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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Action No. 96-CR-68

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TERRY LYNN NICHOLS,

Defendant.

ff

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REPORTER'S TRANSCRIPT
(Trial to Jury: Volume 20)

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ff

MATSCH, 13 Proceedings before the HONORABLE RICHARD P.
14 Judge, United States District Court for the District of
15 Colorado, commencing at 1:24 p.m., on the 9th day of
October,
16 1997, in Courtroom C-204, United States Courthouse,
Denver,
17 Colorado.

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19
20

13

PROCEEDINGS

14

(Reconvened at 1:24 p.m.)

15

THE COURT: Be seated, please.

16

Mr. Tigar.

17

MR. TIGAR: Yes, your Honor. At the recess,

18
juror, and

Mr. Manspeaker provided us with the letter from the

19
do not

we wanted to announce to the Court that for our part we

20
live. That

intend to ask any jurors anything about where they

21
it's

information is already here, we have it, to the extent

22
care, as

necessary. And we are also going to take much more

23

much as possible, with respect to the nature of their

24

occupation; in other words, to try to --

25

THE COURT: Avoiding identifying --

2310

do but

1

MR. TIGAR: Doing the questioning you need to

2

rely for that what's in the questionnaire.

3

THE COURT: All right.

the

4

MR. TIGAR: We don't think that's our fault or

wanted to

5

fault -- I mean it's something that happened, but I

6 let the Court know our position.

7 THE COURT: Okay. Well, you both got the
letter, I

8 assume, from the juror.

9 MR. MACKEY: We did, yes, sir.

10 THE COURT: The request made, so we'll take
that up

11 when we talk about jurors tomorrow.

12 Okay. I think we have 527.

13 Good afternoon. If you will raise your right
hand and

14 take the oath from the clerk, please.

15 (Juror No. 527 affirmed.)

16 THE COURTROOM DEPUTY: Thank you.

17 THE COURT: Please be seated.

18 VOIR DIRE EXAMINATION

19 BY THE COURT:

20 Q. And you know from the jury summons that you got
several

21 weeks back that your name was -- came up by a chance
selection

22 process as a person called in for possible jury service
in the

23 trial of the United States against Terry Lynn Nichols.

24 A. Yes.

25 Q. And you, when you got the summons, filled out a
short-form

Juror No. 527 – Voir Dire

1 questionnaire and sent it back to us. Then you got a
notice to 2 appear on September the 17th at the Jefferson County
3 Fairgrounds' auditorium building, and you did that.

4 A. Yes.

5 Q. You and others. And at that time I was there and
6 introduced myself and some other people who are again
here and 7 participating in this process, and I want to introduce
them 8 again so that you know who's here with us.

9 First lawyers for the Government: Mr.
Lawrence Mackey

10 and Miss Beth Wilkinson. You were introduced to them
before.

11 And Mr. Patrick Ryan is now joining us along with Mr.
James 12 Orenstein at that table.

13 At the defense table we have Mr. Michael Tigar
and

14 Mr. Ronald Woods, attorneys for Terry Nichols, the
defendant,
15 who is here as well.

16 And you recall that I gave some explanation
about the
17 background of the case and gave you and the others a
18 questionnaire to fill out, which you did.

19 A. Yes, sir.

20 Q. And you have that completed questionnaire there
with you
21 now, given to you for purpose of your review as we ask
you even
22 more questions. So bear with us.

23 I want to just refresh your recollection with
respect
24 to some of the things that I said when we were together
last,
25 not that I think you don't remember them, but simply
for the

2312

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1 record, as we say in these proceedings, so that we have
sort of
2 common ground to begin on.

3 First of all, I advised that the case arises
as a
4 result of charges filed by the Government in Oklahoma
City,
5 Oklahoma, as a result of an explosion of a federal
office
6 building there resulting in death and injury to people
who were
7 in it, that having occurred -- the explosion, that is
-- on
8 April the 19th of 1995; and that the Government then
charged in
9 a charging document called an indictment two men, one

named

10 Timothy James McVeigh, the other Terry Lynn Nichols,
who's
11 here, and then also referred to other persons not named
and
12 accused them of participating in an explosion to bomb
the
13 building in Oklahoma City and that -- that the bombing
was
14 carried out as a result of their conduct and also the
murder
15 of -- premeditated -- of eight federal law enforcement
agents
16 who were in the building and died in the explosion.

You

17 understood that?

18 A. Yes.

19 Q. And that's something you heard about before I told
you
20 about it anyway, I assume.

21 A. Yes.

22 Q. Then I also mentioned, so that it would be clear to
23 everybody, that the case was moved from Oklahoma City
here to
24 Denver for trial and that that was done because of a
concern
25 that there may be difficulty in people being fair-
minded

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1 because people out of that community that was affected
by the
2 explosion and that in addition to the move, which we
refer to
3 as a change of venue, that also I ordered separate
trials and
4 that the reason for that is that it would not be fair
to either
5 of the named defendants to go to trial together because
of
6 differences -- expected differences in the evidence
that may
7 relate to either of them; so that while both were named
in the
8 same charging document, the cases with respect to each
of them
9 were sufficiently different that no one jury should be
asked to
10 decide.

11 So we did have the separate trial order, and
there has
12 been a trial here of the case, the evidence, as it
relates to
13 Mr. McVeigh. And the outcome of that case was that a
jury,
14 having heard that evidence, decided that it proved him
guilty;
15 and then there was another trial or a hearing with
respect to
16 the issue of sentencing, and the jury recommended a
sentence of
17 death for Mr. McVeigh. You recall that.

18 A. Yes.

19 Q. And again, that's probably something you heard
about even

20 before you got out to the Jefferson County Fairgrounds
and

21 heard it from me. Is that the case?

22 A. Yes.

23 Q. Then I reviewed with you and the other people who
may be on

24 the jury some fundamental principles of our criminal
justice

25 system. And you've been on a jury before.

2314

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1 A. Yes.

2 Q. And you told us about in -- that in the
questionnaire.

3 Right?

4 A. I think so.

5 Q. Okay. Let's look at page 26. That's where you
told us

6 about it. We don't expect you to have a memory of each
page

7 and what everything's on each page, and I'm not going
to go

8 over all of these, you know, and reask you about it;
but there

9 are certain ones that we want to follow up on.

10 And just an aside here, you understand that we
did
11 take your answers and copy them for the people who are
in front
12 of you to participate in this process.

13 A. Yes.

14 Q. And that we also told you -- and it's been the case
-- that
15 we haven't shared with others, it's not public, and
your name
16 is not being used here. And, you know, we'll ask you a
lot of
17 things that probably are personal in nature and private
to you,
18 as it would be to anybody, so we're trying to protect
your
19 privacy. And so that's how we'll proceed here, without
asking
20 you names and that sort of thing, unless it's really
important
21 and necessary.

22 And you understand we even arranged for you to
come
23 and go to the courthouse without people having an
opportunity
24 to see you and photograph you and that sort of thing.
But what
25 happens here in this room, this is public; you know
that?

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1 A. Yes.

2 Q. And that's why I'm saying, you know, we'll be very
careful

3 about how we ask questions and you in response will
give public

4 information as needed, but also protecting privacy as
we can.

5 But now, you were, as I understand it from
this, a

6 juror in a criminal case involving the possession of
some kind

7 of drugs or controlled substance?

8 A. That's right.

9 Q. Was that in this court, federal?

10 A. No, it was in Denver County court.

11 Q. Okay. And so it was a state trial. Do you recall
-- well,

12 first of all, how long ago was this?

13 A. 15 years ago.

14 Q. Quite a while ago. But you remember -- do you
remember the

15 outcome, what the jury verdict was?

16 A. It was guilty.

17 Q. And do you remember more particularly about the
charges?

18 You say drug possession.

19 A. Yes.

20 Q. Was it possession in connection with the sale of

drugs or

21 for personal use, or what did you understand?

22 A. It was just possession.

23 Q. For -- what kind of drug was it? If you remember.

24 A. I think it was cocaine and marijuana.

25 Q. And do you remember the amounts at all?

2316

Juror No. 527 - Voir Dire

1 A. They were small amounts.

2 Q. The amounts that you understood would be used for
personal

3 use as opposed to marketing or sale?

4 A. As I think back now, part of their -- part of the
case

5 involved cutting this -- diluting this cocaine, or
whatever it

6 was, with something else and putting it in smaller
containers.

7 So it must -- I guess it had to do with sale, then,
also.

8 Q. Sale. Do you remember if you were asked to decide
-- you

9 came in with a guilty verdict; you said that.

10 A. Yes.

11 Q. Were you asked to decide particular offenses that
one may

12 be more severe than another? Was there a verdict like
that?

13 For example, sometimes in cases like that with the same
14 evidence, a jury could find that a person had it with
the
15 intent to sell it or just had it for personal use, and
those
16 are really two different things. Do you remember
anything like
17 that?

18 A. My memory is vague, but I think -- was probably
intent to
19 sell. Yes, sir.

20 Q. Okay. So whatever, the jury found that the
evidence was
21 enough for the crime charged.

22 A. Yes.

23 Q. And in the course of that trial -- we're not going
to try
24 to test your memory about all the details. But in the
course
25 of that trial, do you remember -- of course lawyers on
both

2317

Juror No. 527 - Voir Dire

1 sides; right?

2 A. Yes.

3 Q. One person as a defendant or more than one?

4 A. One person.

5 Q. One person. And do you recall whether that person
6 testified as a witness?

7 A. No, he did not.

8 Q. Did not. And you understood that he didn't have
to, did
9 you?

10 A. I didn't consider that.

11 Q. Okay. In fact, you remember the judge telling you
that you
12 could not consider that.

13 A. I don't recall that.

14 Q. Okay. Well, you understand the reason I'm asking
this is
15 that is one of the fundamental principles of our law.
Going
16 back now to what I said at Jefferson County and giving
some
17 very preliminary instructions about the law, I
mentioned that
18 no person in our country under our Constitution who is
charged
19 with any kind of crime has any burden or duty of
producing any
20 evidence, doesn't have to show himself to be not
guilty, in
21 other words; the prosecution has to prove guilt by
evidence
22 that's received at the trial under the rules of
evidence. And
23 you already understood that, having been in this very
same type

24 of process, true?

25 A. Yes.

2318

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1 Q. And of course I don't know what all the detailed
2 instructions were in the case, but I'm sure the court
must have
3 instructed you could not find the defendant guilty
unless you
4 were satisfied, all of the jurors, that what they heard
and saw
5 as evidence showed guilt beyond a reasonable doubt.

6 A. Yes.

7 Q. Do you remember that phrase, "beyond a reasonable
doubt"?

8 A. Yes.

9 Q. And it was probably defined a little bit in the
10 instructions, but -- and we're not going to again try
to ask
11 you to recall exactly the words of the judge, but you
12 understand that what it means is that a person who is
charged
13 is presumed to be not guilty.

14 A. Yes.

15 Q. Starts the trial that way. And has to be found not
guilty
16 unless the evidence shows guilt beyond a reasonable
doubt.

17 A. Yes.

18 Q. And that as you've already recognized, the
defendant

19 doesn't have to testify or explain anything to the
jury; can

20 simply remain silent and challenge the evidence that
the

21 prosecution relies on; right?

22 A. Yes.

23 Q. And then at the end of the trial the jury is asked:
All

24 right, here are the things that have to be proved to
constitute

25 the crime charged. The question is: Does the evidence
show

2319

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1 guilt beyond a reasonable doubt? If after you discuss
the

2 matter and consider all that you've heard and seen you
still

3 have a reasonable doubt about the guilt, you'd have to
give the

4 defendant the benefit of that doubt, finding him not
guilty.

5 Right?

6 A. Correct.

7 Q. Okay. And you would follow that as fundamental
principles

8 of law applicable here as well?

9 A. Yes.

10 Q. So no question in your mind, Mr. Nichols is here
presumed

11 to be not guilty or innocent of the charges made
against him?

12 A. Yes.

13 Q. Now, taking you back just for another question or
two about

14 that case you had in Denver -- some 15 years ago, did
you say,

15 about?

16 A. About, yeah.

17 Q. Do you remember how long the trial was?

18 A. Three or four days.

19 Q. Do you remember going through a process like this
where you

20 were asked some questions before you were selected?

21 A. Yes.

22 Q. And then do you remember how long the jury talked
about it,

23 how long the deliberations took?

24 A. Three or four hours.

25 Q. And you had somebody elected as foreperson, and
that was

1 somebody other than you, apparently; is that right?

2 A. That is right.

3 Q. Okay. We're not going to ask you to remember the
details
4 of the deliberations because really that's secret,
that's
5 between and among the people who were there on that
jury.
6 Now, do you know what happened after your
guilty
7 verdict?

