishment does not come into consideration

2237

Juror No. 817 - Voir Dire

1 trial. You understand that.
2 A. Yes.
here, 3 Q. But in a case where the charges are, as they are
4 murder under federal law, the jury does get involved in
But in 5 punishment; and I'll explain about that in a minute.
don't 6 the cases that don't involve charges like this and
happens is 7 involve the possibility of a penalty of death, what
guilty. 8 you have a trial and a jury decides guilty or not
they 9 Either way, the jury has completed its assignment when
Did the 10 bring in the verdict which is based on the evidence:
11 evidence prove the crime, or didn't it?

12 And obviously, if the verdict's not guilty,
that's the
13 end of the whole thing. If the verdict is guilty,
because the
14 jury does find the evidence to prove guilt beyond a
reasonable
15 doubt, then there's more to be done because the
sentence has to
16 be decided. And before that's done, a judge has to get
a lot
17 more information than what he or she got at the trial,
in the
18 evidence, because that information includes not only
things
19 relating to the offense but a lot relating to the
defendant as
20 an individual human being, these things that deal with,
you
21 know, where he was born and raised and what his life
has been
22 like right up to the time of the sentencing decision;
23 employment history, education, all of those things,
everything
24 that really can be found out that relates to a person
as an
25 individual human being.

2238

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1 And then there's a hearing in front of the
judge. The

both 2 judge considers all of that information and hears from
as to 3 sides and then makes a decision that's very individual
her 4 that person, the defendant. And that becomes his or
5 sentence. You understand that generally?

6 A. Yes.

question 7 Q. Now, it is different when the issue involves the
courts; 8 of the death penalty, and it's different in different
law. 9 but we're in Federal Court now, so we're under federal

And the 10 And federal law requires a jury decision, not a judge.
defendant 11 issues, the questions, the options are: Should the
being 12 be put in prison for life without any chance of ever
should there 13 released, should the defendant be put to death, or
event it 14 be some lesser sentence than either of those, in which
decision 15 goes back to the judge again. But the life-or-death
16 is made by a jury. You understand that?

17 A. Yes.

filled 18 Q. Did you have some understanding of that before you
19 out this questionnaire?

20 A. Yes.
21 Q. So I take it that you then knew, reasoned here on
page 28
22 as to why we asked you these questions that we asked on
page
23 28. Please turn to that part of your questionnaire.
24 A. Uh-huh.
25 Q. And I want you to read your answers so you have
them in

2239

Juror No. 817 - Voir Dire

1 mind.
2 A. Okay.
3 Q. Now, you also . . . see, on the last answer -- no,
I see,
4 okay. Excuse me. I misread something here.
5 Has that matter of the death penalty been
something
6 that you've thought much about before you were asked to
answer
7 these questions?
8 A. No.
9 Q. So would it be fair to say this is the first time
you in
10 your own mind have thought about, well, when should the
law
11 impose death and when should there be life in prison?
12 A. Yes.

13 Q. And have you thought about it some since then,
since you

14 wrote these answers?

15 A. No, not really.

16 Q. Would it be fair to say that what you wrote there
on

17 September the 17th on this questionnaire, at the
fairgrounds,

18 that's how you think about it today as well?

19 A. Yes.

20 Q. Now, you understand we asked you these questions
without

21 regard to what the law is or what the process is, just
in terms

22 of what do you think about a penalty of life in prison
without

23 ever any chance of getting out and what do you think
about

24 death as a penalty. And that's the way you answered
us; right?

25 A. Yes.

2240

Juror No. 817 - Voir Dire

1 Q. And you started there on No. A, and you scratched
out

2 something. This is asking you about the penalty of
life in

3 prison. And you see you wrote out "What comes down to
for

it says, 4 taking another life," and you scratched out -- I guess

scratched it 5 "for no reason." Is that what you wrote and then

6 out?

7 A. Yes.

got "for 8 Q. And then on B, which asked you about death, you've

you 9 taking another person's life for no reason at all." So

-- 10 made a distinction between life and death right there

11 A. Yes.

12 Q. -- being that "for no reason"?

13 A. Right.

about, 14 Q. And then you go down to C, and it asks some more

that life 15 well, what kind of a case or cases would you suggest

punish; 16 would be -- in prison would be the way the law should

Just 17 and you talked about -- well, what do you say here?

18 explain this answer, if you will, what you mean here.

released and 19 A. As in . . . if it was punished first and was

20 then brought back to be punished again.

21 Q. Now, you mean convicted --

22 A. Yes.

23 Q. -- of a crime, punished, then released, then went

out and

24 did another crime?

25 A. Correct.

2241

Juror No. 817 - Voir Dire

1 Q. Okay. So repeat offenders --

2 A. Yes.

3 Q. -- is what you're talking about. I understand now.

4 And then D, you've got under the punishment of
death

5 for taking someone's life, and then you've got in
parentheses,

6 "(family)," and what is that saying there?

7 A. Et cetera.

8 Q. Et cetera?

9 A. Yes.

10 Q. Well, tell us about the et cetera. What
additionally?

11 A. Like family, friends.

12 Q. How does that relate to whether there should be a
13 punishment of death: family and friends? I mean in
your own

14 mind, we're not --

15 A. Well, like maybe taking another family member's
life.

16 Q. So killing more than one person or --

17 A. Right.

18 Q. Or killing within a family? That's what I'm
unclear about.

19 A. Killing more than one person.

20 Q. Okay. Now, let me visit with you about what is
involved

21 under the law and explaining this, you know, like I
explained

22 about trials. What happens in a case where there is
the

23 possibility of a sentence to death or life in imprison
without

24 release in the Federal Court is that, as I've already
said --

25 that's a question for the jury. But, of course, we
don't get

2242

Juror No. 817 - Voir Dire

1 there unless there's first a verdict of guilty on the
crimes

2 charged. You understand that?

3 A. Yes.

4 Q. And punishment doesn't enter into that question.
That's

5 decided first. And obviously if the decision is not
guilty,

6 there's no more to it; that's the end of the case. If
the

7 decision is guilty, then the jury has to hear more; and
there

the 8 is a second trial in which all of our attention is on
death. 9 question of punishment and this question of life or

like the 10 And what happens on that second trial is just
evidence, 11 first trial: The prosecution brings in witnesses and

prosecution 12 and so does, at this point, the defense. And the

and the 13 brings in things about the circumstances of the crime

essentially to the 14 effect on victims and so forth; and they say

a 15 jury, think about these things and whether they justify

will come 16 sentence to death for this person. And the defense

a few 17 forward with things about the defendant. You remember

about the 18 minutes ago I talked about how a judge has to hear

life 19 particular circumstances and characteristics and the

20 history of the defendant --

21 A. Yes.

And so be 22 Q. -- as an individual human being? All of us have
23 differences among us in what's happened in our life.

trial or 24 it that the information at this second penalty phase

25 hearing is unique to the defendant on trial to be

sentenced.

2243

Juror No. 817 - Voir Dire

1 So it's all about his life story, what he's done in the
world,
2 what has happened to him, and the things that make his
life
3 unique.

4 Now, the jury then, after all of this is
presented,
5 hears from both sides. The defense -- what the defense
6 presents generally goes to, well, death may be
justified for
7 the crime but not for the defendant because of who he
is as a
8 human being. And you have to make this judgment for
who he is
9 as a human being. And even in a case where one person
has
10 already, you know, been sentenced to death for one
crime and
11 then another person is found guilty of the same crime,
there
12 has to be separate consideration of him. The fact that
you
13 find, a jury finds one person should be put to death
doesn't
14 control whether another person involved in the same
crime
15 should be put to death. You understand?

16 A. Yes.

17 Q. Because it does involve the unique and individual
18 circumstances of the defendant who is being judged.

19 And the court, the judge at the end of the
hearing,

20 you know, tells the jury, Well, here's what you heard
that you

21 can consider as aggravating factors; here's what you've
heard

22 that you can consider as mitigating factors; these are
some

23 questions you should ask yourselves based on what
you've heard.

24 But then I don't have a formula to give. There's no
equation

25 or anything. You have to finally judge whether this
particular

2244

Juror No. 817 - Voir Dire

1 person should live or die. And that really is a moral
judgment

2 to be made by each individual juror. Do you understand
these

3 points that I've mentioned to you?

4 A. Yes.

5 Q. So what we want you to tell us is that if you were
on a

6 jury and there were -- and there had been a guilty
verdict and

7 there was a sentencing hearing and with this
explanation about

8 how that goes procedurally, do you think you would be
able to

9 make a decision about whether a defendant should be
sentenced

10 to life or death and give full consideration to his
previous

11 background, individual circumstances, the things I've
talked

12 about, his individual characteristics, as well as the
13 circumstances of the crime?

14 A. Yes.

15 Q. You'd be able to do that?

16 A. Yes.

17 THE COURT: All right. Thank you for your
answers to

18 all of these questions. We do have a few more for you
from the

19 lawyers, but I'd like to take a recess before we do
that.

20 We're going to take a 20-minute rest stop, and then
you'll come

21 back; and I'm sure both sides will have a few more
questions.

22 JUROR: Okay.

23 THE COURT: Thank you. You may step out now.

24 (Juror out at 10:30 a.m.)

25 THE COURT: Okay. 20 minutes.

Juror No. 817 - Voir Dire

1 (Recess at 10:30 a.m.)

2 (Reconvened at 10:50 a.m.)

