





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

It

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

have to

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

do.

3 talk right into the microphone. Anything close will

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

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

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

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

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

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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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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Juror No. 82 - Voir Dire

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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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 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 hearing  
18 where it asked, "What is the extent of your reading and  
bit"; is  
19 about this case?" -- and you checked off, "Quite a  
20 that correct?  
21 A. Uh-huh.  
22 Q. Have you formed an opinion based on all of the  
information  
23 half  
24 you've seen, read, or heard over the past two and a  
25 years -- have you formed an opinion about this case?  
26 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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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

Juror No. 82 – Voir Dire

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  
has to  
15 penalty case, the law does not require that the jury  
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  
be able  
19 defendant guilty of a capital murder offense, that they  
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 --  
rule --  
25 and I would like to discuss that. It's on page 27,

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Juror No. 82 - Voir Dire

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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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

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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,

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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

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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

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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

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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

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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

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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

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

2237

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

Juror No. 817 - Voir Dire

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

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

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

6 out?

7 A. Yes.

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

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

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

11 A. Yes.

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

13 A. Right.

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

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

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

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

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

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

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.

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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.

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1 Q. And do you have any lawyers in mind that, you know  
-- that

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.

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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?

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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

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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

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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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1 call an indictment, a statement of charges, and that  
charged  
2 with crimes were a man named Timothy James McVeigh and  
Terry  
3 Nichols here and other persons not named in the  
indictment --  
4 were accused of planning a conspiracy to bomb that  
building and  
5 to kill the people in it and injure them and that the  
charges  
6 include that they carried that out and that they also  
were  
7 charged with the premeditated murder of eight law  
enforcement  
8 people, agents, who were in the building at the time  
and who  
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  
14 Oklahoma City here to Denver because of a concern as  
to, you  
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

19 concerned, as far as Mr. Nichols is concerned, it would  
not be  
20 fair to have them together in the same trial and be  
judged by  
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

2288

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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.

12                    Now, page 28 is where some of these answers  
are. Just  
13                    take a moment to review them.  
14                    A. Okay.  
15                    Q. And you had an earlier answer on page 13. I want  
to have  
16                    you put that in your mind, too. Question 56.  
17                    A. Okay.  
18                    Q. And apparently from what you said in the first one,  
the  
19                    earlier question, the death penalty is something you've  
thought  
20                    about before.  
21                    A. Yes.  
22                    Q. How much have you thought about it and in what  
context,  
23                    before this questionnaire?  
24                    A. I've thought about it during other high-profile  
trials.  
25                    Q. That you've read about?

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1                    A. That I've been aware of.  
2                    Q. For example?  
3                    A. For example, the O. J. Simpson trial and the  
Timothy  
4                    McVeigh trial most recently.

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.

examine all 3 Q. Because they will go first and we will cross-

they'll 4 their witnesses, and then we'll present witnesses and

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

and heard 4 news, radio news, newspaper, magazine, conversations,

had 5 other people discussing the case and then said that you

case. 6 read quite a bit, limited TV, and articles about the

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

than to 10 know that I have an impression right now or not, other

the radio 11 hear his name, you know, mentioned on television and

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 Nichols wanted his trial moved."

19 A. Yes.

20 Q. What do you know about that?

21 A. I believe that Mr. Nichols asked for a change of  
venue from

22 Denver, since there had been so much publicity here, or  
he  
23 believed there was so much here and that that was  
denied.

24 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

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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,

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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

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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.)

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16	REPORTERS' CERTIFICATE
17	We certify that the foregoing is a correct
transcript from	
18	the record of proceedings in the above-entitled matter.
Dated	
19	at Denver, Colorado, this 9th day of October, 19997.

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Paul Zuckerman

Kara Spitler