8 A. No.

9 Q. So you don't know --

10 A. Well, yes, I do. The judge imposed a sentence.

11 Q. When you were there? Or did you hear about it
later?

12 A. I don't know. I guess

13 Q. You're not sure about how you heard?

14 A. I'm not sure.

15 Q. Okay. We'll come back to that because I need to
talk about
16 the sentencing process a little with you, too.

17 A. Uh-huh.

18 Q. But before doing that, I want to come back to some
other
19 things about your questionnaire and your answers and
sort of
20 your history. You're a native-born Coloradan. Yes?

21 A. Yes.

22 Q. Born here in Denver, but you live outside Denver
now.

23 A. Yes.

24 Q. And I'm a little confused, and I'd like you to help
me out

25 in looking at page 2 of the questionnaire. As I
understand it,

2321

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1 you've been married twice; is that true?

2 A. I've been married three times.

3 Q. Three times, okay. And so you're married now?

4 A. Yes.

5 Q. And this is the third marriage?

6 A. That's right.

7 Q. All right. And you've been married to your present
wife

8 for about seven years?

9 A. Yes.

10 Q. That straightens me out on that, thank you.

11 And there's one daughter born to you and your
present

12 wife?

13 A. That's true.

14 Q. Okay. And she's a youngster, and is she in
preschool or

15 something like that?

16 A. She is.

17 Q. On page 5, if you will turn to that, please. At
the top of

18 the page, you refer to some need for some support along
the

19 way. How long ago was that that you sought some
assistance?

20 A. Eight to ten years.

21 Q. That in connection with the second marriage?

22 A. Yes.

23 Q. Okay. And these other marriages ended in divorce.

24 A. Yes.

25 Q. Now, I want to turn to your employment history --
oh,

2322

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1 before I do that, as I understand it, your wife now was
born in

2 Oklahoma?

3 A. True.

4 Q. In Tulsa?

5 A. Yes.

6 Q. She has family in Oklahoma City?

7 A. She does.

8 Q. Who in her family lives in Oklahoma City? Not
their names;

9 their relation.

10 A. Her brother and their -- and his family.

11 Q. And they've lived in Oklahoma City through 1995? I
mean
12 they were living there at the time of this event?

13 A. Yes.

14 Q. And are her parents living?

15 A. Her mother is.

16 Q. In Tulsa?

17 A. In Tulsa.

18 Q. And as I understand your answers here, no one in
your
19 wife's family was directly affected by the explosion
and the
20 resulting events; is that true?

21 A. That's true.

22 Q. Has your wife, you know -- when this all happened,
did she
23 go back to Oklahoma City and be with her family, her
relatives
24 or anything like that?

25 A. No. We visited sometime later, perhaps six months
later,

2323

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1 visited the family in Oklahoma City; but we never drove
by the

2 building nor anything like that. Really never
discussed it.

3 Q. Well, I guess I asked you, did you intentionally
not go to

4 the site?

5 A. No.

6 Q. Because you could, you know -- it would be a human
nature

7 sort of thing to want to see it just because you've
heard a lot

8 about it up here in the newspapers and radio and
television and

9 so forth.

10 A. No, we just didn't have enough time in our
travelling to

11 see it.

12 Q. All right.

13 A. And certainly not enough interest.

14 Q. Well, I'm not challenging your answer as being
untrue or

15 anything like that. In fact, there's no right or wrong
to any

16 of these. All we want to get to is, you know, what is
the

17 truth here with respect to your experiences and then
also what

18 your opinions are about some things. So please don't
take it

19 that I challenge you in some way on your answers. All
right?

20 A. All right.

21 Q. And you'll hear from -- the lawyers will be asking
you some
22 questions, too, when I'm done. Nobody is putting you
on trial.
23 So don't in any way think that we're, you know, putting
you on
24 the defensive or even trying to put words in your
mouth,
25 because we may be asking questions that are leading in
nature,

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1 suggesting the answers, but that's just to help you
express
2 yourself and give us the information we need. Okay?
3 A. I understand.
4 Q. All right. Good. So would it be fair to say that,
you
5 know, for all of the reasons or whatever, that your
wife's
6 family connections here, both with respect to Tulsa and
7 Oklahoma City, have, in your view, no bearing on this
matter
8 and your ability to judge it, or not?
9 A. I would say that they have no bearing on my ability
to
10 judge.
11 Q. All right. And if you were to sit on this jury and
make a

12 decision in the case, would you feel that you have to
explain

13 it or answer for it in some way to your wife's family?

14 A. No.

15 Q. Is -- do you have -- don't misunderstand the
question. Do

16 you have a pretty good relationship with them?

17 A. Yes.

18 Q. And you feel that they would trust you to make
whatever

19 judgment is necessary regardless of their opinion of
it; is

20 that what you're saying?

21 A. Yes, they would.

22 Q. Okay. Now, you went to school at the University of
23 Colorado?

24 A. Yes.

25 Q. Electrical engineering was the major?

2325

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1 A. Yes.

2 Q. And then -- and you then went to work with a
government

3 agency?

4 A. Yes.

5 Q. And in fact, I guess you went to work shortly after

school?

6 A. Immediately.

7 Q. Immediately. That was your first job after
college?

8 A. Yes.

9 Q. Then you went to -- that's a different agency but
somewhat

10 connected with your second job?

11 A. It is, yes.

12 Q. Then you went back to the --

13 A. That's true.

14 Q. -- the agency you were with before, and you've been
with

15 them since.

16 A. Yes.

17 Q. Have you -- well, what kinds of projects have you
worked

18 on? It's structures and equipment with water. Are we
talking

19 about dams or --

20 A. Yes. Dams; in particular, generators and dams.

21 Q. The hydroelectric power supply?

22 A. That's right. That's right.

23 Q. And have you worked with particular dams in this
area?

24 A. Yes.

25 Q. Now, is most of your work done desk work?

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1 A. It is.

2 Q. As opposed to being on site, is what I'm saying?

3 A. I travel maybe two times -- every other month I
travel to a

4 dam site or site of some other work having to do with
5 electrical.

6 Q. Yeah. But you're not involved with building new
dams, or
7 are you?

8 A. Yes, I have been, but I'm not now.

9 Q. There aren't many dam projects going on anymore, I
guess,
10 are there?

11 A. No.

12 Q. Easterners have a different view of the water out
here than
13 westerners do. I mean it's being a political issue as
to

14 whether money should be spent on water projects.

15 There's a matter right now that involves some
people

16 in your agency, as I understand it. Do you know any of
those
17 people? Do you know what I'm referring to?

18 A. Is it an airplane crash this morning?

19 Q. Yeah. I don't know if it's a crash. I heard it
was a

20 missing plane.

21 A. I believe I know the people involved.

22 Q. Are you pretty close with them? You work with
them?

23 A. Yes.

24 Q. Do you know --

25 A. Well, I don't know if they're -- for sure that the
people

2327

Juror No. 527 - Voir Dire

1 I'm thinking of are involved.

2 Q. Did you know about a trip that somebody was
planning?

3 A. I know about a problem at Glen Canyon Dam that
happened two

4 days ago, and it's likely that some people from our
office went

5 down to take a look and figure out why that happened
and what

6 to do about it.

7 Q. Is this something you're thinking about now,
worrying about

8 those people?

9 A. I'm concerned.

10 Q. And of course I don't know what the latest news,
and I

11 suppose you don't, either. You've been in the
courthouse here.

would 12 But if it's the worst there and those people are lost,
13 that have any effect on your ability to work on a jury?
14 A. No.
although it 15 Q. Okay. You see that as something very separate,
16 would deeply concern you, I suppose.
17 A. Yes, it would be separate.
respect to 18 Q. All right. Thank you. You -- on page 20, with
19 your family, you mention that your father, what,
graduated from 20 the University of Colorado Law School?
21 A. Yes.
22 Q. But never practiced, you say.
23 A. That's true.
24 Q. What did he do after law school?
25 A. He did plumbing.

2328

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whether 1 Q. Saw the light. And did he ever talk to you about
2 you wanted to be a lawyer or not or anything like that?
3 A. No.
law 4 Q. Do you know why he made the choice after going to

5 school and not practicing law? Did he ever tell you?

6 A. It had to do with the bar exam.

7 Q. Okay. Let's see. Is your wife now working?

8 A. No.

9 Q. She's taking care of the youngster?

10 A. Yes, she is.

11 Q. When you -- page 18, if you'll go there, please.
And you

12 mention a use of the Internet at page -- excuse me, at
Question

13 82. And you're talking about a search for tools.

14 A. Yes.

15 Q. Are you looking at -- I guess I want to have you
explain to

16 me how to use the Internet and what that means.

17 A. I don't know much about the Internet, but recently
I needed

18 a bell jar for some work that I was doing in my garage;
and so

19 I looked on the Internet to see what bell jars were
available.

20 Q. And is it like classified advertising?

21 A. Yes, it is.

22 Q. Like if you go to the newspaper and look in the
classified

23 want ads?

24 A. Yes.

25 Q. Okay. Now, are you a garage inventor?

Juror No. 527 - Voir Dire

1 A. Yes.

2 Q. Do you work on ideas and projects and thoughts for
3 inventive approaches to things?

4 A. Yes.

5 Q. Have you applied for any patents?

6 A. Yes.

7 Q. Did you receive patents?

8 A. Yes.

9 Q. And so we're not going to ask you for any trade
secrets
10 here. But in what areas? What kind of things?

11 A. My patent is called a liquid and granular fluids
dispenser.

12 Presently I haven't sold it, but it fits on the top of
a spice
13 jar. It's got a knob on top, and you dial the knob to
adjust

14 how much spice you want to dispense and tilt it
backward and

15 forward, and out comes hopefully that much spice.

16 Q. Haven't gone through a marketing process yet?

17 A. I'm working on that.

18 Q. Have you had any other inventions?

19 A. None patented.

20 Q. But you're working on some, are you?

21 A. Yes.

22 Q. That type of thing; I mean in terms of sort of a
23 convenience device or process?

24 A. Gadgets, yes.

25 Q. Gadgets, good word, okay. And you enjoy that,
apparently?

2330

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1 A. Yes.

2 Q. Have there what I guess we would call an inventive
mind;

3 you can see things and see new applications for some of
the

4 things that have been around. I mean that's often
involved in

5 invention, new combinations.

6 A. I hope so.

7 Q. How long have you been a garage inventor? I mean
how long

8 have you done that kind of thing?

9 A. Ten years.

10 Q. I want to return to the subject of this case and
the matter

11 of jury service and what's involved. As referred to by
you in

12 your guilty verdict in that other case where you heard
the drug

13 issue, the drug case, and you had an uncertainty about
what
14 happened there on the sentencing.

15 Now, the normal thing when the nature of the
crime is
16 such that it does not involve issues like life in
prison
17 without ever being released or death, the sentencing is
not a
18 matter for the jury's concern. So I would guess that
in the
19 case in which you sat as a juror, you were told, you
know, you
20 don't need to think about punishment or sentencing
because
21 that's not for the jury; that's for the court. Do you
remember
22 something along that way?

23 A. Yes.

24 Q. And then of course when there is a guilty verdict,
it does
25 go to the judge for sentencing. And the usual process
is that

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1 there's going to be another hearing in front of the
judge with
2 respect to what sentence should be imposed, and it's a
very
3 individual decision, individual to that defendant is

that

4 before a sentence is arrived at, the judge will get
information

5 beyond what was heard at the trial -- that is, in
addition

6 to -- information not only that may go to the
circumstances of

7 the particular offense involved, but also a lot of
information

8 about the person, the defendant, and things like that
person's

9 entire life's background, where he was born and raised
and how

10 and what his family relationships are, marriage
history, things

11 relating to his employment, sort of like what we're
asking here

12 of you, but a lot more than that.

13 And the idea is to make sure that the
sentencing

14 decision is based on all of the factors that could
affect a

15 fair judgment not only for the crime but for the
particular

16 person involved. And it's individual so that, you
know, even

17 if two people were involved in the same crime, the
court could

18 very well sentence them differently, one receiving a
sentence

19 greater or less than the other. And that's because our

20 decision -- our decisions under our criminal justice
system

human 21 recognize that each person is a unique and individual
consideration 22 being and that a fair system of justice requires
23 of that. Do you understand?
24 A. Yes.
the 25 Q. And then that sentence is made. And that's what

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thinks is 1 sentencing authority in the usual case, the judge,
2 just for that sentence, that person, that crime.
if that's 3 Now, when it comes to life or death, though,
leave that 4 involved in sentencing, under federal law, we don't
here in the 5 to judges; that's for jurors. And under our system
we're 6 Federal Court -- and it varies among the states -- but
courts 7 talking Federal Court, so it's the same in all federal
decide that 8 under national law, we say, well, the jury has to
asked you 9 kind of a sentence. And that's the reason that we
that I'm 10 your opinions about punishment, the type of punishment

being 11 mentioning now, life in prison without any chance of
12 released, and death.

And I 13 And page 28 is where you gave us your answers.
14 want you to take a moment to read those and also over
on page 15 29.