3 THE COURT: Be seated, please.

4 Ready to proceed?

5 All right. Ms. Wilkinson, do you have
questions?

6 MS. WILKINSON: I do, your Honor. Thank you.

7 VOIR DIRE EXAMINATION

8 BY MS. WILKINSON:

9 Q. Good morning.

10 A. Good morning.

11 Q. How are you doing?

12 A. Fine.

13 Q. As the Judge told you, we got a copy of your
questionnaire,

14 and we got a chance to read it over. And I have a few
more

15 questions. I know you've answered a lot; but if you
wouldn't

16 mind, I have a few more questions I'd like to go over
with you.

17 A. Okay.

18 Q. You told us in the questionnaire that you really
like to

19 read. Is that right?

20 A. Yes.

21 Q. And you said you have read Terry McMillan's book
Waiting to

22 Exhale?

23 A. Yes.

24 Q. Did you see the movie?

25 A. Yes.

2246

Juror No. 817 – Voir Dire

1 Q. Which did you think was better, the movie or the
book?

2 A. The book.

3 Q. And have you read her next book?

4 A. No.

5 Q. Are you familiar with it?

6 A. No.

7 Q. How Stella Got Her Groove Back?

8 A. Yes.

9 Q. But you haven't read that yet?

10 A. No.

11 Q. Are you reading any books currently?

12 A. No.

13 Q. You told the Judge -- or you told us also on the
14 questionnaire -- and the Judge -- that you were
thinking about

15 going back to school. Is that right?

16 A. Yes.

17 Q. And can you tell me where that school is -- you
don't have

18 to give us the name, but where the school is? What
state it's

19 in?

20 A. I don't know.

21 Q. You're not sure?

22 A. I know it's in the South.

23 Q. In the South? And do you have a family member or
somebody

24 you know that went there that kind of said you might
like that

25 school?

2247

Juror No. 817 - Voir Dire

1 A. Yes.

2 Q. And that is what got you interested in thinking
about going

3 there?

4 A. Yes.

5 Q. How did you decide that you might want to study
criminal

6 justice?

7 A. Because I always wanted to be a police officer; and
I went

So 8 and took the test, but I failed the test by two points.

9 when it comes up again, I'm going to test for it again.

10 Q. When you were a witness in that case --

11 A. Yes.

12 Q. -- did you have some interaction with the police
13 department? Did you work or talk to some of the police
14 officers that were involved with investigating it?

15 A. No.

16 Q. You never talked to any of them?

17 A. After the incidents?

18 Q. After the incidents, yeah.

19 A. No.

on the 20 Q. Did you ever talk to the prosecutor before you got
21 witness stand?

22 A. No.

they 23 Q. So you had no idea what they were going to ask you;

24 just put you up there and you answered their questions?

25 A. Yes.

2248

Juror No. 817 - Voir Dire

1 Q. Were you nervous when you went up there to testify?

2 A. No.

3 Q. Did you know your neighbor, the guy who was
assaulting his

4 girlfriend?

5 A. Personally, no.

6 Q. And had you ever met the police officer who got
bitten and

7 was trying to arrest the man before he reported to that
crime?

8 A. No.

9 Q. So you didn't know any of these people before you
got

10 involved as a witness?

11 A. No.

12 Q. Were you nervous about cooperating with the police
and

13 telling them what you knew?

14 A. No.

15 Q. Did you feel like that was your obligation as a
citizen, to

16 tell the truth and tell what you knew?

17 A. Yes.

18 Q. And did you feel like it was good for you to
testify at the

19 trial and tell the judge, I guess, who was deciding the
case --

20 is that right?

21 A. Yes.

22 Q. And tell him what you knew?

23 A. Yes.

24 Q. And did the defense counsel cross-examine you much?

25 A. Yes.

2249

Juror No. 817 – Voir Dire

1 Q. Did that bother you?

2 A. No.

3 Q. You understood that they were just trying to figure
out

4 what was true?

5 A. Yes.

6 Q. And after you had that experience, did that make
you even

7 more interested in becoming a police officer?

8 A. Yes.

9 Q. Do you remember what the race of the police officer
was?

10 A. Yes.

11 Q. What race was he?

12 A. Caucasian.

13 Q. Caucasian? And how about the assailant, the guy
who bit

14 him?

15 A. African-American.

16 Q. And how did you feel about testifying based on
that? Did

17 you feel like you wanted to make sure there was no
racism

18 involved and you just wanted to testify honestly to
what you

19 knew?

20 A. Yes.

21 Q. Do you feel like that happens in our system all the
time,

22 or does that not always happen?

23 A. It does not always happen.

24 Q. You told us in the questionnaire that you had
followed the

25 O. J. trial, which I'm sure you would agree has a lot
of racial

2250

Juror No. 817 - Voir Dire

1 issues surrounding it.

2 A. Yes.

3 Q. And you know that a jury of 12 people were picked
to decide

4 that case.

5 A. Yes.

6 Q. And there were a lot of people who didn't seem to
accept

7 that verdict. Is that true?

8 A. Yes.

9 Q. Do you think that there was some racism involved
with the

10 people who wouldn't accept the jury's verdict?

11 A. Yes.

12 Q. Tell me what you think about that.

13 A. Well, some of the comments that I heard. They was
just
14 saying that she was white, he was black, so you know he
did it,
15 she shouldn't have been with him, and things like that.

16 Q. Do you think that he got a fair trial?

17 A. Yes.

18 Q. Do you think that money ever has anything to do
with
19 whether someone gets a good trial or a fair trial?

20 A. No, not really.

21 Q. In your questionnaire on Page No. 18, Question 83
-- if you
22 can look at that for just a minute, please. See there
at the
23 very top, that first book, The Turner Diaries. It's on
24 Question 83. It gives you a whole list of books, "Have
you
25 read"?

2251

Juror No. 817 - Voir Dire

1 A. Yes.

2 Q. And the first one says The Turner Diaries?

3 A. Yes.

Had you 4 Q. And first you checked yes and then you checked no.
5 heard of that book?
6 A. No.

crossed 7 Q. Was that just a mistake when you put it in and you
8 it out?
9 A. Yeah, just a mistake.

listed 10 Q. So you haven't heard of any of these books that are
11 here on this list?
12 A. No.

13 Q. Or you haven't read them, anyway.
14 A. No.

the 15 Q. You were telling the Judge that you used to work at
16 day-care center.
17 A. Yes.

children 18 Q. Do you know anything about whether there were
19 killed in the bombing in Oklahoma City?
20 A. No.

bombing? 21 Q. Do you remember watching TV around the time of the
22 That was back in April of 1995.
23 A. Yes.

saw? 24 Q. And do you remember some of the pictures that you
25 A. Yes.

Juror No. 817 - Voir Dire

1 Q. Of the building and other things like that?

2 A. Yes.

3 Q. How would you describe your impressions of the
bombing?

4 What do you remember about the news that you saw back
then?

5 A. Not very much of it, just seeing -- just the
pictures like

6 after the building was bombed, how it was all crushed
down, and

7 how some people was like running -- excuse me -- back
and forth

8 trying to get people out of the building.

9 Q. And did you watch the news for a couple days
following what

10 was happening?

11 A. No, not really. No. I was working, so I didn't
get a

12 chance to watch it.

13 Q. So you just remember that first day, seeing the
building

14 and the rescue workers?

15 A. Yes.

16 Q. And have you followed the case since that time?

17 A. No.

18 Q. So you don't know anything about Mr. Nichols?

19 A. No. Haven't even heard of him.

20 Q. Okay. Do you know anything about Timothy McVeigh?

21 A. Yes.

22 Q. What do you know about him?

23 A. Just about when they said on the news that he was

24 supposedly be involved with the bombing.

25 Q. And do you remember when his conviction was
announced in

2253

Juror No. 817 - Voir Dire

1 the media?

2 A. No.

3 Q. You didn't pay attention to that when that
happened?

4 A. No.

5 Q. Did you follow his trial at all?

6 A. No.

7 Q. Okay. Do you remember when it was announced that
the jury

8 recommended that he be sentenced to death?

9 A. No.

10 Q. So do you have any opinion on whether that was the
11 appropriate sentence for him?

12 A. No, I don't.

13 Q. Don't know enough of the facts?
14 A. No.
15 Q. So I take it, then, it wouldn't be any problem for
you to
16 come into this courtroom as a juror and have a totally
open
17 mind as to whether the Government can prove its case
against
18 Mr. Nichols?
19 A. Right.
20 Q. You're not going to come in with any preconceived
notions;
21 right?
22 A. Right.
23 Q. And you understand why that's really important in
our
24 system; right?
25 A. Yes.

2254

Juror No. 817 - Voir Dire

1 Q. To give someone a presumption of innocence?
2 A. Yes.
3 Q. As the Judge explained to you, that kind of applies
in two
4 stages in this kind of case. Do you remember him
saying that?
5 A. Yes.

6 Q. You have a trial on the guilt or innocence; right?

7 A. Yes.

8 Q. And if a jury decides that someone is guilty of
crimes like

9 this, then we move to the second trial, where again you
have to

10 have an open mind and wait till the end of all of the
evidence

11 that's presented in that case to decide the sentence?

12 A. Yes.

13 Q. Would you have an open mind and be able to listen
to all

14 the information that the prosecution -- that's us --
that we

15 present and also any information that the defense wants
to

16 present about his background or anything that has to do
with

17 his life that might, you know, persuade you that life
in prison

18 is better than the death penalty?