16 A. I've reviewed the answers.

17 Q. You have in mind what you wrote?

18 A. Yes.

19 Q. And I suppose you have in mind your thought
processes when

you 20 you came to this part of the questionnaire. Let me ask

this part 21 this: Before you started -- before you encountered

questions 22 of the questionnaire, had you expected to be asked

23 about your opinion on punishment?

24 A. Yes.

25 Q. And why?

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prison or 1 A. 'Cause this case involves a potential life in
2 death.

3 Q. All right. So you knew we would want to know

something

4 about your viewpoints?

5 A. Yes.

which

6 Q. And you know that's been an issue and still is on

the public

7 there's a wide range of opinion. If you just polled

8 generally, you'd get a lot of different answers, yes?

9 A. Yes.

before, you

10 Q. And we wanted to know what your answers were

be

11 know, talking about the particular process that would

to talk

12 involved if you were on the jury. So that's -- I want

13 with you about it and your answers in that way, okay?

14 A. Okay.

before

15 Q. And just as we said here on the preceding page,

first of

16 these questions were asked of you, we're asking you,

with

17 all, to recognize that this doesn't have anything to do

penalty.

18 the presumption of innocence; that we're talking about

a

19 But still we have to do that only in the possibility of

there would

20 guilty verdict, and it doesn't mean to suggest that

21 be one.

22 A. I understand.

23 Q. All right. And then we asked you in terms of,
well, if you
24 could decide what the law would be without being
restrained or
25 constrained in any way by what the law is, how would
you decide

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1 these things. And that's how you understood this; is
it?

2 A. I'm sorry. I don't understand the question.

3 Q. Well, you see, right at the -- before A on page 28.

4 A. Yes.

5 Q. It says: "In answering the following questions,
assume

6 that you alone have the power to decide what the law
should be

7 as to whether there should be a death penalty and, if
such a

8 penalty, how and when it should be used."

9 A. Okay. I understand.

10 Q. That's what I was getting to, that we were asking
you, you

11 know, if you could write on a clean page, how would you

12 approach this issue.

13 A. In the same way. I do believe the death penalty is

14 appropriate in some cases.

you've 15 Q. Yes, and that's what you've talked about here. And
and 16 looked at it, as I understand it, in terms of crimes
17 circumstances.

18 A. Yes.

the 19 Q. Now, are the circumstances that you had in mind, at
crime? 20 time that you wrote this, circumstances about the

21 A. Yes.

more in 22 Q. And then you went ahead and explained that a little
23 the following questions.

24 A. Yes, I did.

25 Q. And treason came up.

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1 A. Yeah.

2 Q. Why?

as I 3 A. I was trying to answer the question as completely

life and 4 could. I think those would be the -- that taking of a

5 treason would be the reasons for penalty of death.

your mind 6 Q. Do you remember a case or is there something in

7 about a case where a person was convicted of treason

and put to

8 death?

9 A. No.

10 Q. But you've heard about treason cases?

11 A. Yes.

12 Q. I mean back in history?

13 A. Yes.

14 Q. Okay. And then on the next page you wrote
something more

15 about the protection of society. You see that?

16 A. Yes, I do.

17 Q. So are you thinking -- and please, I'm not trying
to speak

18 for you. Are you thinking there about a dangerous
person so

19 this person should either be put away for life right
away or

20 killed to protect society from another crime?

21 A. Yes.

22 Q. That's what you had in mind?

23 A. Exactly.

24 Q. Now, you may have thought more about this since you
25 answered these questionnaires, and maybe you got some
changes

1 to make. If you do, tell us that, please.

2 A. I haven't thought more about it. I still feel the
same:

3 That this is an appropriate penalty in certain
situations.

4 Q. Depending on the crime?

5 A. Uh-huh.

6 Q. All right. Now, I want to tell you a little more
about the

7 process and what the law is. And what the law says is
that the

8 jury has to decide for certain kinds of crimes -- and
among

9 those are the kinds of crimes that are charged in this
case,

10 but we can't talk about the circumstances of this case
or the

11 factors that might be involved here because we don't
know what

12 they are, so we've got to work here, you know, without
knowing

13 any particulars, and we can't talk about particular

14 circumstances or that sort of thing as they relate to
this

15 case. You understand why that is so?

16 A. Yes.

17 Q. But if the jury were to find a defendant guilty of
the type

18 of crime charged in this case, then they would be asked
to make

19 a choice among a penalty of life in prison without ever
being

20 released and no chance of it, death, or any lesser
sentence.

21 And if it's a sentence lesser than those two, it would
go back

22 to the court to decide the particular sentence.
Understand?

23 A. Yes.

24 Q. Now, before a jury can make a choice like that,
it's much

25 the same as the choice between guilty and not guilty:
They

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1 have to hear more than what they heard at the trial
that

2 resulted in the verdict. You follow me on that?

3 A. No.

4 Q. Okay. Well, let me tell you and explain it some
more. And

5 this is a very uncomfortable kind of thing to deal with
because

6 we are talking life and death, and of course we're also
talking

7 sort of in a vacuum, without any particulars.

8 But the choice of punishment -- you know, I've
9 described how a judge goes about sentencing, just a few
minutes

10 ago.

11 A. Yes.

12 Q. And about how you have to get information about the
13 defendant as a human being.

14 A. Yes.

15 Q. Same is true when the jury is involved in
sentencing. They

16 have to know not just what they heard at the trial, but
more

17 than that, both about the crime and about the
defendant. So

18 here's the way it goes: There is, after a guilty
verdict in a

19 case that involves jury punishment decisions, another
trial,

20 and it's sometimes referred to as the second trial or
the

21 penalty trial or the penalty phase hearing or
sentencing

22 hearing. And it is at that time that a lot more
information is

23 given to the jury than that which came in in the course
of the

24 trial on the evidence.

25 So it's at that time that the prosecution, the

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1 Government lawyers, can bring in information about the
offense

2 and its effect on people and that sort of thing in what

we

things 3 refer to generally as aggravating factors. These are

But the 4 that suggest that death is deserved for this person.

with 5 defense will come forward, if this happens in a case,

jury hears 6 information to the contrary. And here is where the

things again 7 about the defendant as a human being, the kinds of

sentencing, 8 that I mentioned that judges are interested in in

born, what 9 all about the background of the person, where he was

employment, 10 his family life was early on, marriages, divorces,

his life 11 attitudes about some things, things that he did with

each one of 12 before, you know, that are positive. So, you know,

agree? 13 us has a life story that is unique to that person. You

14 A. Yes.

unique 15 Q. And we all have individual characteristics that are

16 to us.

17 A. Yes.

it, 18 Q. And what the law says, then, is that at the end of

to 19 having all of the additional information, the jury has

of 20 consider those things. And the judge gives another set
jury 21 instructions after a penalty hearing that relate to the
and 22 what the aggravating factors are that can be considered
based on 23 what the mitigating factors are that can be considered
second 24 what the judge has heard along with the jury at that
25 hearing.

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the jury 1 And then there are some questions asked for
mitigators, as 2 to answer to help analyze these aggravators and
here, 3 we refer to them, but there isn't any kind of a formula
like that 4 and it's not like a mathematical equation or anything
a moral 5 where you weigh and balance. It is at the root of it,
just his 6 judgment to be made about another human being; and not
same 7 crime but about him, too. And it is individual in the
trials, so 8 sense that, you know, I talked about severing the
found 9 the sentences are separate in the event a defendant is

of the 10 guilty. And to put it in plain words here, the outcome
either 11 McVeigh trial cannot be considered here with respect to
understand? 12 the guilty verdict or the sentencing decision. You

13 A. I understand.

14 Q. So the jury would be asked to make a separate and
15 individual decision in this case. You understand that?

16 A. Yes. I understand.

and to 17 Q. And each juror, then, has to consider all of this
defendant 18 decide, as a moral judgment, should the particular
that's -- 19 live or die. That's the question. You understand

20 A. Yes, I do.

is 21 Q. -- a hard question. What we want to know from you
what has 22 whether -- with this information about the process and
to base a 23 to be considered, do you think that you would be able
hear, 24 decision, a life-or-death decision on all that you
25 including the personal background and individual

and the 1 characteristics of the defendant as well as the crime
2 circumstances of the crime?

3 A. Yes, I would.

4 THE COURT: Okay. The lawyers will have some
5 follow-up questions and probably some other questions,
so 6 please bear with us a while longer.

7 All right. Mr. Ryan.

8 MR. RYAN: Thank you, your Honor.

9 VOIR DIRE EXAMINATION

10 BY MR. RYAN:

11 Q. Good afternoon.

12 A. Good afternoon.

13 Q. My name is Pat Ryan. I'm the United States
Attorney in 14 Oklahoma City. I'm here with my fellow prosecutors to
present 15 the case against Terry Nichols. I have a few questions
for 16 you, but first I'd like to begin with: Are you
familiar with 17 the fact that the Cirque du Soliel is in town?

18 A. Yes, I am.

19 Q. I read from your questionnaire that you have an
interest 20 that pertains to that recreational activity.

21 A. Yes, I do.

22 Q. Would you tell us a little bit about that?

23 A. I have a hobby of swinging on a trapeze with maybe
another
24 two dozen people with similar interests. This activity
was
25 started at the YMCA in Denver in 1926, and we've
continued ever

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1 since. I wasn't there at the start.
2 Q. I didn't think you were. But it's like a club,
then, of
3 sorts?
4 A. Yeah.
5 Q. You all meet on a regular basis?
6 A. Weather permitting. It's an outdoor trapeze.
7 Q. Do you have a certain time each week that you meet?
8 A. Yeah, generally I try to go Tuesdays and Thursdays
after
9 work.
10 Q. How long have you been involved with this?
11 A. 23 years.
12 Q. Now, let me ask a few questions from the
information you
13 supplied on the questionnaire. You indicated in your
14 questionnaire that you -- you've listened to Rush
Limbaugh and
15 Peter Boyles?

16 A. Yes, I do.

17 Q. Now, where you put -- on a political scale of zero
to 100,
18 hundred being most conservative, zero being least
conservative,
19 where would you put Rush Limbaugh?
20 A. 75, 80.

21 Q. Where would you put yourself?
22 A. 65, 70.

23 Q. Now, you indicated -- if you would turn to Question
98,
24 please.
25 Do you see the answer there?

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1 A. Yes, I do.

2 Q. We're trying to not reveals names and any more
information
3 than necessary, so let me just ask this question in
kind of a
4 general sense. Is this person a neighbor?
5 A. This person is a trapeze flier.

6 Q. It is not somebody that you talked to -- or is it
-- about
7 this case?
8 A. I never have talked to this person about this case.

in 9 Q. Have you talked to her in general about other cases
10 which she has been involved?
11 A. I don't believe so.
12 Q. It's a very casual friendship?
13 A. Yes.
-- or 14 Q. All right. If you would, then, turn also to page 1
me what 15 excuse me, to Question 112 on page 25. Could you tell
16 this has reference to.
17 A. Part of the lawyer discussed in the previous
question did 18 other work besides cases, and it involved victim
advocacy. 19 Q. Have you ever been involved with any victim
advocacy group?
20 A. No.
21 Q. Now, you indicated to his Honor that you had served
on a 22 county jury about -- I don't know -- I believe you said
about 23 15 years or so ago involving a drug case?
24 A. Yes.
25 Q. Did you come away from that experience with any
feeling

1 about the judicial system?

2 A. Only what I'd expected, and that it was an
organized

3 process that led, I thought, to a fair conclusion.

4 Q. Are you glad to have had that experience?

5 A. Yes, it was interesting.

6 Q. Now, you indicated to his Honor and on the
questionnaire

7 that your employment involves the United States.

8 A. Yes, it does.

9 Q. And of course you're aware that this case involves
the

10 death of many employees of the United States.

11 A. Yes, I am.

12 Q. And so a natural question that all of the lawyers
have is:

13 You know, is that employment, that relationship you
have with

14 your employer going to in any way influence you towards
either

15 party in connection with this case?

16 A. No, I don't think so.

17 Q. You think you can separate those issues and decide
this

18 case just as if it were people who were killed and
injured --

19 were not government employees?

20 A. Yes.

21 Q. Now, let me ask you some questions about the
publicity that

And these 22 you've seen or read in connection with this matter.
with 23 questions begin towards the end of the questionnaire
24 Question 158 on page 36. You see that?
25 A. Yes.

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that -- a 1 Q. Now, have you talked to -- you indicated in here
bombing. 2 certain amount of information about the Oklahoma City
have 3 Do you recognize the potential for the information you
4 here to be incorrect?

5 A. Yes.

man, that, 6 Q. I mean you realize of course, being an educated
exhibit has 7 you know, no witness has testified in this case, no

8 been introduced; we don't even have a jury yet.

and some 9 A. This case has been discussed at the McVeigh trial,
10 of this information is what I recall from that.

you be 11 Q. I guess the question we all have of you is: Will
someone 12 able to set aside anything you've read or heard or what

with a 13 has told you or you've seen on television and start
14 fresh page if you're a juror in this case?
15 A. I think so. When I've listened to the radio and in
16 particular to the Peter Boyles show, there were people
who have 17 come on and said that the explosive in this case may
not be as 18 described during the trial and that may be a shaped
charge, may 19 not have been the materials discussed because of
residue and so 20 on; and these people were purported to be experts. And
I was 21 curious at why that information didn't come out at the
McVeigh 22 trial -- or maybe it did -- and why I didn't hear about
it.
23 Q. But irrespective of what you heard -- you
understand these
24 people are on the radio, they're not being cross-
examined on
25 their views or their opinions, or what they say,
there's no

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1 adversarial system in place?
2 A. Well, I think it is, but it's not formal.
3 Q. Right; no one's under oath, are they, for example?

4 A. No.

will be
just
in the
do?

5 Q. And I guess we would like to be assured that you
6 able to set aside any of that type of information and
7 simply decide the case on what you hear or what you see
8 courtroom. And do you think that's something you can

someone's
well, I
I was
charge or
that
back of

9 A. I can do it, but I would sure like to hear
10 discussion about it really was the type of bomb . . .
11 guess I'd like to feel at the end of the testimony that
12 convinced that the bomb involved didn't have a shaped
13 some of the other things that I'd heard of before. If
14 wasn't addressed in the trial, then it would be in the
15 my mind, still.

can decide
evidence

16 Q. All right. Well, do you think, though, that you
17 the case on what you hear in this case, rely on the
18 that's presented?

relevant
judgment

19 A. Yes, I would assume that all parties would present
20 information; and, yes, I think I could render a fair
21 based on that information.

22 Q. I don't want to speak directly to the inquiry that
you've
23 posed. I don't think it would be appropriate for me to
do that
24 at this time. But I mean we're going to present
evidence, the
25 United States is, by calling witnesses and by
presenting

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1 exhibits, and the defense is going to challenge that
evidence.

2 And you'll have to listen to that examination of
witnesses and

3 draw your own conclusions based on the information
that's being

4 supplied, but that's how this adversary system works.

5 A. I understand.

6 Q. Okay. Now, you indicate in here that you have not
formed

7 any opinion about the defendant, Terry Nichols; is that
fair?

8 A. That is fair.

9 Q. But later on in Question 163, you talk about his
10 association with Timothy McVeigh. You see that?

11 A. I do.

12 Q. Now, would you agree that simply because someone is
a

13 friend of someone else does not mean that they're

necessarily

14 involved in the same criminal activity?

15 A. I agree.

16 Q. So are you willing to give Mr. Nichols the
presumption of

17 innocence that Judge Matsch was speaking to you about
earlier?

18 A. Yes, I would -- I am.

19 Q. All right. Let me also ask you about your answer
on page

20 30, Question 132. Take a moment and read that, and I'm
going

21 to ask you to explain your answer a little more for us.

22 A. Okay.

23 Q. Could you tell me what it is you had in mind?

24 A. Well, the question has to do with the Waco
situation, and I

25 believe that there were some mistakes that were made
there that

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1 cost lives, and I believe it could have been handled in
a

2 different way.

3 Q. And could you tell me what mistakes you're speaking
of?

4 A. Well, the -- I don't know that it was necessary to
drive a

5 tank through the compound wall. I don't know that it
was

6 necessary to start the fire that killed a lot of
people. I

7 don't believe it was necessary to serve -- to break
into the

8 compound to serve papers on the leader of the group.
As I

9 understand, he occasionally went into town, and it
might have

10 been appropriate to serve papers on him then.

11 Q. Do you have a belief that the representatives of
the

12 federal government started the fire there at the Waco
compound?

13 A. I don't know. I shouldn't have said that they
started it,

14 but the fire that followed their siege in the compound

15 certainly had to do with their methods.

16 Q. Do you think that -- I mean have you come away from
that

17 event with a -- with a bad feeling about federal law

18 enforcement?

19 A. No, I haven't. I said here that I'm angry. I'm
more than

20 disappointed. I think it was a mistake that cost
lives, and

21 that's the important thing. And I hope that they were
acting

22 in their best -- using their best judgment, the federal

23 authorities; but I think now they've got more
information, I

24 would expect them to do differently than they did
before.

25 Q. Do you see that as in any way affecting your
ability to be

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1 a fair and impartial juror in this case?

2 A. No.

3 Q. Now, if we could, sir, I would like to turn to this
issue
4 of the -- of the death penalty.

5 Before I do that, though, let me follow up on
6 something. I think the Court asked this, but I want to
make

7 sure I understood it correctly. Your wife has family
that
8 lives in Oklahoma.

9 A. Yes.

10 Q. And they lived there back in April of '95?

11 A. Yes, they did.

12 Q. Have you ever had any conversation with any of
those family

13 members that live in Oklahoma about the Murrah Building
bombing

14 other than perhaps that it occurred? But I'm talking
about any

15 kind of detailed conversation about who did it or what
happened

16 or the like.

17 A. No. The conversation we had, if any, was that it
was
18 nearby and that they didn't know anyone involved.

19 Q. All right. When you say "nearby," meaning in the
same
20 city?

21 A. Within a few miles, I think, of my wife's brother's
22 offices.

23 Q. And do you know if your wife has had any further
24 conversation than what you've just described, to your
25 knowledge?

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1 A. I don't believe she has, no.

2 Q. Now, before we -- before I conclude, let me ask you
just a
3 few questions about the death penalty.

4 And again, your answers to this are on pages
-- page
5 28 and the top part of page 29.

6 Now, we talked -- his Honor talked to you a
little bit
7 about the trial that you sat in 15 years ago in which
you did
8 the guilt-or-innocent or not-guilty phase.

9 A. Yes.
10 Q. And that's all you did. At the end of that case,
your job
11 was over once you decided that the defendant was guilty
beyond
12 a reasonable doubt.

13 A. Yes.
14 Q. And you appreciate how this is different, this
case, if
15 there is a guilty verdict on any of the counts --

16 A. Yes, I do.
17 Q. -- this case would be different and your job would
not yet
18 be done?

19 A. Yes.
20 Q. There's no automatic death penalty in Federal
Court, no
21 matter how serious the crime, no matter how heinous, no
matter
22 how many people are killed, no matter whether it's
23 premeditated, planned, or whatever; there's still
another stage
24 that has to be gone through.

25 And of course the United States in this case
will be

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1 asking for the death penalty, but it's not what we ask

for that

2 governs; what governs is what jurors decide after
listening to

3 this second stage or second trial's worth of evidence.
Do you

4 understand -- did you understand that pretty well?

5 A. Yes, I did.

6 Q. Were you aware prior to -- well, let me ask it this
way:

7 Do you recall when the McVeigh jury returned a verdict
of

8 guilty?

9 A. Yes, I do.

10 Q. Do you recall what you were doing?

11 A. No, I don't.

12 Q. You don't know whether you were at your office or
at home

13 or in your car or exactly where you were?

14 A. Probably in my car because that's when I get my
15 information.

16 Q. Were you around other people, to your knowledge,
when you

17 received the information of that verdict?

18 A. I don't -- I don't recall that I was.

19 Q. Now, you didn't hear the evidence in the McVeigh
case; you

20 read some about parts and bits and pieces in the
newspaper.

21 Did you have a view as to whether or not that jury made
the

22 correct decision?

23 A. Yes.

24 Q. What was your view?

25 A. I believe they did the right thing.

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1 Q. Because they're the ones who listened to the
evidence and

2 that's what their decision was?

3 A. Yes.

4 Q. Now, do you remember that they heard additional
evidence

5 against -- about Mr. McVeigh in this second trial that
Judge

6 Matsch talked to you about? Do you remember that
aspect of the

7 case or not?

8 A. I know there was a second aspect of the case. I
didn't

9 realize that the defendant's history was discussed in
such

10 detail.

11 Q. Well, there's a lot of information that can come
in; and,

12 you know, I could tell you what happened in the McVeigh
case,

13 but I don't know what's going to happen in this case if
there's

factors 14 a conviction. None of us know what the mitigating
15 might be that Mr. Nichols and his counsel will prove or
assert.
16 But you'll hear a lot of information. Witnesses, many
17 witnesses will testify, just about this second stage,
and many
18 exhibits will be examined. And only then can you make
a
19 decision about the punishment. Does that make sense to
you?

20 A. Yes.

21 Q. And can you do that?

22 A. Yes, I can.

23 MR. RYAN: Thank you for answering my
questions.

24 THE COURT: Let me just for a moment explain,
because
25 it's easier for me than for counsel.

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1 VOIR DIRE EXAMINATION

2 BY THE COURT:

3 Q. Responding to your concerns, you know, about the
things
4 that you heard on this talk show --

5 A. Yes.

6 Q. As I understand it from what you said, people
called in and
7 gave their opinion, saying that they're experts and it
couldn't
8 be the way they understood it was -- as they understood
it was
9 presented in the McVeigh trial; is that what you said?

10 A. I'm sorry -- yes, I heard it on the radio, and --

11 Q. People calling in --

12 A. Yes.

13 Q. -- who said, Hey, look, I know all about
explosives, that

14 couldn't be, that kind of call-in?

15 A. Well, yes.

16 Q. That's what you said, didn't you?

17 A. I did. I heard pros and cons. I heard people who
believed

18 it was such a bomb and people who claimed it had to be

19 something different to do such damage.

20 Q. Sure, sure. And that got you to wondering, and
you're

21 still wondering?

22 A. Yes, I am. I'm disappointed that the jury can't
ask

23 questions.

24 Q. Well, the law doesn't permit jurors to ask
questions.

25 A. I understand.

Juror No. 527 – Voir Dire

1 Q. But, you know, I just want to emphasize two things
in
2 response to that. You don't know, and I don't suppose
anybody
3 does, the real qualifications of people who called in
and gave
4 opinions, do you?
5 A. No, I do not.
6 Q. Except for what they said. And of course you're an
7 engineer by training and experience, and you know there
are
8 people who profess to know a lot about engineering, for
9 example, who don't know much in reality.
10 A. Yes.
11 Q. True?
12 A. True.
13 Q. And are ready to give opinions. But their opinions
you
14 wouldn't rely on, would you?
15 A. No.
16 Q. All right. Now, let me just explain. There are
rules of
17 evidence that govern what can come in at a trial, and
one of
18 the jobs of a judge at trial is to decide what can come
in
19 under those rules, apply the rules. And of course the

Court

20 can only rule on what's presented, but sometimes things
are
21 offered as evidence and they're kept out of the trial
because
22 they don't come in under the rules. You understand
that?
23 A. Yes.
24 Q. And of course what the jury has to do is go by the
same
25 rules. And when a matter, you know, that you might
hear on the

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1 radio or something where there really are no rules, of
course
2 it may not come in at a trial. You understand?
3 A. Yes, I do.
4 Q. And in the end, the jury has to decide on what's
been given
5 to them at the trial, even if there are questions
remaining in
6 their minds. But what it comes down to is: If there
are
7 questions there and the questions are such that the
jury has a
8 reasonable doubt about whether the evidence that they
did hear
9 showed the defendant guilty of the crime, you know what
the

10 jury has to do.

11 A. Yes. Not guilty.

12 Q. Okay. So there can always be questions remaining.

And the

13 issue becomes, when the jury talks about it, do those
questions

14 raise a reasonable doubt; and that's what we ask the
jury to

15 do.

16 A. Yes. Of course this is a different situation where
I had

17 knowledge about the case that otherwise wouldn't
normally be

18 available to a jury.

19 Q. What do you mean?

20 A. Well, I mean that there was -- this case is already
-- some

21 of the facts about the previous case may be similar to
this.

22 Q. Oh. Well, the knowledge you got, though, comes
from the

23 same sources: the radio and the newspapers and
magazines and so

24 forth.

25 A. Yes.

2355

Juror No. 527 - Voir Dire

1 Q. And seldom do those stories give it all. I mean

the people

2 who were at the trial know a lot more about the
evidence than

3 the people who read about it or hear about it.

4 A. I understand.

5 Q. Okay. So I just wanted to go over with you again
the

6 basics here; that of course it can happen that at the
end of a

7 trial one or more jurors will say, I didn't -- you
know, I'm

8 not satisfied about this point or that point.

9 A. Yes.

10 Q. And sure, they should talk about that, then. But
-- and

11 then the question is: All right, we didn't hear this
or didn't

12 hear that; does that mean we have a reasonable doubt?

13 A. And I would assume that the defense would present
all the

14 information available that would make their case.

15 Q. But you know what I told you, the defense doesn't
have any

16 duty to put on any evidence.

17 A. I understand.

18 Q. Okay. And the defense doesn't have to answer
questions.

19 In fact, what the defense can do is raise questions
during

20 their cross-examination of witnesses and the like. But
there's

21 no burden on the defense to answer anything. You know
that.