19 A. Yes.

20 Q. Would you listen to all that?

21 A. Yes.

22 Q. And would you make sure that you listened to that
and you

23 wouldn't just decide what his punishment would be just
because

24 he had been convicted of a serious crime?

25 A. Yes.

Juror No. 817 - Voir Dire

1 Q. Okay. I guess -- I probably didn't phrase that
very well.

2 What I'm trying to say is even if a defendant in any
case --

3 and we're not talking about this case because we don't
know

4 what the evidence will be; right?

5 A. Right.

6 Q. In any case where someone is convicted of a really
horrible

7 murder, like you were talking about, you know, where a
family

8 member or many people are killed, do you understand
that we

9 don't have an automatic death penalty? You still have
to

10 listen to all that second information?

11 A. Yes.

12 Q. And would you want to hear that to make your
decision?

13 A. Yes.

14 Q. Have you ever made a decision like this that that's
15 important about someone's life?

16 A. No.

17 Q. I want to go back to one other part of the
questionnaire,

109. 18 if I could, and that's on page -- on page 24, Question

19 Excuse me.

20 See at the bottom of page 24 is Question 109?

21 A. Yes.

22 Q. That is about you, or that is about somebody else
that you

23 know?

24 A. Me.

25 Q. So that's the thing we've already talked about with
the

2256

Juror No. 817 - Voir Dire

1 Judge?

2 A. Yes.

3 Q. We don't need to go over that again, then. You
told the

4 Judge that you were no longer working at the day-care
center.

5 And if you don't mind, could you tell us why you're not
working

6 there anymore?

7 A. Because they put me to part-time and I need full-
time, so I

8 found another job; and plus I'll be moving closer to
the second

9 job, and so that's why I resigned there.

10 Q. Okay. And tell us about your second job, the full-

time job

11 that you just got.

12 A. It's --

13 Q. You don't have to say the company, because of your
privacy;

14 but just tell us what kind of job it is.

15 A. Phone.

16 Q. Another phone job?

17 A. Yes.

18 Q. So it's similar to the one you are already doing
right now?

19 A. Yes.

20 Q. And is it in the Denver area?

21 A. Yes.

22 Q. You also told us that you studied cosmetology in
school; is

23 that right?

24 A. Yes.

25 Q. For a couple years?

2257

Juror No. 817 - Voir Dire

1 A. Yes.

2 Q. I'm guessing, but just looking at you, did you --
did you

3 study to be a manicurist?

4 A. No.

5 Q. No. That wasn't any of your training?

6 A. It was.

7 Q. It was part of your training. And what did you
specialize

8 in?

9 A. In hair stylist.

10 Q. And have you ever tried to get a job in that area?

11 A. No.

12 Q. Why not?

13 A. Because it's kind of like boring now. I just do my
14 family's hair.

15 Q. So you're more interested in the other work and
pursuing

16 going back to school like you were telling us about?

17 A. Yes.

18 Q. On one part of the questionnaire, you told us that
you know

19 some farmers and ranchers. Do you remember --

20 A. Yes.

21 Q. -- that? Can you tell me about that?

22 A. My grandmother was a farmer and my grandfather.

23 Q. Where did they have a farm, or where did they work?

24 A. In Colorado.

25 Q. Can you tell me the town or --

Juror No. 817 – Voir Dire

1 A. I don't remember.

2 Q. -- the area? Did you ever go visit them there?

3 A. Yes.

4 Q. Did they ever make you work on the farm?

5 A. Yes.

6 Q. What kind of work did they make you do?

7 A. Well, they had like automatic suction for the milk,
for the
8 cows; so just putting the suction onto the milk -- I
mean, to
9 the cows.

10 Q. Did that make you want to come home and go to
school and
11 not milk cows anymore?

12 A. No, it was fun.

13 Q. It was? What else did you do on the farm?

14 A. Just feed the chickens, and basically that was
about it.

15 Q. Did they plant anything on their farm; do you know?

16 A. I don't remember.

17 Q. So you don't know anything about what kind of
fertilizer
18 they might have used or anything like that, do you?

19 A. No.

20 Q. When you told the Judge that one of the things
you'd really

21 like to do is help our country either eliminate or at

least

22 lower the amount of racism we have, do you have
anything

23 specifically in mind that you think you could
contribute to do

24 that?

25 A. No.

2259

Juror No. 817 – Voir Dire

1 Q. Do you think becoming a police officer, you could
help in

2 that way?

3 A. Yes, I think a little bit of it. Yes.

4 Q. In this trial there may be police officers that
come to

5 testify, FBI agents and other police officers. Do you

6 understand that you have to judge their testimony,
whether

7 they're telling you the truth or not, the way you would
judge

8 any other witness?

9 A. Yes.

10 Q. You can't give them more credit just because
they're a

11 police officer or FBI agent.

12 A. Yes.

13 Q. And can you do that?

14 A. Yes.

15 Q. You don't have any problem with that, do you?

16 A. No.

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

18 I appreciate it.

19 JUROR: Okay. You're welcome.

20 THE COURT: Mr. Tigar?

21 MR. TIGAR: Yes, your Honor.

22 VOIR DIRE EXAMINATION

23 BY MR. TIGAR:

24 Q. Good morning again.

25 A. Good morning.

2260

Juror No. 817 - Voir Dire

1 Q. My name is Michael Tigar. I'm one of the lawyers
appointed

2 by the court to help Terry Nichols; and we do have a
few more

3 questions, not many, because pretty much everybody has
asked.

4 The -- as the Judge mentioned to you, Terry
Nichols is

5 presumed innocent right now.

6 A. Yes.

7 Q. And what will happen here is that if you're seated
as a

beginning 8 juror, the Government will present its evidence and,
their 9 with the very first witness, we'll cross-examine all of
we'll 10 witnesses. Then when they're done, we get our turn and
the 11 present witnesses and they cross-examine them; and then
-- the 12 jury hears argument and makes a decision. So we're not
doesn't 13 fact that we're asking questions about possible penalty
this 14 mean anybody is assuming what the result will be on
15 question of innocence or guilt. Right?

16 A. Right.

17 Q. Okay. And -- but if there is for some reason a
verdict of 18 guilt on any of these charges, we can't stop everything
and 19 then start talking to people again. There is just only
one 20 time to do it.

21 You mentioned that you wanted to study
criminal 22 justice. And I know others have asked you about it.
Other 23 than perhaps being a police officer, what other
occupations 24 have you thought about in the criminal justice field?

25 A. Being a lawyer.

Juror No. 817 - Voir Dire

-- that 1 Q. And do you have any lawyers in mind that, you know

2 you would want to be like or that you've read about?

3 A. No.

4 Q. What kind of law would you want to do, do you think, if you

5 were, you know -- after going to law school?

6 A. I don't know. Just haven't decided.

7 Q. Okay. But would you want to have some role in making

8 things more fair?

9 A. Yes.

10 Q. And have you met lawyers, come in contact with lawyers that

11 you admire?

12 A. No.

13 Q. Well, let me ask you a little bit, if I can, about your

14 view of the criminal justice system. You said you'd followed

15 the trial of Mr. Simpson; correct?

16 A. Yes.

17 Q. And you mentioned that you had heard people criticize that

18 verdict. Do you think -- if you were selected as a juror in a

would 19 case and you came in with a verdict that was unpopular,

20 that idea bother you?

21 A. No.

you voted 22 Q. No? You think you'd be able to stand up for what

23 because you thought it was right?

24 A. Yes.

Simpson 25 Q. Now, do you remember in the Simpson case when Mr.

2262

Juror No. 817 - Voir Dire

if he 1 was being charged, there was a discussion about what --

Do you 2 was convicted, what the appropriate penalty should be?

3 remember?

4 A. No.

if he had 5 Q. Okay. Well, looking at that case -- all right --

would have 6 been convicted, do you think that the death penalty

7 been appropriate?

8 A. No.

you 9 Q. Could you talk to me about the sorts of things that

can talk 10 would think about in making that decision, and then we

not this 11 about that case or some other case, you know, but just

What 12 case because we don't know what the evidence will be.

13 would you think about in making that decision?

14 A. I really don't know.

bit? I 15 Q. Well, could I -- let me -- could I focus a little

convicted," 16 mean it's hard to imagine, "Gee, what if he was

case in 17 because the jury said not guilty; but if there was a

said, 18 which two people were killed and which the prosecutor

-- so I 19 "Well, he did it, committed premeditated murder," but

also, did 20 guess a jury would have considered that; right? But

with 21 you know about who Mr. Simpson was and what he had done

22 his life before he was charged?

23 A. Yes.

trouble with 24 Q. And so far as you know, he had never been in

25 the law before; right?

2263

Juror No. 817 - Voir Dire

1 A. Right.

right? 2 Q. And he had made some contribution to the community;

3 A. Yes.

4 Q. So what I'm really asking you is if you were thinking about

5 what's the appropriate penalty, would you think about both what

6 somebody had done -- that is, in terms of committing a crime,

7 which might be pretty terrible -- but also about who they were,

8 what their background was, whether they contributed to the

9 community, whether they had ever been involved with the law

10 before?

11 A. So you're asking me if I would look back on the person's

12 past?