22 A. Yes.

23 Q. So once again, that's all in the concept of if at
the end

24 of the trial there's a reasonable doubt, that's what
the jury's

25 duty, then, is; to say, I'm not satisfied with the
proof. Now,

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1 I'm not trying to lead you down some road here. I just
want to

2 make sure you understand that in view of some of the
answers

3 that you gave to Mr. Ryan's questions.

4 A. I understand that it's the responsibility of the
Government

5 to prove beyond a reasonable doubt; and if there are
questions

6 in my mind, then that constitutes a reasonable doubt.

7 Q. Certainly can. It's up to you to decide that, you
and the

8 other jurors, after talking it over. Are we clear now?

9 A. Yes.

10 MR. RYAN: Your Honor, may I be permitted to
ask a

11 couple more questions?

12 THE COURT: All right.

13 MR. RYAN: I apologize. I'll keep it very
short.

14 VOIR DIRE EXAMINATION

15 BY MR. RYAN:

16 Q. Do you have any particular knowledge of explosives?

17 A. No.

18 Q. Have you ever worked with explosives?

19 A. I made some trinitrotoluene in high school class
and put it

20 under the teacher's chair.

21 Q. Did you ignite it?

22 A. It ignited itself.

23 Q. All right. I take it no one was hurt?

24 A. No.

25 Q. Did -- what did you hear on this radio station --

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Juror No. 527 - Voir Dire

1 A. You know, what -- that wasn't trinitrotoluene.

2 Trinitroiodide.

3 Q. It's all the same to me. What did you hear on the
radio

4 that caused you to be skeptical?

5 A. That some folks contended that a bomb of this size
could

6 not do the damage unless it was a high explosive.

7 Q. Now, setting aside their views, do you have any
independent
8 knowledge one way or another as to what an ammonium
nitrate
9 bomb can or cannot do?

10 A. None at all.

11 MR. RYAN: Thank you, your Honor.

12 THE COURT: All right, Mr. Woods, your
opportunity,
13 please.

14 MR. WOODS: Thank you, your Honor.

15 VOIR DIRE EXAMINATION

16 BY MR. WOODS:

17 Q. Good afternoon.

18 A. Good afternoon.

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

20 of the two lawyers that was appointed by the court over
in

21 Oklahoma City to help Terry Lynn Nichols, who stands
accused of

22 this crime. Mike Tigar and I were asked by the court
to help

23 him shortly after he was charged in the case.

24 In the jury trial that you participated in 15
years

25 ago, the drug possession case, do you know whether or
not the

Juror No. 527 - Voir Dire

1 lawyer representing the defendant was a court-appointed
lawyer?

2 A. Yes. I believe he was.

3 Q. And what led you to that belief?

4 A. I don't believe he had very much money.

5 Q. All right. Well, that's the reason I asked the
question,

6 is because in this case Mr. Nichols didn't have the
money to

7 hire a lawyer, and the court appointed Mr. Tigar and
myself.

8 Would you hold that against Mr. Nichols in any form,
fashion,

9 in any way --

10 A. No.

11 Q. -- that he did not have the money to hire an
attorney and

12 the court appointed attorneys to represent him?

13 MR. MACKEY: Judge, could I object to the
premise of

14 the question?

15 THE COURT: Well, overruled.

16 JUROR: No.

17 THE COURT: Don't be concerned about
objections and

18 all that. You heard that at the trial you were in --
lawyers

19 disagreeing about questions -- didn't you?

20 JUROR: Yes, I did.

21 THE COURT: You'll hear it again if you're in
the
22 case, because that's part of the trial process.

23 Go ahead, Mr. Woods.

24 MR. WOODS: Thank you, your Honor.

25 BY MR. WOODS:

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1 Q. One of the reasons I asked that question, because
on the
2 questionnaire there was a question that asked what your
opinion
3 of the criminal justice system is, how it's working.
And you
4 stated: "It's working adequately; however, it's too
slow and
5 too expensive, but it's the best system available." Is
that in
6 essence your answer to that question?

7 A. Yes.

8 Q. Now, as to "too expensive," what are you referring
to
9 there?

10 A. Well, I think we spend a lot of money in our
courts, and it

11 seems like we belabor a lot of things. I would like to

see it

12 cost less.

13 Q. All right. Now, have you read, seen, or heard
anything

14 about the amount of money that's been spent by the
courts

15 either on Mr. McVeigh's lawyers or on Mr. Tigar and
myself?

16 A. No, I don't think so.

17 Q. Would that affect you in any way and hold it
against

18 Mr. Nichols that the court has had to pay a certain
hourly fee

19 to Mr. Tigar and myself?

20 A. No.

21 Q. As to your statement that it's a slow process, can
you give

22 me a little information there about what you're basing
that on?

23 A. Well, my feeling is that, for example, in the Davis
case,

24 where a fellow's going to be killed next -- next week
or two,

25 his crime was committed a long time ago. I don't think
that

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Juror No. 527 - Voir Dire

1 really is what the Founding Fathers had in mind when
they said

they 2 that we should have swift justice. I don't know what
years 3 said, but I'm sure that they weren't thinking eight
4 between sentence and carrying the sentence out.

delay 5 Q. All right. Do you have any idea what caused that
6 between the time of the commission of the crime and his
7 scheduled execution next week?

Some were 8 A. Well, I'm sure that there were a lot of appeals.
parts of 9 required, and I do appreciate that those are important
10 the process.

review 11 Q. Do you feel that it's fair that appellate courts
12 those sentences where a death penalty is given?

13 A. Yes.

right 14 Q. Now, you've been waiting out here all day today;
15 nearby the court?

16 A. Yes.

through 17 Q. And would you describe this process we're going
18 here today as somewhat slow?

19 A. No.

we're going 20 Q. You understand the reason for this process that
21 through here, I take it.

22 A. Yes, I do.

23 Q. And what would you give as the reason why it is
taking this

24 amount of time to question the jurors?

25 A. Well, this is an important case, as all cases are;
but this

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1 is to determine the backgrounds of the jurors and
whether or

2 not they could render a fair decision.

3 Q. All right. Now, you've mentioned to his Honor and
to the

4 prosecutor that it's too bad the jury can't ask
questions and

5 that you still had some questions about the nature of
the bomb.

6 Let me assure you that -- you know, there's been a lot
of

7 conversation here this afternoon about the penalty
stage of the

8 crime, but we're not conceding that there is going to
be a

9 penalty stage of this case.

10 A. I understand.

11 Q. In fact, we are contesting the Government's theory
in this

12 case. The Government will be presenting witnesses to
back up

13 their theory that Mr. Nichols was involved in the

bombing of

14 that building. We will question, cross-examine,
question very

15 thoroughly each of the Government's witnesses to
dispute their

16 theory. And it will be our purpose to hopefully
attempt to

17 answer all questions that have -- that remain in
anybody's

18 mind. And not only are we going to do that -- and as
the Court

19 told you, we have no obligation to put on any evidence,
but

20 we're going to. We're going to call a number of
witnesses --

21 MR. MACKEY: Judge, may I interrupt?

22 MR. WOODS: -- that will likewise --

23 MR. MACKEY: May I interrupt and pose an
objection?

24 THE COURT: It's overruled.

25 BY MR. WOODS:

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Juror No. 527 - Voir Dire

1 Q. We're going to call a number of witnesses,
likewise, that

2 will controvert the Government's theory in this case.
So we

3 hope to answer all questions about the Government's
theory of

4 the case.

we're 5 So I wanted to assure you that even though

doing our 6 court-appointed lawyers, we're certainly going to be

questions left 7 dead-level best to make sure that there are no

8 for the jury to resolve of the nature you brought up.

Honor. 9 MR. MACKEY: I renew the objection, your

10 THE COURT: I'm overruling it.

11 MR. MACKEY: Thank you.

12 BY MR. WOODS:

talking 13 Q. I didn't want you to feel that just because we're

agreement that 14 about a punishment stage here that we're all in

not in 15 we're going to get to a punishment stage, because we're

from being 16 agreement on that. And I assume that you understand

obligation 17 on a jury before what the defense lawyers' role and

18 is in representing the client.

19 A. Generally, yes.

there for a 20 Q. Okay. Is there some question -- you hesitated

that? 21 second. Is there something that I can clear up on

22 A. No. I think I understand.

23 Q. Okay. Now, you also stated in your questionnaire

that

24 you've read books by Grisham, and I believe Scott
Turow, also.

25 A. Yes.

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Juror No. 527 - Voir Dire

1 Q. As -- those are strictly novels, of course, but
they deal

2 with the legal profession. Have you picked up any
opinions

3 about prosecutors or defense attorneys from reading
those

4 books?

5 A. No.

6 Q. You read them just for the fact that they're a
novel and

7 they're an interesting read?

8 A. Yes.

9 Q. You also stated on page 25, Question No. 114 -- the
10 questionnaire asked questions about what factors would
be

11 important in determining whether an eyewitness
identification

12 was reliable. And one of the things that you listed as
an

13 important factor is the "mental state"; is that
correct?

14 A. Yes, uh-huh.

15 Q. Are you familiar with or have you ever observed anybody on

16 methamphetamine, that's under the influence of methamphetamine?

17 A. Yes, I have.

18 Q. And that goes by the street name of crystal and speed. Was

19 that involved in the case you sat on 15 years ago at all, or

20 was that just cocaine and marijuana?

21 A. I think that was just cocaine and marijuana.

22 Q. What experience have you had in observing somebody that's

23 under the influence of methamphetamine?

24 A. Well, the people that I knew who were using that were wide

25 awake late into the night.

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1 Q. All right. Was that the only effect that you observed,

2 that it heightened their, what, awareness --

3 A. Yeah, heightened their awareness. I'd say that.

4 Q. Was that just an occasional use, or was it somebody that

5 habitually used?

6 A. I think they occasionally habitually used it.

7 Q. All right. Was it somebody that you knew fairly

well?

8 A. Yes.

9 Q. Did you see their personality change over a period
of time?

10 A. Yes. Over time, they got ornery, mean.

11 Q. Did you see it do anything to their -- their
ability to

12 tell the truth one way or the other?

13 A. I don't -- I never noticed any change in that.

14 Q. All right. Just the meanness?

15 A. Uh-huh.

16 Q. Any other --

17 A. Short temper.

18 Q. All right. Any other changes in their personality
or their

19 psychological makeup that you as a layman observed?

20 A. No.

21 Q. Now, I'd like to talk about your sister's (sic)
family over

22 in Oklahoma City and the fact you went over there six
-- was it

23 six months ago, or six months after the --

24 A. It was probably six or nine months after the -- the

25 explosion.

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Juror No. 527 - Voir Dire

that you 1 Q. Is this somebody that your sister's (sic) close to

2 all visit and talk to?

3 A. It's her brother.

sister 4 Q. Are they close, more so than the normal brother/

5 relationship once you reach adulthood?

week. I 6 A. It's probably average. She talks to him once a

7 don't.

by the 8 Q. When you got there, you stated that you did not go

this was in 9 site because you didn't have time and there was general
10 discussion about the fact that it happened and that

brother's 11 proximity, either 2 miles or so, from where the

12 office is. Is that correct?

13 A. Yes.

read and 14 Q. Okay. Now, as you may recall from -- and you have

in 15 seen a lot about the case, there was great devastation

building. 16 Oklahoma City to other businesses surrounding the

way? Did 17 Was her brother's employment or job affected in any

like that? 18 his office have to move or lose clients or anything

19 A. Not that I know of. And I don't think so.

20 Q. Okay. What type of business is he in?

21 A. He's in the oil business.

22 Q. Have you talked or has your wife talked to them and
relayed

23 to you the fact that you've been on jury service --
that you've

24 been called as a juror in this case?

25 A. I imagine she has.

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Juror No. 527 - Voir Dire

1 Q. Okay. And has that been relayed to you?

2 A. No.

3 Q. Okay. Can you recall any conversation that you had
with

4 your brother- or sister-in-law in Oklahoma City
concerning

5 this, other than what you've related to us?

6 A. No.

7 Q. Okay. Now, my question to you is if -- if you were
--

8 ended up being on the jury and as a jury everyone came
to the

9 vote of not guilty because of reasonable doubt, how
would that

10 affect the relationship with your wife's brother and
family?

11 A. It would have no effect.

12 Q. And why is that?

to this 13 A. As far as I know, they are not emotionally attached

14 event.

you 15 Q. And I take it from your questionnaire and the way

16 answered these questions, you pretty much make your own
17 decisions anyway; is that true?

18 A. Yes.

decision 19 Q. Would you be influenced by anyone in making your

20 if you were chosen as a juror in the case?

21 A. Would be influenced by the --

anyone? 22 Q. By anyone, by the families, your employment,

23 A. Outside of --

24 Q. Yes.

25 A. No.

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want to 1 Q. Now, speaking of your employment -- and I don't

with 2 mention names, but there was another person in the room

3 you today --

4 A. Yes.

all know 5 Q. -- that works in the same place you work. Did you

6 each other?