13 Q. That's right.

14 A. Yeah.

15 Q. Yeah. And especially if the Judge -- if Judge Matsch said

16 that's what you're supposed to consider. I mean, he said if

17 you ever got to that decision you'd have to make, you'd get

18 some instructions from the Court; and if he said you're

19 supposed to look at that, would you be able to do it?

20 A. Yes.

21 Q. Okay. And not just automatically say, you know,

just

22 because somebody was convicted of something terrible,
that's

23 the end of it, no more thought; you wouldn't do that?

24 A. No.

25 Q. Well, as you -- looking back, then -- and I don't
want to

2264

Juror No. 817 - Voir Dire

1 dwell on this, but you mentioned that you had a run-in
with the

2 law that you told us about. Right?

3 A. Yes.

4 Q. Now, do you feel that your friend who had this
stolen

5 card -- that she set you up?

6 A. Yes.

7 Q. I mean, there was an experience in which you
trusted her

8 and she -- was it another woman that was --

9 A. Yes.

10 Q. You trusted her and it turned out that she betrayed
your

11 trust essentially?

12 A. Yes.

13 Q. Now, you said that you -- you had seen some
coverage on

Oklahoma 14 television about the bombing of the Murrah Building in
job that 15 City. I want to talk a little bit about that. In the
young 16 you had until very recently, you were taking care of
17 children; right?

18 A. Yes.

19 Q. And then you had another incident that affected you
pictures, heard 20 involving a young child. If you saw evidence,

there were 21 people talking about the fact that in that bombing

that 22 children that died, that would obviously be something

23 would, you know, be heart-wrenching, wouldn't it?

24 A. Yes.

kind of 25 Q. Be very emotional, perhaps? And if you saw that

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question, 1 evidence, would you still be able to look at just the

look 2 even though that's what that evidence is -- could you

Nichols, 3 fairly at the question: Did Terry Nichols, Terry Lynn

that? 4 sitting right there -- did he have something to do with

5 Could you look at that?

6 MR. MACKEY: Judge, objection.

7 THE COURT: Overruled.

8 BY MR. TIGAR:

9 Q. You can answer.

10 By the way, let me interrupt. If you're
sitting as a
11 juror in this case, a lawyer who thinks that the other
lawyer
12 could ask the question better gets to ask the Judge;
and
13 nothing can be held against the lawyer for making the
objection
14 nor the lawyer that asked the question or whatever.
This is
15 the sort of thing that goes on because the Judge is in
charge
16 and that's how lawyers bring things to his attention.

17 A. Okay.

18 Q. So let me put it again: If you saw this evidence,
these,
19 you know, pictures and heard people talking about this
very
20 dramatic testimony, children dying, children being
hurt, would
21 you be able, even if you saw that and were affected by
it, as
22 we all would be -- would you be able to focus on the
question
23 "What did Terry Nichols have to do with this?"

24 A. Yes.

you 25 Q. You could do that? Okay. And insist still that,

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doubt? 1 know -- you'd say "not guilty" if you had a reasonable

2 You'd make the Government prove it?

3 A. Yes.

answering 4 MR. TIGAR: Okay. Thank you very much for

5 my questions.

6 JUROR: You're welcome.

to tell 7 THE COURT: Well, we're not going to be able

but -- and 8 you this morning whether you're on this jury or not;

I mean 9 we can't even tell you when we'll be able to tell you.

about 10 we've got to have you live with some uncertainty here

as you 11 your role in this case; so what I ask you to do now is

building out 12 leave here, just like when you left the auditorium

the jury; 13 there in Jefferson County, assume that you will be on

decisions 14 that you will have the responsibility to make the

15 that we've been talking about here. And accordingly,

be very

anybody 16 careful now about talking with your mother or with

you; 17 about our situation here and the questions we've asked

television, 18 and, also, be very careful about newscasts, radio,

probably 19 whatever. Obviously, there are going to be things

them so 20 reported relating to the case. Please stay away from

have 21 that you can come in with an open mind, as you say you

sit on 22 now, and come back to us at a later time and be able to

23 the jury. Will you do that?

24 JUROR: Yes.

change 25 THE COURT: Now, in the event you move, have a

2267

know 1 of address or phone number or something, please let us

with 2 about that, too, so that we can be sure to get in touch

3 you when we know.

4 JUROR: Okay.

and thank 5 THE COURT: All right. You're excused now,

6 you very much.

7 JUROR: Thank you.

8 THE COURT: 474.

9 Good morning. If you'll raise your right hand
and
10 take the oath from the clerk, please.

11 (Juror No. 474 affirmed.)

12 THE COURTROOM DEPUTY: Thank you.

13 THE COURT: Please be seated there in the
chair by the

14 microphone. Make yourself as comfortable as you can
under the
15 circumstances.

16 JUROR: Thanks.

17 THE COURT: And you don't have to talk right
into the
18 microphone. Anywhere near it will work, I think.

19 JUROR: Okay.

20 VOIR DIRE EXAMINATION

21 BY THE COURT:

22 Q. And you know that you're here because under a
computer

23 system that brings us names by chance, yours came up;
and you

24 got a jury summons. And you remember filling that out,
sending

25 it back, and then got a notice to go out to the
Jefferson

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1 County Fairgrounds on the 17th of last month --

2 A. Yes.

3 Q. -- to answer some more questions.

4 A. Yes.

5 Q. And you did that. You filled out a long
questionnaire, and

6 you should have it in front of you now.

7 A. I do.

8 Q. And before you got the questionnaire to answer, I
was there

9 and others were with me; and I introduced them. And I
want to

10 do that again because we have people here who -- and we
want to

11 make sure you know who is here.

12 A. Okay.

13 Q. And here at this first table right in front of you,
you

14 remember meeting Mr. Lawrence Mackey and Ms. Beth
Wilkinson,

15 who were there as attorneys for the Government. They
are now

16 joined by Mr. Patrick Ryan, who is next to Ms.
Wilkinson, and

17 Geoffrey Mearns next to him.

18 And then you also recall meeting Mr. Michael
Tigar

here is 19 and Mr. Ronald Woods, attorneys for Terry Nichols; and

20 Mr. Nichols.

They're 21 And there are a few other people in the room.

emphasize is 22 here to assist; so -- and another thing I want to

and 23 that you answered some questions that are quite private

that, 24 personal in nature. We appreciate your cooperation in

identity 25 and we're trying to cooperate in turn by keeping your

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here. 1 as confidential as we can, so we're not using your name

copies have 2 Also, these questionnaires -- I mean the

front of 3 not been given to anybody except the people right in

said, and 4 you here; so we're the ones who have read what you've

5 we're not telling anybody else what you wrote.

out of 6 But you do -- and indeed, we even bring you in

take 7 the courtroom in a way so people can't see who you are,

arranged 8 you picture or something like that. All of that is

but 9 just to, you know, keep this as private as possible;

this is a 10 recognize that we are in a public courtroom now and

11 public proceeding. You understand that?

12 A. Right.

said 13 Q. And I want to go back to some of the things that I

14 before you completed the questionnaire by way of some
15 introduction.

that and 16 Now, I'm pretty confident that you remember

record, as 17 what I said there; but I need to repeat it for the

these 18 they say, because it is important that you do recognize

19 principles that I discussed.

talked 20 First of all, you recall, of course, that I

explosion in 21 about the background of the case, how there was an

that a 22 Oklahoma City, Oklahoma, on the 19th of April, 1995;

and 23 federal office building was destroyed, lives were lost,

Department 24 people were injured; that then the Government, the

what we 25 of Justice, in Oklahoma City filed charges by way of

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charged 1 call an indictment, a statement of charges, and that
Terry 2 with crimes were a man named Timothy James McVeigh and
indictment -- 3 Nichols here and other persons not named in the
building and 4 were accused of planning a conspiracy to bomb that
charges 5 to kill the people in it and injure them and that the
were 6 include that they carried that out and that they also
enforcement 7 charged with the premeditated murder of eight law
and who 8 people, agents, who were in the building at the time
9 died. You understand I mentioned all of that?
10 A. Yes.
11 Q. I mean, you remember it?
12 A. Yes.
13 Q. And then I talked about how the case got moved from
to, you 14 Oklahoma City here to Denver because of a concern as
15 know, whether a jury could be a -- a fair jury could be
16 selected there where it happened and then that separate
trials
17 were ordered by me; that because of the differences in
the
18 evidence that may be introduced as far as Mr. McVeigh
is

not be 19 concerned, as far as Mr. Nichols is concerned, it would
judged by 20 fair to have them together in the same trial and be
21 the same jury, and so I ordered separate trials.
22 And Mr. McVeigh has already been tried by a
jury, a 23 jury that found him guilty on the evidence; and also
that jury 24 was then given more information in a second trial, as
it were, 25 on the issue of punishment and then came back with a

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1 recommendation for death as his sentence. And I
suppose you 2 were aware of that before I told you that, anyway.
3 A. Yes, I was aware of that.
4 Q. Okay. But I reviewed that; and then I pointed out
-- and I 5 point out again -- that the outcome of his case has
nothing to 6 do with this case and must be completely set aside, not
only 7 the guilty verdict but also the jury's recommendation
of 8 sentence, because that related to Mr. McVeigh. This
trial will 9 be about Mr. Nichols. I don't know what the evidence

will be

10 in this case; and in fact, none of us do because -- you
know,

11 lawyers anticipate it, but what actually gets
introduced in

12 evidence and received will be up to this process, this
trial

13 process; and therefore, it may be quite different.