7 A. No.

8 Q. And I don't want to get into his name, but were you
aware
9 of the same employment of another person in the room
with you?

10 A. I've been here two days. Yesterday, there was a
person
11 from my employment, and today there is another person.

12 Q. Right. In fact, we've had a run of them.

13 A. Uh-huh.

14 Q. Did you know the one yesterday?

15 A. No.

16 Q. I take it you don't work with either of the two?

17 A. Never have.

18 Q. All right. Now, I don't want to get into this sad
subject,
19 because it's still unknown, but as the Judge said, in
the --
20 given the worst scenario, if those people from your
agency are
21 lost, is that going to cause increased demand on your
presence
22 at your place of employment? Will it cause a shortage
in any
23 division that you're associated with?

24 A. Yes. It won't affect my employment, because if it
is the
25 people I think of, they were transformer experts and
I'm a

Juror No. 527 - Voir Dire

1 generator person.

2 Q. And it wouldn't cause -- it wouldn't cause a
necessity of

3 you to fill in for any slots until they can be replaced
in your

4 general area of employment?

5 A. No.

6 Q. All right. Now, when you were asked earlier about
the fact

7 that you're a government employee and that there were a
number

8 of government employees killed in the government
employee

9 building, would that affect your decision in the case,
and you

10 hesitated, and then you said, "I think so." (sic) Now,
it

11 causes me to want to ask a second question. And I'll
give you

12 an example.

13 If in your trapeze work if you asked your
partner that

14 was going to catch you, "Are you going to catch me on
this

15 double flip," and he says -- he pauses and says, "I
think so,"

16 would that cause you to want to make perhaps a follow-
up

would that cause you to want to make perhaps a follow-

17 question?

18 A. Yes.

19 Q. All right. First, let me ask you: Do you all use
nets
20 when you're doing this?

21 A. Yes, we do.

22 Q. Okay. Well, back to my more serious question. If
you're
23 on the jury -- I mean you've been working with
government

24 employees all your adult life, and you're going to have
to go

25 back, one way or the other, whatever verdict's
returned. Will

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Juror No. 527 - Voir Dire

1 that affect you in any way as to what you independently
think
2 of and vote on?

3 A. No. I don't believe that the people that I work
with
4 identify with the people at the explosion any more than
as
5 citizens.

6 Q. Well, even if they identify just as citizens, will
that
7 affect you in any way? I think it would be common
knowledge

it's a 8 that it would be an unpopular verdict in the event that
9 not guilty verdict. Would that affect your thinking in
10 returning a verdict if you as a juror felt that was the
proper 11 verdict?

12 A. No.

13 Q. All right. Let me turn to page 33 on your
questionnaire,
14 the questions about publicity. Question 144 asked, "If
you've
15 heard or read anything about the Oklahoma City bombing,
please
16 indicate where you heard or read about it. Check all
that
17 apply."

18 And you've checked off: TV news, radio news,
19 newspaper, conversations, and heard other people
discussing the
20 case. Have you had conversations about the case at
your place
21 of employment, amongst your co-workers?

22 A. Yes.

23 Q. Can you give me just a general nature of what the
24 conversations have been about?

25 A. Well, just generally digesting the news and
understanding.

Juror No. 527 – Voir Dire

1 Q. Was it something that you followed fairly closely?

2 A. No.

3 Q. Now, I take it from your answers earlier to the
prosecutor

4 that you were following the trial of Mr. McVeigh a
little

5 closer than the publicity that led up to the trial; is
that

6 correct?

7 A. I think, yes.

8 Q. Okay. And you made the distinction there that the
9 publicity before the trial was speculation but that the
10 publicity from the trial was more based on what the
testimony

11 in court was. Did I understand that correctly?

12 A. Yes.

13 Q. Okay. And based on what you heard -- reading about
the

14 trial, can you remember what was said about Terry
Nichols at

15 all?

16 A. About his part in the --

17 Q. Yes, sir, during the McVeigh trial.

18 A. Yeah. I think there was a question on that, and I
think

19 that generally the news indicated that he had helped
ferry a

20 vehicle of some sort, McVeigh's vehicle down to
Oklahoma City

21 and possibly had, with his brother, tested bombs or
exploded

22 bombs.

23 Q. And do you recall what size of bomb, if they did --

24 A. No, I don't know about that.

25 Q. All right. The explosive you mentioned earlier
about being

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Juror No. 527 - Voir Dire

1 in the teacher's seat: What was the makeup of that,
again?

2 A. It was ammonia and iodine, and a little dot of it
would

3 make a pop like a firecracker.

4 Q. Okay. Okay. And you have no idea what size of,
quote,

5 "bombs" that Mr. Nichols and his brother, according to
the

6 press, were involved in?

7 A. No, I don't.

8 Q. Do you recall how many people were killed in the
explosion?

9 A. Well, I think it was 168.

10 Q. Do you recall whether or not there were children
killed?

11 A. Yes, I do.

12 Q. And do you know the reason why there were children
in a

13 federal building?

14 A. It was a day-care center there.

15 Q. Do you remember how many children were killed?

16 A. No, I don't.

17 Q. In the event you were on the jury, there is likely
to be

18 highly emotional testimony and photographs relating to
the

19 deaths of individuals. Is that something that you
could look

20 at and examine -- everybody will have an emotional
reaction to

21 it -- but is it something you could handle and still
look at

22 the facts of what the Government says Terry Nichols did
and

23 weigh those facts without emotion?

24 A. Could I weigh those facts without emotion?

25 Q. Yes, sir.

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1 A. Yes.

2 Q. Now, you have a young child.

3 A. Yes.

4 Q. And your wife has -- she was a schoolteacher
before; is

5 that correct?

6 A. She was, yes.

7 Q. And she's now home raising the child.

8 A. Yes.

9 Q. Are you of the school of spanking for discipline,
or time
10 out for discipline?

11 A. Time out.

12 Q. Okay. And your wife taught in Houston; is that
correct?

13 A. Yes.

14 Q. How did -- did you go to Houston to meet her, or
how did
15 that happen?

16 A. How did I meet her?

17 Q. Yes, sir.

18 A. I met her in a painting class.

19 Q. Okay.

20 A. In Denver.

21 Q. Here in Denver. Now, on page 47, the question is
No. 159
22 and 163. 159 is: "Please summarize what you've seen,
read, or

23 heard about Terry Nichols." And you stated that "he
reportedly

24 helped move McVeigh's car to the Oklahoma City area and
had

25 conspired to plan the bombing"; is that correct?

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1 A. That's what I've heard.

two and 2 Q. From what you've seen, read, or heard over the past

the 3 a half years, do you recall how the bomb was placed at

4 building?

truck, and 5 A. I recall that there was a delivery van, a Ryder

6 it was parked to the base of the building.

Nichols' being 7 Q. All right. Do you recall anything about Mr.

8 associated with placing that van there?

9 A. No.

how 10 Q. Do you recall from what you read, seen, or heard

11 Mr. McVeigh was arrested?

from 12 A. I think Mr. McVeigh was arrested some ways away

13 Oklahoma City, but -- I can't recall how.

where 14 Q. From what you've read, seen, or heard, do you know

15 Mr. Nichols was at the time of the bombing?

16 A. No.

a 17 Q. From what you've read, seen, or heard, do you have

the 18 recollection of how Mr. Nichols initiated contact with

19 federal law enforcement authorities?

20 A. No.

21 Q. Do you recall when he was arrested?

22 A. I think a couple of days after McVeigh.

23 Q. And do you remember any of the circumstances that
led up to

24 his arrest?

25 A. No.

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1 Q. And then on Question 163, you stated: "How, if at
all,

2 have your views or opinions of Terry Nichols changed as
a

3 result of the trial of Timothy McVeigh and the
decisions made

4 by the jury in his trial?"

5 And you stated: "McVeigh's guilt and Nichols'
6 association imply Nichols had something to do with the
bombing

7 based only on the fact that he was indicted"; is that
correct?

8 A. That's what I put.

9 Q. Did I read that correctly?

10 A. That's what I wrote.

11 Q. Is this what you got from listening or following
the trial

12 of Mr. McVeigh?

13 A. Certainly I got my opinion of McVeigh's guilt from
14 following the trial.

15 Q. Yes, sir. Yes, sir. And you've stated that; that
you

16 agree with that verdict and that sentence. But I'm
relating

17 the question as to Mr. Nichols. What information did
you get

18 concerning Terry Nichols and how it had changed as a
result of

19 that trial?

20 A. It didn't change as a result of that trial. I
didn't

21 gather any more information about Mr. Nichols from the
trial.

22 Q. Okay. And I assume from what you've told us that
you don't

23 have an opinion as to the guilt of Mr. Nichols at this
time; is

24 that correct?

25 A. That is correct.

2375

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1 Q. And you understand -- I'm sorry. Did I interrupt?

2 A. I understand that he is assumed innocent.

3 Q. Yes, sir. And I understand that you've listed here
the

to you 4 fact that he was indicted, but the Court has explained

correct? 5 the indictment is no indication of guilt; is that

6 A. That's correct.

that the 7 Q. Okay. Now, you've stated to us that you believe

correct. 8 McVeigh verdict was correct and the death sentence was

community 9 And there's certainly not much disagreement in the

event you 10 about that. I want to discuss with you about in the

sure that 11 were chosen as a juror in this case. I want to make

consider 12 you understood the Court's instructions that you would

event that 13 all ranges of punishment that the law allows in the

14 Mr. Nichols is convicted of the crime.

choices and 15 A. I understand there are three -- three possible

that the 16 that if it's less than death or permanent imprisonment

17 judge will make that determination.

life 18 Q. And that the jury makes the determination between

19 imprisonment and the death penalty. Is that your

20 understanding?

21 A. Yes.

of the 22 Q. And did you understand that if we get to that stage

23 trial, both sides will be presenting additional
information to
24 you concerning -- the Government will be presenting
certain
25 aggravating information; we'll be presenting mitigating

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1 information. Did you understand that part?
2 A. Yes, I did.
3 Q. Okay. And my question to you is: Simply because
McVeigh
4 received the death sentence, will you keep an open mind
in this
5 case, if you're chosen on the jury, and make a
determination
6 based on what you see and hear in this case?
7 A. I will keep an open mind.
8 Q. Okay. And you're not going to assess a death
sentence just
9 because it was assessed in the McVeigh trial; is that
correct?
10 A. That's correct.
11 Q. Even though you do agree that that's the
appropriate
12 verdict in the McVeigh trial?
13 A. Yes.
14 Q. If you're chosen on this jury, can you look Terry
Nichols

trial? 15 in the eye and tell him that you will give him a fair

16 A. Yes.

the 17 Q. And again, you hesitated. So is there a reason for

18 hesitation?

19 A. No. I was considering the question.

Thank 20 MR. WOODS: All right. And I appreciate that.

21 you, sir.

waiting in 22 THE COURT: Well, we're going to keep you

jury -- 23 the sense that you won't know about the choices of the

now. 24 you won't have to wait here anymore. You're excused

very much, 25 You've done what we've asked you to do here, and we

2377

these 1 all of us, appreciate your cooperation in going over

can't 2 matters with us and answering these questions. But I

choices. 3 tell you when we will have the selection made, the

process 4 And you understand, of course, from being through this

5 that it will take us a while. So I can't tell you when

we'll

6 tell you, either; but bear with us, please, and
continue to do

7 as you've been doing, following the cautions of not
discussing

8 the matter or anything about the case and being careful
about

9 all that you read, see, and hear so that you won't be
10 influenced by anything that would affect your ability
to be

11 fair, as you said you would be.

12 JUROR: Okay.

13 THE COURT: And if in the event you have a
change of

14 address or phone number or something, let us know right
away,

15 please.

16 JUROR: I will.

17 THE COURT: Thank you. You're excused for
now.

18 We will go to 190.

19 You received the follow-up.

20 MR. MACKEY: Yes, your Honor.

21 MR. WOODS: Yes.

22 THE COURT: Okay, thanks.

23 Would you please raise your right hand, take
the oath

24 from the clerk.

25 (Juror No. 190 affirmed.)

1 THE COURTROOM DEPUTY: Thank you.

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

3 microphone, and feel free to move that around in
whatever way

4 you feel most comfortable. You don't have to lean
right into

5 the microphone. It will pick you up.

6 JUROR: Thank you.

7 VOIR DIRE EXAMINATION

8 BY THE COURT:

9 Q. And you recall taking an oath just like this
earlier --

10 A. Yes, I do.

11 Q. -- on September the 17th, when you came out to the
12 Jefferson County Fairgrounds' auditorium building and
were

13 given such an oath and then a questionnaire?