14 So, you know, it would violate the order that
required

15 separate trials if anybody on a jury for Mr. Nichols'
trial

16 were to consider in any way the outcome of Mr.
McVeigh's trial.

17 You, I'm sure, understand that --

18 A. I do understand.

19 Q. -- and appreciate the reasons for it.

20 Then I mentioned -- now, you've never been on
a jury,

21 but you were -- you testified before a grand jury once?

22 A. Yes.

23 Q. And we'll get to that.

24 A. Okay.

25 Q. But that's your only experience with the criminal
justice

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1 system, is it, that appearance before a grand jury?

2 A. Yes.

3 Q. All right. So, you know -- and I expect that is
true as

4 most of the people called in, and that's why I made
some pretty

5 basic explanations about the law and what the
Constitution of

6 the United States commands; and that is that any person
charged

7 with a crime in this country, no matter who that person
is or

8 what the crime is that is charged, is presumed to be
innocent.

9 And that presumption runs throughout the trial,
entitles that

10 person to an acquittal, a not guilty verdict, unless 12

11 fair-minded jurors listening to the evidence and
considering

12 only the evidence and following the law as it is given
in

13 instructions of the court decides that the evidence
shows the

14 guilt of the offense beyond a reasonable doubt.

15 You've heard of these points before?

16 A. Yes.

17 Q. And of course, that means in real terms here that

18 Mr. Nichols sits with us in this room this morning
presumed to

19 be innocent of these things the Government has accused
him of.

20 Do you understand that?

21 A. I understand that.
22 Q. And to carry that out a little more, no person who
is
23 charged has any burden or duty of proving himself to be
not
24 guilty or innocent or indeed to prove anything at
trial. The
25 Government files charges. The Government has to bring
in the

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1 evidence and the witnesses that these prosecutors rely
on in
2 support of those charges. A defendant does not have to
take
3 the witness stand and answer any questions or give any
4 explanation. A defendant can remain silent throughout
the
5 trial and just challenge the Government's evidence
through
6 objections to the introduction of evidence, cross-
examination
7 of all the witnesses, and then at the end of the day,
you know,
8 present to the jury the argument that none of this
amounts to
9 proof and that even if it proves something, it doesn't
prove
10 the case beyond a reasonable doubt. So the jury at the
end of

11 the day, hearing all of that, has to consider it,
discuss it,
12 and then decide do we have a reasonable doubt. If so,
then, of
13 course, you have to give the defendant the benefit of
that
14 doubt and find him not guilty.

15 Do you understand all these points?

16 A. I do understand that.

17 Q. And accept them?

18 A. Yes, I do.

19 Q. And agree to be bound by them if you were to serve
on the
20 jury?

21 A. Yes, I do.

22 Q. Now, we did ask you all of these questions, and
we've got
23 some more questions; but to be begin with -- and we're
not
24 going to go through everything that you wrote here, so
don't
25 have that apprehension, but we want to just review a
few

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1 things. I'll be asking you some questions about some
of your
2 answers and a few other things, and then a lawyer for

each side

3 will have the opportunity to ask you some more so that
we can

4 get out everything about you that may relate to your
service on

5 this jury.

6 A. Okay.

7 Q. You're not on trial. Your views are not on trial.
There

8 is no right or wrong answer to any of these questions.
What we

9 want to know is simply your answers.

10 A. Okay.

11 Q. And a little bit about your background from your
12 questionnaire. I understand you were born here in
Denver?

13 A. Yes.

14 Q. And that, in fact, you've lived here since you were
born

15 except for a couple of years in Germany.

16 A. Yes.

17 Q. And when you were in Germany, was that in
connection with

18 military service?

19 A. Yes. My husband was in the Army at that time.

20 Q. And stationed there?

21 A. Yes.

22 Q. And you were with him?

23 A. Yes.

let's 24 Q. And then when you came back to the United States --
25 see. You were there about two years?

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1 A. It was about two years.

2 Q. In the middle of the 70's?

3 A. Right.

4 Q. Then you came back here and you were divorced at
some time.

5 A. Right. I've just been recently divorced.

6 Q. You have just been?

7 A. Uh-huh.

8 Q. But you came back -- let's see. Did you have
children at

9 that time?

10 A. We had one child at that time; and when we returned
to the

11 States, we had another child. I have two children now.

12 Q. Yes. And then did your husband leave the Army?

13 A. Yes. He was discharged in 1976.

14 Q. When you were living here?

15 A. Yes.

16 Q. And how long -- when you say recently, how long
were you --

17 how long ago was it that you were divorced?

I've been 18 A. Actually, my divorce will be final this month.
19 separated for about two years.
20 Q. Okay. And we don't want to get into details on
this 21 because we understand the sensitivity of it; but you
mention on 22 page 5 -- if you will turn to your questionnaire there.
We 23 don't want to take you at a disadvantage. We certainly
want 24 you to read what I'm looking at. You gave us an answer
there 25 on 21 and an explanation; and as I understand it, this
relates

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1 to the difficulties of your marriage?
2 A. Right.
3 Q. And, you know, to -- you had an abusive situation
there.
4 A. Right. My husband was physically abusive and he
was an 5 alcoholic.
6 Q. And there were times when you were hurt?
7 A. Right.
8 Q. Physically.
9 A. Yes.

10 Q. How about the children?

11 A. No.

12 Q. It was between the two of you?

13 A. Yes.

14 Q. Never touched the children?

15 A. No.

16 Q. Okay. Now, you live up now in the hills?

17 A. Yes.

18 Q. And you moved up there about how long ago?

19 A. It's been almost five years ago.

20 Q. Okay. And you're -- you're working now in Golden?

21 A. Yes.

22 Q. At the same job?

23 A. Yes.

24 Q. And you've been with that employer -- let's see --
how many
25 years?

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1 A. It's been seven years.

2 Q. And you're in a managerial role there?

3 A. Yes.

4 Q. And you got a college degree in business
administration, so

5 you're able to put some of that education and training
to work

6 where you are.

7 A. Yes, I am.

8 Q. You find this job that you have a fulfilling one?

9 A. Yes, I do.

10 Q. Enjoy it. Now, when you left the Jefferson County
11 Fairgrounds, I told you and the others you have to
think about

12 being on this jury and be careful now about talking
about it

13 with anybody and also watching television, listening to
the

14 radio and all those things. And I'm sure you've tried
to

15 comply with that?

16 A. Yes, I have.

17 Q. But we would expect that you probably talked to
whoever it

18 is you report to at your job --

19 A. Yes.

20 Q. -- that there is this possibility that you'd be
away from

21 work for an extended period of time when you were on
the jury?

22 A. Yes.

23 Q. You had such a discussion, I take it?

24 A. Yes, I did.

25 Q. Was that after you got the summons and before the

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1 questionnaire, or when?

2 A. I talked to him after the questionnaire.

3 Q. Because it was more of a possibility --

4 A. It was becoming reality then.

5 Q. Okay. When you first got the questionnaire, you
thought,

6 well, maybe I'll never hear again?

7 A. Right.

8 Q. What kind of a response did you get? What kind of
a

9 reaction from this person you talked with?

10 A. He was supportive. It would be a very big
inconvenience

11 for me to be out for a period of time.

12 Q. Of course.

13 A. But he was supportive; and over the last couple of
weeks,

14 I've put a game plan in place for the people who report
to me

15 to cover for me in case I'm out.

16 Q. Okay. And you won't lose any income, will you?

17 A. No.

18 Q. Okay. And with respect to your children, you have
one in

19 college away and one at home?

20 A. Yes.

told us 21 Q. Okay. Now, I want to turn to page 23, to what you

take a 22 there about your appearing before a grand jury. Please

23 moment to review what you said.

24 A. Okay.

25 Q. And how long ago was this experience?

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1 A. Over ten years ago. It was in 1986.

2 Q. Was it here in Denver?

3 A. Yes.

4 Q. And were you working with the firm mentioned here?

and I did 5 A. I worked for a company called Capital Associates,

where we did 6 contract negotiation for them; and this was a case

7 equipment leasing and leased equipment to a company

who, rather 8 than leasing it as they were supposed to, immediately

sold the 9 equipment to other people.

10 Q. Okay. And that, of course, is what occasioned the

11 investigation?

12 A. Yes.

13 Q. For fraud or theft or something?

14 A. Right.

15 Q. And then you recall going into a room in a secret
16 proceeding, not like this.

17 A. Right.

18 Q. But in a secret proceeding giving testimony with a
19 prosecutor there asking you some questions?

20 A. Yes.

21 Q. But before that, you talked with the FBI, I
suppose?

22 A. I worked extensively with the FBI on this case.

23 Q. Now, did that involve continuing contact with the
company

24 under investigation? I mean, were you encouraged to
talk to

25 them some more?

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1 A. No, I wasn't.

2 Q. Whatever had happened had already happened?

3 A. Right.

4 Q. And now, this is an investigation as to what
happened; is

5 that --

6 A. Right.

7 Q. So when you say you worked with the FBI, you mean

you were

8 interviewed and gave information?

9 A. Yes. The FBI worked with me reviewing
correspondence I had

10 prepared and telephone logs to establish that we had
been

11 communicating about the situation.

12 Q. Because they were interested in the use of the
mails?

13 A. Right. Actually, that's what they were charged
with, was

14 fraud for the mail and the telephone.