14 A. Yes.

15 Q. And you recall relating back earlier to receiving a
summons

16 that notified you that your name had come up on the
chance

17 selection system of possibly being a juror in the case
of

18 United States against Terry Lynn Nichols.

19 A. Yes, I do.
20 Q. Okay. And then out there at the fairgrounds, I
appeared
21 there; and there were people with me, and I introduced
them.
22 And these same people are with me today. So I want to
23 introduce them again to make sure you know who's here.
24 A. Okay.
25 Q. And to begin with, you met then Mr. Lawrence Mackey
here at

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1 the first table and Miss Beth Wilkinson, who are
lawyers for
2 the Government. They're joined now, this afternoon, by
3 Mr. Patrick Ryan and Mr. James Orenstein, also lawyers
for the
4 Government.

5 Mr. Michael Tigar, Mr. Ronald Woods were
introduced to
6 you as lawyers for Terry Nichols; and here's Mr.
Nichols, who
7 was with us then as well.

8 And going back to that time and place, I
talked about
9 the case, explaining that there was an explosion in
Oklahoma
10 City on April the 19th of 1995, that destroyed a

federal office

11 building and resulting in deaths and injuries of people
in it;

12 that then there were charges filed in Oklahoma City in
the

13 Federal Court there by the Government and that these
charges in

14 the form of an indictment, which is simply a formal
statement

15 of charges -- the Government says in there that a man
named

16 Timothy James McVeigh, along with Terry Nichols here
and other

17 persons not named in the indictment were alleged to
have

18 conspired or agreed together to bomb that building and
cause

19 death and injury and that they carried out such a plan.
And

20 the charges include, then, charges of premeditated
murder of

21 eight law enforcement agents who were in the building
and died

22 in the explosion.

23 You remember that?

24 A. Yes, I do.

25 Q. And of course, that's probably something you knew
about

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1 already. You didn't need me to tell you about it in
terms of
2 what happened in Oklahoma City generally; but I then
explained
3 something about the process and why we were together
and how
4 the case had been moved from Oklahoma City, where it
was filed,
5 over here to Denver for trial. And that in addition to
moving
6 the case for trial, there had been an order separating
the
7 defendants for trial so that Mr. McVeigh would have his
own
8 trial and Mr. Nichols have his own trial, separate
because of
9 the differences in the case or cases at least expected
in the
10 evidence to be, so that the two men should not be tried
and
11 judged by the same jury. There are significant
differences
12 between them; you understand that?

13 A. Yes, I remember you mentioning that.

14 Q. Okay. And you probably were aware before I told
you that
15 there has already been a trial here in Denver of the
case with
16 Timothy McVeigh.

17 A. Yes.

18 Q. And the outcome of that was there a jury decided
the

19 evidence proved him guilty and found him guilty; and
then there
20 was a second trial or hearing on punishment, and the
jury
21 decided that death was the recommended punishment. You
knew
22 that, too.

23 A. Yes.

24 Q. And then I repeated it, of course, and again I
emphasized,

25 if you will recall -- and I do emphasize it now -- that
the

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1 outcome of that trial with Mr. McVeigh and the jury's
decisions
2 with respect to the evidence and to him in sentencing
cannot be
3 considered now in the trial that we're to begin with
4 Mr. Nichols.

5 A. Yes.

6 Q. Because to do so would violate the very purpose of
the

7 separate trials order. Separate trials, separate
juries,

8 separate consideration; you understand that?

9 A. Yes, I do.

10 Q. And then I explained some of the fundamentals of

jury trial

11 in our criminal justice system.

12 Now, you haven't had any experience on a jury
before,

13 have you?

14 A. That's correct. I have not had any experience on a
jury.

15 Q. And probably don't have any direct knowledge of how
16 criminal trials are conducted or what the rules are.

17 A. That's correct.

18 Q. So let me just review that with you a little more,
because

19 it's important that we have this background before we
talk some

20 more about these questions.

21 A. Okay.

22 Q. And again, it's not because I think you can't
remember what

23 I told you before; but these are very important things,
and so

24 I want to make sure that we have a common
understanding.

25 And to begin with, the indictment, as I said,
is

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1 nothing but formal -- a formal document telling the
defendant

prove 2 and everybody else what it is the government intends to

3 at trial. Right?

4 A. That's correct.

things 5 Q. And then it is up to the Government to prove those

this is 6 that are alleged. No defendant in this country -- and

country, no 7 because of our constitution -- no defendant in this

has any 8 matter who he or she is or what they're charged with,

isn't our 9 duty to prove themselves not guilty in court. That

not 10 system. And it may be true in some other countries but

11 this country.

slate, 12 So every defendant begins a trial with a clean

Nothing 13 no evidence against them, no inferences against him.

be 14 that has been reported in any media, for example, can

15 considered against him. And he has the benefit of the

and jury 16 presumption of innocence. He appears before the court

me on 17 presumed to be innocent of those charges. You follow

18 that?

19 A. Yes, I do.

them. And 20 Q. And then as I say, the Government has to prove

21 he doesn't have to -- he, the defendant -- doesn't have
to
22 offer any witnesses, and he doesn't have to take the
witness
23 stand and answer questions or give any explanation. He
can
24 simply challenge the Government's evidence through his
lawyers'
25 cross-examining the witnesses and objecting to
questions, and

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1 so forth. You understand about that, generally?
2 A. Yes.
3 Q. And then at the end of the trial, the jury's asked
to
4 answer the questions; and, of course, the judge gives
5 instructions about what exactly has to be proved to
constitute
6 the crimes, what the elements of the offenses are, and
defines
7 terms to describe the crime and then says to the jury,
Now, you
8 decide under all of this evidence whether the
government has
9 proved these charges beyond a reasonable doubt. If
not, you
10 must find the defendant not guilty. You understand
that?

11 A. Yes.

12 Q. And "reasonable doubt," then, means -- and this
presumption

13 means if at the end of the trial, the jury has a
reasonable

14 doubt about whether this evidence adds up to a finding
of

15 guilt, they have the plain duty of returning a verdict
of not

16 guilty. Understood?

17 A. Yes.

18 Q. And, of course, that applies here, because it
doesn't make

19 any difference about the crime and it doesn't make any
difference what may have happened to another person

20 charged

21 with the same crime. So Terry Nichols sits in this
room with

22 us this afternoon presumed to be innocent of these
charges. Do

23 you accept that?

24 A. Yes, I do.

25 Q. Are you ready to apply these rules in this case if

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1 served -- if you were to serve?

2 A. Yes.

3 Q. Now, we did ask you all these questions; and you

completed

And you 4 a questionnaire, and you've got it there with you now.

5 didn't quite -- whoops.

6 A. Whoops. Am I going to need it?

7 Q. Yes. So pick it up.

you ran 8 Okay. You didn't -- you almost completed, but

9 out of time before the last page or two.

-- 10 A. Yes, I did. And I did complete it in the room back

11 Q. Today.

12 A. -- here.

13 Q. Yes.

14 A. Yes.

what you 15 Q. And yes, we have that. And indeed, we also have

now; right? 16 wrote on the 17th. And you have it in front of you

17 A. Yes.

private 18 Q. And as I told you when I asked you to answer these
19 questions and the others -- we know we asked you some

reason and 20 things, some personal things; and you understand the

21 the need for that?

22 A. Yes, I do.

them to the 23 Q. But these answers have -- haven't -- I've given

anybody 24 lawyers here who are with us, but they haven't gone to
your name 25 else, and they won't. They won't be made public, and

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the 1 isn't made public; and we even bring you in and out of
public so 2 courthouse in a way that you're not exposed to the
And in 3 they can't take pictures of you or anything like that.
we go 4 the form of questions that we'll be asking you and as
to 5 through here, we'll try also not to identify you, just
6 protect your privacy.

7 A. Thank you.

you've 8 Q. Now, we do want to ask you a few things about what
9 written here.

10 A. Okay.

And then 11 Q. Certainly, we're not going to go over all of it.

get a 12 there are a few additional questions. So let me just

were 13 little background here on you. As I understand it, you

14 born in Milwaukee?

15 A. That's correct.

16 Q. And you came to Colorado about 25, 26 years ago?

17 A. 1971.

18 Q. You spent some time in school in Utah?

19 A. Yes.

20 Q. And in Texas?

21 A. Yes.

22 Q. And where else have you lived? I mean on page 6,
we asked

23 some residences; but I don't think you gave -- you gave
a prior

24 residence here in Colorado.

25 A. Okay.

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1 Q. But what other states have you lived in?

2 A. I've lived in -- well, I started in Wisconsin. I
have

3 lived in Yellowstone Park; and I've lived in Utah,
Texas, North

4 Carolina, and in Colorado.

5 Q. Okay.

6 A. Those are the only states.

7 Q. And Yellowstone, you were working as a park ranger?

8 A. I was a fishing guide for four years, while I was
in

then 9 college at Carroll College in Waukesha, Wisconsin; and

National 10 after I graduated from college, then I went with the

Yellowstone as 11 Park Service, and I worked four more seasons in

12 a park ranger.

late 13 Q. So you were a seasonal ranger during the summer and

14 spring and early fall?

15 A. Yes.

16 Q. When the park's open for general tourism?

17 A. That's correct.

18 Q. I guess it's open in the wintertime back --

19 A. Well, it wasn't then.

rangers have 20 Q. Yeah. So I know that some of these seasonal

21 particular assignments like, you know, some of them are

have an 22 botanists and they explain plants and things. Did you

23 assignment like that?

regulations on the 24 A. My initial assignment was to enforce the

for the 25 zoning of Yellowstone Lake. The lake had been zoned

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1 first time in 1961. This would -- these were brand-new

2 regulations, and I was familiar with the lake. And the
3 National Park Service wanted to have me help enforce
the
4 regulations in the new zoned area of Yellowstone Lake.
I
5 worked on boat patrol for two seasons, of Yellowstone
lake; and
6 then I worked one season down at the Snake River ranger
7 station, the south entrance. And then 1964, my last
season, I
8 was a campground ranger at Lewis Lake and patrolled
Lewis Lake,
9 the channel, and the Shoshone Lake a little bit.

10 Q. Okay. So you enjoyed that work?

11 A. Very much.

12 Q. Part of the work was in enforcement of the
regulations,
13 arresting people?

14 A. Well, it wasn't exactly arresting. I issued
citations. I
15 had law enforcement in college, and one of the things
the
16 professor emphasized was the significance of arrest;
and it
17 wasn't really arrest in the true sense of arrest as we
would
18 learn to understand it in school, but I issued
citations for
19 infractions on the regulations, which was more or less
a polite
20 invitation to appear in court.

and get 21 Q. Yeah, but if they don't appear, somebody will go

22 them?

correct. 23 A. Then a warrant is issued for their arrest, that's

24 But I didn't do that.

ticket, like 25 Q. All right. So you would give -- just like a

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1 getting a traffic ticket?

2 A. Yes.

make a 3 Q. And you would write out what the violation was and

4 report about it, which would then go back in to the law

5 enforcement people, and this is in the Wyoming part of

6 Yellowstone?

7 A. Yes. It was primarily in the Wyoming part.

8 Q. So it would go -- excuse me -- to a magistrate --

Mammoth, and 9 A. Well, at that time we had a commissioner in

10 they still do, to hear the court cases.

in and 11 Q. Now, there would be times when you would have to go

12 testify; would that be true?

13 A. Yes.

14 Q. And in front of then a commissioner, I guess?

15 A. Yes.

16 Q. And there would be times when your testimony was
disputed

17 by the person who got the --

18 A. Absolutely.

19 Q. -- controversy.

20 A. Yes.

21 Q. You said one thing, and he said another?

22 A. Uh-huh.

23 Q. Were there lawyers involved in that, usually?

24 A. One of the people I arrested -- or I issued a
citation was,

25 I found out later, a district attorney from Ogden,
Utah. I

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1 learned an awful lot about law that day.

2 Q. How did it come out?

3 A. He pleaded nolo contendere, and he was let off
because I

4 couldn't prove that he indeed, himself, incurred the
5 infraction.

6 Q. Was it a boat?

7 A. It was a boat. He was on an island that was about
one and

8 a half miles away from shore, and at that time the
regulations

9 read that boats under 16 feet had to stay within a
quarter mile

10 of shore. And there was himself, his wife, and about
two or

11 three children; and any one of them could have been
capable of

12 operating the boat.

13 Q. Okay. So -- and you couldn't prove who it was?

14 A. That it was him, indeed, that committed the
infraction.

15 Q. Okay. Now, you then went to work with another
government

16 agency.

17 A. Yes.

18 Q. And as I understand it from your answers, you've
had

19 some -- in that -- you're retired now; right?

20 A. That's correct.

21 Q. But during your career with that agency, you had
some -- to

22 work with attorneys concerning management?

23 A. Yes. These were primarily questions that came up
in regard

24 to compliance with the National Environmental Policy
Act and

25 the way the law read in the policies and the
regulations that

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1 we had to prepare for the management of our lands.

2 Q. Yeah. Well, that agency has a broad range of
jurisdiction,

3 a lot of responsibility, some with water management,
some land

4 management.