15 Q. Right. How many times, as you remember it, were
you

16 interviewed by FBI agents or some law enforcement
agent?

17 A. I probably had between 10 and 15 meetings with the
FBI

18 agent.

19 Q. Before you went to the grand jury?

20 A. Yes.

21 Q. Why were there so many of them?

22 A. Um --

23 Q. I mean, if you know. Obviously they came and
talked to

24 you; right?

25 A. Right. They came to talk to me. It was
establishing the

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1 link with this person who had sold our equipment and
where the
2 equipment had actually gone and how we could track it
down. I
3 worked with the FBI for us to actually find the
equipment, and
4 we did that through serial numbers and contacting IBM.
And it
5 just was a process of figuring this out.
6 Q. Well, I guess I want to ask it in this way: Were
they
7 going over and over the same things with you, or was it
a
8 matter of adding some new information each time?
9 A. It was adding new information each time, or almost
like
10 doing a little bit of brainstorming; and I would follow
up with
11 some of my information, and they would come back and
see what I
12 had found.
13 Q. Okay. Was there ever a time when somebody wrote a
14 statement out and asked you to sign it, something like
that?
15 A. No.
16 Q. They took notes?
17 A. Yes.
18 Q. Did they ever show you any reports that they had
written?

19 A. I never saw any reports that they wrote.
20 Q. Okay. Just before you went into the grand jury to
testify,
21 did a lawyer for the Government, assistant U.S.
attorney, talk
22 with you?
23 A. Yes.
24 Q. And did that person go over some of these things
that you
25 talked with the FBI about?

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1 A. Yes.
2 Q. And did that person show you any reports or
anything the
3 FBI had reported to him or her?
4 A. I don't remember seeing any of that.
5 Q. About how much time did you talk with the lawyer
for the
6 Government before you went into the grand jury?
7 A. Not very much time at all.
8 Q. Would it be fair to say you kind of hit the high
points?
9 A. Yes.
10 Q. All right. Now, do you know what happened after
you
11 appeared before the grand jury?

that he 12 A. The person was convicted, and it's my understanding

13 spent some time in prison.

14 Q. Was there a trial, if you know?

15 A. I don't know.

called 16 Q. You know, I guess one way to know is were you ever

17 as a witness?

18 A. I wasn't ever called as a witness.

what 19 Q. So did you ask the prosecutor you worked with as to

20 happened?

that this 21 A. I was told by our general counsel at the company

fact this 22 person had been convicted and was in prison, and in

our 23 person's wife contacted me a couple of times because

24 company accidentally sent correspondence to this man.

25 Q. Because of a computer --

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wife was 1 A. A computer sent correspondence, and this person's

2 very upset and contacted me.

wife? 3 Q. Okay. Did that trouble you, that contact with the

4 A. I wouldn't say this troubled me. She was very
upset with
5 me and my company because her husband was in prison;
and he was
6 an elderly gentleman, and she didn't think it was fair.

7 Q. Did you think it was fair?

8 A. Yes, because he had definitely planned this thing
to
9 defraud our company.

10 Q. So having heard from the wife what had happened to
him, and
11 so forth, would it be fair to say no regrets on your
part; you
12 would do the same thing over again?

13 A. Yes, I would.

14 Q. You -- your daughter has -- I'm looking at page 36.
Excuse

15 me. I want to refer you to what I've read. Now, up
there at

16 the top of the page, 154, as I understand it, your
daughter has

17 a close friend married to a medical student who was
involved in

18 Oklahoma City in caring for people who were injured in
the

19 explosion?

20 A. Yes.

21 Q. And has your daughter talked with you about what
her friend

22 or her husband said about that?

23 A. No, not to any great extent. At the time I was

aware that

24 he had been asked to come in as a medical student and
be on

25 call to help, to assist with treating victims, but --

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1 Q. Do you know what hospital or where --

2 A. No.

3 Q. -- exactly he was?

4 A. No, I don't.

5 Q. And he was a medical student at a medical school in

6 Oklahoma?

7 A. Yes.

8 Q. Now, you also say at 157 that your daughter visited
the

9 site of this building in April. Is that April of this
year?

10 A. Yes.

11 Q. And tell us about that, why she was down there, and
what

12 she said to you, if anything.

13 A. My daughter was on spring break visiting her friend
in

14 Oklahoma City; and while they were there -- I can't
remember if

15 it was spring break or a graduation, but she was there
and with

Murrah 16 a group of people, and they visited the site of the
17 Building.

18 Q. And, you know, did it then happen that your
daughter talked

19 to you about that?

20 A. Yes. She told me that it was very moving to be
there.

21 Q. And did she describe the site?

22 A. Not --

23 Q. As she saw it?

24 A. She didn't describe what it was like physically.
She

25 described what it was like for her emotionally to be
there, and

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1 she said that she was very moved to be there and see
the site.

2 Q. Uh-huh. And is she acquainted with anybody else in

3 Oklahoma City?

4 A. No.

5 Q. Besides her friend and her friend's husband?

6 A. No. Her friend is from here and just ended up in
Oklahoma

7 City.

8 Q. Yeah. Well -- and that has affected you? Does it
affect

your 9 you now as you sit here, what has been told to you by

10 daughter and her perceptions and feelings?

very 11 A. Well, I guess I would expect that that would be a

12 emotional and moving thing to see.

13 Q. The death of people is --

14 A. Yes.

15 Q. -- evokes an emotional response.

16 A. Yes.

ability 17 Q. I suppose the thing is how much does it affect the

evidence. 18 of someone to then rationally and objectively analyze

19 A. Right.

emotional 20 Q. Even though the evidence has a very strong

to do in 21 involvement, emotional component. What we ask juries

know, 22 all cases, of course -- and many of them involve, you

23 things that tug at our heartstrings.

24 A. Right.

evidence 25 Q. You have to step back from that and look at the

1 and in the end say, Has the crime been proved?

2 Now, tell us about your ability to do that,
you think.

3 A. I consider myself to be a very objective person and
that I

4 can weigh facts that are presented to me to make
decision.

5 Q. And in fact, you have to do that every day, I
suppose.

6 A. I do that -- I manage a very large group of people;
and so

7 I'm making a lot of decisions every day, trying to
analyze

8 facts. Nothing like what this case is like, but --

9 Q. Well, but decisions that are pretty important to
the people

10 involved.

11 A. They are, yes.

12 Q. And does that include hire/fire-type decisions?

13 A. Yes, it does.

14 Q. And you have occasion to cause people to be fired?

15 A. Yes, I do, or to discipline them.

16 Q. Based on your analysis of the facts?

17 A. Yes.

18 Q. Now, I want to talk with you a little more about
what is

19 involved in this jury service in a case of this type
with the

20 charges of this type. We can't talk about this case
because we

21 don't know what the evidence is going to be; but we
need to
22 review with you your ability to participate in the
process.
23 That's what this is all about.
24 A. Right.
25 Q. And of course, the first process, as it were, is
the trial;

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1 and we've already been over what is involved in the
trial:
2 Does the evidence prove it and does it prove an
involvement
3 with this bombing, as the Government says? And to that
4 question, the jury must say, you know, does the
evidence
5 satisfy us beyond a reasonable doubt that the defendant
is
6 guilty? And that includes, of course, instructions on
the law
7 as to what has to be proved, because for each crime
that is
8 charged in any case, there are certain elements,
factual things
9 that have to be proved.
10 You mentioned this fraud case and your
understanding
11 that the use of the mail and the telephone was an issue
that

12 the Government would have to prove. That's an
illustration of

13 an element of the crime. You understand?

14 A. Yes.

15 Q. So the jury then is first asked: All right, based
on what

16 you've seen and heard here under the court's
instructions, is

17 the defendant proved guilty beyond a reasonable doubt?
If yes,

18 the verdict is guilty. If no, the verdict is not
guilty.

19 And in cases that do not involve the
punishment of --

20 the possible punishment of death or prison for life
without

21 release, then the case goes to the court, the judge, to
decide

22 what the punishment should be for that particular
crime.

23 Understand?

24 A. Yes.

25 Q. And there is a sentencing hearing. Now, in the
case that

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1 you were a witness before the grand jury, you didn't go
to any

2 sentence hearing or --

3 A. No.

4 Q. In fact, you don't know exactly what the sentence
was, as I
5 take it.

6 A. Right.

7 Q. But before a judge makes a sentencing decision,
there has
8 to be a lot more information given than that which was
9 presented as evidence at the trial; and that
information
10 includes some more things about the crime, if the
prosecutors
11 have more to offer there that would not have been a
part of the
12 evidence, like the effects on people and that sort of
thing.

13 But the defense then also has the opportunity
to give
14 a good deal of information. The court wants a lot of
15 information about who the defendant is; that is, what
his life
16 has been, the life history, where he was born and
raised, what
17 the family relationships were, marriage relationships,
work
18 history, a lot of things, what is this particular life;
who is
19 this person?

20 And then the judge makes a decision not only
about
21 what he did but who he is; and that's a decision that

is, you

22 know, individual and unique to that person. That's --
that's

23 the way a sentencing decision is made. Understand?

24 A. Yes.

25 Q. Now, in a case which involves the possibility of
death as a

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1 sentence or life in prison without release, that
doesn't go to

2 a judge. That goes to the jury in Federal Court. It
varies

3 according to the states; but Federal Court, which is
where we

4 are, under federal law, it goes to the jury. And
because of

5 the possibility of jury involvement in punishment, we
had to

6 ask you some questions about your views concerning --
without

7 regard to what the law is, but just your views as a
person

8 regarding the use of punishments, particularly life in
prison

9 without any chance of ever getting out of there, and
death.

10 And that's why we put to you the questions that we did,
and you

11 gave us some answers.

5 Q. All right.

6 A. And I thought about, you know, what would I do if
that was

7 a decision I needed to make. And for me personally, I
don't

8 believe in the death penalty.

9 Q. Now, how did you come to that view? If you can
explain

10 that.

11 A. I guess that's a combination for me of my religious
12 beliefs, my family values, and my life experiences that
some

13 people might deserve to die for a crime they commit;
but I

14 don't think that I personally should be the one to
cause that

15 to happen. I think that's something that should be
left up to

16 God and not for me to take -- to carry out.

17 Q. Now, I want you to clearly understand I'm going to
probe

18 these answers with some more questions.

19 A. Okay.

20 Q. But it's not an accusation. You're entitled to
your views.

21 A. Right.

22 Q. No -- you're not here on trial for them, and I'm
not trying

23 to talk you in or out of anything.

24 A. I understand.

we need 25 Q. But I just want to -- you know, this is a view that

2291

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1 to explore a little.

2 A. Right.

for you, 3 Q. And I'm sure the lawyers may have some questions

4 too.

5 A. Okay.

a robe 6 Q. What I hear you saying -- and if I don't hear you
7 correctly, you don't hesitate, just because I'm wearing

you 8 and sitting up here, to disagree with what I say. But,

right, 9 know, what I hear you saying is that maybe it's all

personally 10 society could do this and should do this, but you

11 can't do it. Is that what you're saying?

12 A. That's exactly what I'm saying.

military 13 Q. Now, would you have the same view with respect to

Army; and 14 service? Your husband -- former husband was in the

forces is to 15 of course, you know, the very purpose of the armed

16 kill the enemy.

17 A. Right.

18 Q. And could you do that in combat, kill somebody
else?

19 A. I couldn't personally do that.

20 Q. And if we -- you know, we've had the draft from
time to
21 time; and if the law were that you were drafted, said
"shoulder
22 arms," the law also says that a person can be a
conscientious
23 objector. You've heard of that --

24 A. Right.

25 Q. -- I'm sure. What would you do if you got a draft
summons?

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1 And assume that we were -- this country was engaged in
a war
2 like Vietnam --

3 A. Right.

4 Q. -- or any other war, so that the draft notice was
to say,
5 "Take up arms and kill."

6 A. That would be a very tough decision for me to make,
but I
7 don't believe that I could serve in a capacity where I
would
8 have to kill somebody.

do you 9 Q. And do you -- I'm the one who put this to you, but

like that, 10 relate those two things at all; that jury service is

should live 11 if the issue is to ask the jurors whether a person

12 or die?

13 A. I think it's similar, yes.

so that 14 Q. Well, let me tell you a little more about the law

case where 15 there isn't any misunderstanding. What happens in a

because of 16 the death penalty is a possibility in Federal Court,

violated: The 17 the particular statutes that are alleged to be

guilty 18 first question is does the evidence show the defendant

the end 19 beyond a reasonable doubt. Obviously, if not, that's

convinced, then 20 of it. But if the jury decides yes, they are

21 there is a guilty verdict.

22 Now, as to that part of the case, you could
23 participate, as I understand it.

24 A. Yes.

person 25 Q. You could decide whether the evidence shows a

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1 guilty?

2 A. Yes.

3 Q. And let me ask it this way: If the law were with
respect

4 to the death penalty the same as other kinds of
penalties, as

5 I've just described, and a judge decided or somebody
other than

6 the jury, could you participate in a verdict knowing
that as a

7 result of your verdict somebody would make a life-or-
death

8 decision?

9 A. Yes.

10 Q. But now it comes to, you know, under the federal
law, we

11 don't have judges make those decisions. We say -- and
this is

12 the policy -- look, 12 people coming out of the
community can

13 make a choice like this a lot better than a judge, and
fairer;

14 and so there would be, after a guilty verdict, a trial
on the

15 question of the sentence. And this trial would go well
beyond

16 the crime and include all of these things relating to
the

17 defendant as a human being. The government has an
opportunity

18 to bring in things -- circumstances that they believe
supports
19 death as a deserved punishment. The defense brings in
these
20 things that support the view that no, regardless of the
crime,
21 this defendant should not be put to death, considering
him as a
22 human being and an individual and separate from even
other
23 persons who may be involved in the same crime. Follow
me?
24 A. Yes.
25 Q. And the court gives them some instructions about
this and

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1 says, Well, you know, here's what you heard; here's
what you
2 heard as aggravating factors, here's what you heard as
3 mitigating factors; consider them all, and here are
some
4 questions to ask yourselves about what you've heard.
And I
5 can't tell you what those questions are because I don't
have
6 the information here. We have to work in the dark.
But there
7 is no formula to be applied. You have to in the end
make a

8 moral judgment --

9 A. Right.

10 Q. -- about another human being. And the question is
can you,
11 you know -- does this person live or die.

12 And, you know, the jury has to approach that
with an
13 open mind and be able to consider the possibility of
yes, death
14 is the justified sentence, and the possibility of no,
death for
15 in person is not justified --

16 A. Right.

17 Q. -- and then in the end, considering all that, make
the
18 decision.

19 Now, tell us, after going through all this and
20 understanding the process, whether you can do that
sitting
21 there on the jury.

22 A. I don't think I could do that as a juror. I don't
think
23 that I could say yes to the death penalty for somebody.

24 THE COURT: Okay. Well, I'm not going to ask
you any
25 more questions, but counsel may have some.

1 MR. MACKEY: None, your Honor.

2 THE COURT: All right.

3 Mr. Tigar, do you wish to --

4 MR. TIGAR: Yes, your Honor.

5 THE COURT: -- ask some questions?

6 VOIR DIRE EXAMINATION

7 BY MR. TIGAR:

8 Q. Good morning again.

9 A. Good morning.

10 Q. We've been introduced. My name is Michael Tigar,
and I'm

11 one of the lawyers, along with Ron Woods, that's been
asked by

12 the court to help Terry Nichols.

13 I wonder if you could turn to page 22 of your
14 questionnaire. You say at Question 100 there that the
criminal

15 justice system is working adequately but it can be
improved.

16 A. Right.

17 Q. And you make a specific suggestion. What
experiences have

18 you had or what have you read that -- that brought you
to make

19 that suggestion?

20 A. Actually, a few years ago, my son was -- along with
a

21 friend stole a six pack of beer out of a convenience
store; and

22 they were guilty of that. And I agree that they should
be
23 punished for that, but they were charged with some much
greater
24 crimes and then encouraged to plea bargain down to a
lesser
25 crime. And I felt that was very unfair for my son;
and, you

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1 know, he was kind of at the mercy of what was going on
with a
2 public defender. We didn't pay a lot of attention to
what was
3 going on with him because we thought this was going to
be a
4 very small case; and he actually ended up being
convicted of a
5 much greater charge.

6 Q. Gracious. Now, so he had a public defender
representing

7 him?

8 A. Yes, he did.

9 Q. And I gather you didn't think that that lawyer was
10 motivated and committed?

11 A. No.

12 Q. Okay. Well, do you understand that Mr. Woods and I
are

13 appointed by the court?

14 A. Yes, I do understand that.

15 Q. Okay.

16 A. And I don't mean to draw a parallel.

We are
17 Q. Oh, no. And believe me, I didn't think you were.
18 motivated and we are committed.

19 A. I believe that.

the
20 Q. All right. And talking about service as a juror in
don't
21 first phase of the case -- and our position is that we
phase, you
22 think there will be a second phase; but in the first
23 don't have any problem, I gather, with the idea of the
its
24 presumption of innocence and putting the Government to
you've heard
25 proof beyond a reasonable doubt and waiting until

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right?
1 all the evidence before you'd make a decision. Is that

2 A. Right. Right.

3 Q. Because they will go first and we will cross-
examine all

4 their witnesses, and then we'll present witnesses and
they'll

5 cross-examine. That's the process.

6 A. Right.

7 Q. You could participate in that.

8 Well, then, let me focus a little bit on that
part,
9 because you said your daughter had been to Oklahoma
City?

10 A. Yes.

11 Q. What questions did you want to ask her about what
she had
12 seen or felt about being there at that site?

13 A. I didn't really need to ask my daughter questions
because

14 she is a great communicator and just told me a lot
about what

15 her feelings were being there and that she said she
cried when

16 she was there. She was with other people, and they
felt sad

17 being there to think that so many lives were lost at
that spot.

18 Q. Was there -- in this case, there will be evidence
that will

19 summon up those images of that terrible devastation.
Were you

20 seated as a juror, would you be able to listen to that
evidence

21 and, whatever your reaction to it -- it might be a
strong

22 one --

23 A. Right.

Nichols' 24 Q. -- still focus on the question what is Terry
25 involvement in this, if any?

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1 A. I believe I could do that, yes.

144, TV 2 Q. And you did -- could you turn to page 33 of your
3 questionnaire, please. You checked off at Question
4 news, radio news, newspaper, magazine, conversations,
and heard 5 other people discussing the case and then said that you
had 6 read quite a bit, limited TV, and articles about the
case.

heard, 7 What impression do you have from what you've
8 seen, and, read about Terry Nichols?

don't 9 A. Well, I don't know very much about Mr. Nichols. I
10 know that I have an impression right now or not, other
than to 11 hear his name, you know, mentioned on television and
the radio 12 and -- I guess my impression is that I just know that
13 Mr. Nichols had some acquaintance with Timothy McVeigh.

read how 14 Q. Do you remember from what you've seen, heard, or

15 Mr. Nichols first came in contact with law enforcement

16 authorities?

17 A. No, I don't.

18 Q. And you do say at Question 162, page 37, "I know
Terry
19 Nichols wanted his trial moved."

20 A. Yes.

21 Q. What do you know about that?

22 A. I believe that Mr. Nichols asked for a change of
venue from

23 Denver, since there had been so much publicity here, or
he
24 believed there was so much here and that that was
denied.

25 Q. Okay. Now, did anything you read or heard or saw
about

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1 that cause you to have a worse opinion of him or about
the

2 lawyers who might have made such a motion or --

3 A. No. Actually, I thought that that made sense; that
I just

4 kind of expected that that would be something that
would come

5 up.

6 Q. All right. And you wouldn't hold it against
whatever judge

7 had heard and denied that; right?

8 A. No.

9 Q. All right. And -- because that wasn't asked very well.

10 What I'm saying is that it is the judge's job to make these

11 rulings.

12 A. Right.

13 Q. And we accept them. Lawyers on both sides.

14 A. Right.

15 Q. Okay. You did say the -- let's see. Could you look at

16 page 27 about political and religious opinions at Question 122:

17 "I support this --" that is, everyone is entitled to their

18 opinions "-- as long as the political and/or religious

19 do not cause harm to others. To me, 'harm' means physical harm

20 or restricting others' rights."

21 A. Right.

22 Q. Would you help me with that? What did you mean by that?

23 A. Well, if somebody feels so strongly that they would have

24 to, you know, for example, hold somebody hostage to prevent

25 their beliefs about something or kill somebody to prevent their

Juror No. 474 - Voir Dire

1 beliefs.

2 Q. So you certainly don't -- it doesn't authorize you
to

3 violate the law.

4 A. Right.

5 Q. Now, turning to this question of punishment, we, of
course,

6 take the position that we're not going to get there;
but if we

7 should be at that stage, we can't stop and ask
everybody

8 questions all over again.

9 A. Right.

10 Q. And the first issue I wanted to understand: If
there were

11 a military draft, you think you'd be willing to serve
but you'd

12 ask for perhaps some kind of conscientious objector
status; is

13 that right?

14 A. Right.

15 Q. Now, if there were an invasion of American soil by
foreign

16 troops, would your view about your own willingness to
carry

17 arms be different?

18 A. It might be different if I was in a defensive
position. I

19 was just sitting here thinking of this, too; that I
could
20 probably hurt somebody if I needed to defend myself or
defend
21 my child and it was very immediate and I needed to do
something
22 like that. I don't think I could take an offensive
position,
23 though.
24 Q. Okay. And the Judge talked about the fact that
there are
25 two stages of a trial; and if we got to that second
stage, the

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1 first -- first, there would be more evidence; and
second, there
2 would be instructions from the Court about what to
consider.
3 And you understand that no juror is ever required to
vote a
4 death sentence.
5 A. Right.
6 Q. Okay. And that the jurors have choices,
essentially three
7 choices. And one choice is we recommend a death
sentence. The
8 second is we recommend life in prison without any
possibility

9 of release. And the third, the jurors are unable to
agree on
10 that; they say, all right, give it back to the judge,
who would
11 then do the sentence under the rules the Court
explained.

12 A. Right.

13 Q. And so I want to take this very carefully, because
you
14 understand we're asking everybody these kinds of
questions.

15 A. I understand.

16 Q. Not trying to put anybody on trial for their
beliefs.

17 Would you be able to listen to and consider
all the
18 evidence presented?

19 A. Yes.

20 Q. And would you be able to listen to it and give it
21 consideration, even if it was very graphic -- the
effect of
22 these events on people?

23 A. Yes.

24 Q. And would you also be able to listen to facts about
the
25 defendant as an individual human being, where he grew
up or she

been in 1 grew up or what they had done, whether they had ever
family 2 trouble with the law before, what plans they had, their
so on? 3 background, what they had done good in their lives, and

4 A. Yes, I could do that.

you have 5 Q. And then the next thing is, the Judge says, Look,
views 6 to have an open mind. We understand everybody has got
-- you 7 about this. Do you think that you could look at that
then 8 know, evidence that says that, Boy, this is just such a
there is 9 horrible, horrible thing that affects us so deeply, and
about 10 the other evidence on the other side that says, Well,
11 an individual human being there, there is some evidence
12 their role.

you, even 13 That's the point, I guess, we get to: Could
took an 14 understanding that you have these views, say, Well, I
and I'll 15 oath, I'm a juror, I'll listen to what the judge says,
something that 16 follow the law and make this decision? Is that
17 you feel at the end of the day that you could do?

18 A. Yes, I could.

would 19 MR. TIGAR: Well, you know, that's all that we
20 ask of you. Thank you very much.

21 JUROR: Thank you.

22 VOIR DIRE EXAMINATION

23 BY THE COURT:

24 Q. Just to follow up on that to be clear now, you've
talked
25 about that you could listen. Can you, in making the
decision,

2303

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1 consider all three of the options, which, as Mr. Tigar
said and
2 I have said, include life in prison without release,
death, and
3 any other sentence -- and you, the judge to do it, to
mean
4 that's what the jury would say?

5 A. Yes, I could consider all three options.

6 Q. Well, are you making the distinction between
"consider" and
7 "decide"?

8 A. Yes. I don't -- I do not think I could decide for
the
9 death penalty, but I haven't -- I haven't heard this
case, I
10 mean to be real honest. I haven't ever been faced with
it.

all, 11 Q. We're not asking about this case; and I think we've
because we 12 you know -- Mr. Tigar and I both emphasized that
13 don't know this case.

14 A. Right.

15 Q. We don't know what's going to be presented.

16 A. Right.

don't 17 Q. Not only with respect to this penalties thing; we
trial. 18 know what's going to be presented as evidence at the

19 A. Right.

you 20 Q. Now, that may seem strange to you, but, you know --
21 know that I presided at the McVeigh trial, I'm sure.

22 A. Yes.

would be 23 Q. And I'm telling you I don't know what the evidence
cases. So 24 at Mr. Nichols' trial. That's why I separated these

the 25 I can't and you can't be thinking about the evidence at

2304

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guilty 1 trial or what the information would be if there were a
2 verdict.

3 A. Right.

4 Q. So all we can talk about is the ability to decide
and to be

5 open to the range of penalties that the law talks
about, which

6 include life without release, rest of your life in
prison,

7 whoever the defendant is; the death of that person, or

8 something else, in which event it would be a judge's
sentence.

9 The question is can you consider -- and you've
been

10 clear you can consider -- but can you decide on --
among these

11 three?

12 A. I can decide among those three. It would take
something

13 enormous for me to decide on the death penalty. I
don't even

14 know what that would be.

15 Q. Okay. But please, I'm not arguing with you --

16 A. I know.

17 Q. But I think it's fair for the Government, here,
too, who

18 didn't ask you any questions; but, you know, that's
fine if

19 your answer is that you can decide because something is
so

20 enormous that yes, you could decide on the three
things,

21 including death.

22 A. Yes.

23 THE COURT: All right. I think you've told us
now,
24 and there aren't too many other ways to talk about it.
You
25 completed the questioning, and please forgive us for
pressing

2305

1 you so much on this, but it's -- you understand why we
have to
2 do so.

3 JUROR: I certainly understand.

4 THE COURT: And everybody knows that the kinds
of
5 questions that are asked of a jury are very hard and
that jury
6 service in all cases is difficult and in some cases is
more
7 difficult than others. So you've helped us.

8 Now, I can't tell you whether you're going to
serve on
9 this jury and won't be able to tell you for a while; so
bear
10 with us, if you will, and your employer, too, because
we're not
11 going to be able to say. And I'm sure you understand
why we
12 can't. We don't know how many people we're going to

talk with

13 or how long it's going to take to do this. All we know
is
14 we're going to do it deliberately and fairly so that we
get a
15 fair jury. That's what all of us want.

16 So as you go from here now, continue -- you're
excused
17 for now; and as you go from here, continue to be
careful,
18 following the cautions earlier given, and not discuss
the case
19 with anyone or anything about your jury service or this
of mind
20 questioning and sort of, you know, keep the same frame
21 you've talked about now.

22 JUROR: Okay. Thank you.

23 THE COURT: You're excused. We'll be in touch
with
24 you. If you should move or change your address or
something,
25 of course, you would let us know.

2306

1 JUROR: Okay.

2 THE COURT: All right. Thank you.

3 (Juror out at 12:08 p.m.)

4 THE COURT: We'll recess till 1:25. Court is

in

5 recess.

6 (Recess at 12:08 p.m.)

7 * * * * *

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	15	* * * * *
	16	REPORTERS' CERTIFICATE
	17	We certify that the foregoing is a correct
transcript from		
Dated	18	the record of proceedings in the above-entitled matter.
	19	at Denver, Colorado, this 9th day of October, 19997.

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Paul Zuckerman

Kara Spitler