5 A. Yes.

6 Q. And you were on the land management side, I take
it?

7 A. Yes.

8 Q. And what states were you working -- the lands were
in what

9 states?

10 A. Well, the Bureau of Reclamation operates primarily
in the

11 17 western states, so I worked with all 17 states.

12 Q. And did you do a lot of on-land work or mostly
office work?

13 A. It was mostly office work. I was more of the
headquarters--

14 type position.

15 Q. Yeah. Here in the Denver area?

16 A. Yes.

17 Q. And then you retired how long ago?

18 A. April 1. And I'm not fooling.

19 Q. Okay. I got it.

20 A. I was tempted to walk in the office that day and

say I

21 changed my mind.

22 Q. Of this year?

23 A. Yes.

24 Q. You -- are you doing this volunteer teaching at CSU
now?

25 A. The grant that the university was going to use was
just

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1 awarded to the university, and we would begin on that
project

2 for developing correspondence courses immediately.

3 Q. Okay. So this is a planned -- I mean you put
together a

4 plan of what you would do and then somebody applied for
a

5 grant?

6 A. Well --

7 Q. Is that how it went?

8 A. This had been in the making for, oh, close to six
months,

9 at least.

10 Q. But I mean were you involved in the planning and
the

11 creation of the grant application?

12 A. I provided the information that was needed of what
kind of

13 courses would be developed and how we would go about
doing it,
14 yes.
15 Q. And then you intend to teach these courses, do you?
16 A. It would be available for correspondence courses --
17 Q. Oh, I see.
18 A. Correspondence courses, and the idea was to provide
19 training to people with Water Resources' management
20 responsibilities with the latest tools and minimize the
cost to
21 the federal government of sending them to courses for
training,
22 saving the government travel cost and per diem and
enable the
23 people to remain on the job while taking the course and
being
24 trained.
25 Q. Particularly government people?

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1 A. Primarily government people, yes; but it would be
open to
2 anybody.
3 Q. All right. But the design would be for people who
already
4 are engaged in work in the field?
5 A. Yes.

6 Q. You're married?

7 A. Yes.

8 Q. You were married once before?

9 A. Yes.

10 Q. With a divorce?

11 A. Yes.

12 Q. And your wife now is retired?

13 A. Yes.

14 Q. Having worked with the telephone companies?

15 A. Yes.

16 Q. And you have a brother still back in Milwaukee?

17 A. Yes.

18 Q. And what does he do?

19 A. He has his own business.

20 Q. What's the nature of his business?

21 A. The nature of his business is called -- well, the
company
and
as Easy
or even
22 is called The Merchandisers. And he plans, develops,
23 markets the means to merchandise various products such
24 Painter products that you would find in hardware stores
25 pen and pencil sets like these right here, the
containers that

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1 you get a pen and pencil set in, and containers for
watches,
2 like Timex and the displays that go round and round.
He'll
3 design and build those.
4 Q. All right. Now, I want to talk a little with you
about
5 jury service and what is involved and ask you a few
more
6 questions about some of the things that you've answered
here.
7 We asked you a question about -- on page 21 and in
Question 94
8 about working with lawyers, and you refer back to your
time
9 working for the agency where you obtained advice from
U.S.
10 attorneys.
11 A. Yes.
12 Q. And also departmental attorneys --
13 A. Yes.
14 Q. -- they have regional solicitors or something?
15 A. Regional solicitors, primarily, yes.
16 Q. And then on 98, Question 98 there on the same page,
you're
17 talking about the same type of thing?
18 A. Uh-huh.
19 Q. Okay. Now, we also asked you your overall opinion
about

at 100, 20 the criminal justice system. That's on the next page
21 Question 100.
22 A. Uh-huh.
service, 23 Q. And you gave "High marks to the criminal justice
24 that it's objective, thorough, and fair." Tell us a
little
25 about why you answer that way.

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forth, it 1 A. Well, after working with the attorneys and so
had to 2 became very apparent to me that the material that we
very 3 produce to develop regulations and so forth had to be
there were 4 accurate; that they had to be documented, and that
regard to 5 various interpretations and we had to be careful in
various 6 who was doing the interpretation of compliance with the
7 laws that we had to enforce.
8 Oftentimes when we developed these laws and
impacts 9 regulations, we were aware that it would have adverse
water -- 10 on people's lives; for example, if we were developing

familiar 11 well, the one that comes to mind that you may be more
Fort 12 with would be something like the Narrows unit out at
They're 13 Morgan where 918 people would have to be relocated.
relocated, and we 14 entitled to certain rights in regard to being
we would 15 had to assure that those rights were protected so that
16 be in accordance with law in relocating these people.
be 17 Now, this is a severe hardship for people to
develop 18 uprooted like that. The laws and regulations that we
really 19 have to be enforceable. The ambiguity, of course, is
perfect 20 determined in court. And I think that it -- it isn't a
that 21 system, but it's about as perfect and objective system
countries and 22 I've -- I've seen, not being familiar with other
23 so forth, but --
criminal, the 24 Q. Of course, we're talking about -- here about
25 operation of criminal courts.

so
1 A. I have not had any personal dealing with criminals,
2 in --
3 Q. What I hear you saying is that what you worked
with, you
4 were fair and objective and the people working with you
were?
5 A. Yes.
6 Q. And it was important in your work to follow the
regulations
7 and follow the rules.
8 A. That's right.
9 Q. And you said that you agree that that's important
here,
10 too, on page 30 at 129.
11 A. Yes.
12 Q. So that you recognize if you had the responsibility
of
13 serving on a jury, you would have to follow the rules
given by
14 the court and instructions before, during, and after
the trial.
15 A. That's correct.
16 Q. Well, we want to talk about that a little bit.
17 A. Okay.
18 Q. Because we want you to be fully aware of all of the
things
19 that might be possible on the service of -- as a juror.
And
20 you -- you know, we've already referred to that a jury
has

And did 21 heard evidence with respect to Timothy James McVeigh.
22 you follow that trial closely in the news about it?
23 A. No.
24 Q. I mean, you know the outcome?
25 A. Yes.

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over to 1 Q. And as I already said, that outcome doesn't spill
2 this case. We start fresh.

3 A. Right.

the 4 Q. And with a separate jury, and we don't know what

because 5 evidence is going to be here. And nobody can assume

trial 6 something was introduced as evidence in Mr. McVeigh's

understand 7 that the same thing will be done in this case; you

8 that?

9 A. Yes.

a jury 10 Q. Now, in the criminal justice system generally, when

11 hears a trial and the punishment does not involve the

release 12 possibility of a sentence to life in prison without any

13 or death, the way it works is the jury hears the
evidence and
14 then decides at the end of the case under instructions
about
15 what has to be proved whether the evidence supports the
charge,
16 whether the case is proven. And if not, if there's a
17 reasonable doubt, as we have been discussing, the jury
must
18 return a verdict of not guilty; you understand that?

19 A. Yes.

20 Q. On the other hand, if there is a verdict of guilty
because
21 the jury is satisfied with the evidence beyond a
reasonable
22 doubt, there is a guilty verdict. In either way,
either event,
23 the jury has done its job, ruling on the evidence.

24 And then in cases that don't involve the type
of
25 punishment that I've mentioned, the judge decides the
case,

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1 what follows; that is, the sentence. And that's a very
2 individual decision. It isn't just if this is the
crime, this
3 is the sentence. It's a matter of judgment, and it's a
matter

because 4 of hearing a lot more than what was presented at trial
information 5 information is given to the judge, not only more
weren't a 6 about the circumstances of the crime, things that
like the 7 part of the trial evidence, which can include things
8 effects of the crime on other people.

9 A. Uh-huh.

defendant as a 10 Q. But then there's a lot presented about the
unique, 11 human being, the things that go to make each one of us
born and 12 all about his background, his life story, so to speak,
work 13 raised, family relationships, marriage relationships,
personality, 14 history, something about his makeup as a person,
15 all of those things, the things that he's done in life.

16 And then the judge hears from both sides, the
this, and 17 prosecutor and the defense lawyer, considers all of
is the 18 says, under all of these facts and circumstances, this
to the 19 just sentence for this person for the crime, individual
20 person. You understand what I've said?

21 A. Yes.

is such 22 Q. Now, in Federal Court, if the nature of the crime

in 23 that the punishment may be under the law death or life
judge. 24 prison without release, we don't give that choice to a
sort of the 25 That's for a jury. And we ask jurors to come in as

2398

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you 1 conscience of the community and decide that issue. Do
2 understand?

3 A. Yes.

factors 4 Q. Now, of course we can't talk about any individual
going to 5 with respect to this case because we don't know what's
is 6 be heard in this case. We don't know what the evidence
7 going to be. Mr. Nichols is presumed to be not guilty.

But we 8 have to talk about the role of the jury if there is a
guilty 9 verdict, because we've got to -- you know, we got to
select the 10 jury now, and we need to know their views ahead of
time.

11 Understood?

12 A. Yes.

13 Q. So we asked you some questions here in the

questionnaire

14 about your attitudes or opinions about punishment, and
that's

15 the reason. And if you'll turn to pages 28 and 29,
you'll see

16 what you wrote.

17 A. Uh-huh.

18 Q. I want you to take a moment just to review what you
said.

19 A. Okay.

20 Q. You have those in mind, what you said there?

21 A. Yes.

22 Q. Now, sometimes with questions like this that are
really

23 questions about opinions and attitudes, after a person
has

24 written it, they can think about it more and maybe have
some

25 different view or change of mind or something, so I
just want

2399

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1 to ask you: Can we take your answers as you wrote them
on

2 September the 17th as being your answers today?

3 A. Yes.

4 Q. Have you had these views for some time before --
indeed

5 before you were asked these questions?

6 A. I think so. Yes, sir.

7 Q. And is the subject of the death penalty and whether
that

8 should play a role in our criminal justice system -- is
that

9 something that you have really focused on at any time
before we

10 asked you these -- asked you these questions?

11 A. The situation here, when you're put on the bubble,
so to

12 speak, in regard to the death penalty is a real problem
in the

13 sense that can you really say to yourself that this man
is

14 guilty to the extent that he needs to be put to death,
it's a

15 reality that I hadn't faced previously, Judge.

16 Q. I understand.

17 A. And it's . . . it's something that I believe that
if it

18 came down to that, I would have to -- and make the
decision, I

19 would make it accordingly of what I believe meets the
criteria

20 that I spelled out -- spelled out here.

21 Q. All right. And that's if nobody told you anything

22 different?

23 A. That's right.

24 Q. But we've talked about the importance of
instructions and

25 following the rules.

2400

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1 A. Yes.

2 Q. Now, I want to tell you -- we wanted to know, you
know,

3 what you think coming in here, without knowing the
procedure or

4 any of the details about it. That helps us. And
you've done

5 that, and we appreciate it.

6 I want now to put that in the context of what
the

7 procedure is in court and what the law is in general.
And now

8 we can't talk about specifics because, you know, just
like I've

9 said now several times with you, we don't know what's
going to

10 happen.

11 A. Yes.

12 Q. We don't know what the evidence is going to be.
Now, you

13 know, I sat in the McVeigh trial as a judge; you
probably know

14 that.

15 A. Yes, sir.

16 Q. I heard that evidence along with the jury. I can't

form

17 any opinion about Mr. Nichols as a result of what I
heard in
18 Mr. McVeigh's trial. It may not be anything like that.
19 Understood?
20 A. Yes.
21 Q. And of course I heard what the jury heard in the
second
22 phase, and that's what I want to talk about now. It
isn't just
23 the crime. And you've identified here the kinds of
crimes that
24 you would consider, sort of a classification according
to the
25 crime; right?

2401

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1 A. Uh-huh.
2 Q. I mean that's the sense in which you answered these
3 questions.
4 A. Yes.
5 Q. But the law says you got to consider more than the
crime.
6 Because this is like judge sentencing that I've just
described
7 to you where you have to look at all of the
circumstances about
8 the person who was found guilty. And the way it's done

in a

9 case that involves a life-or-death decision in jury
sentencing

10 is this: The first trial is all about the evidence.

And of

11 course if that results in reasonable doubt, the end of
that

12 trial is a verdict of not guilty and that's the end of
the

13 whole thing. But if there's a guilty verdict, if the
jurors

14 are satisfied beyond a reasonable doubt, there's
another trial.

15 And it really is just like another trial; it's the
sentencing

16 hearing. And it is at that time the same jury that
decided the

17 question of guilt or non-guilt is here and hears a lot
more

18 information about the crime, these things that I
mentioned

19 about circumstances of the crime, the things that may
relate to

20 the impact on people in the community and so forth.

21 But then they will also hear a lot more about
the

22 defendant, things that would not come out at the trial
at all,

23 and these are the things about who the defendant is and
what

24 he's done in life and what has happened to him in his
life. So

25 it's all of that about his background and his

individual

2402

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And just 1 characteristics and the things that make him unique.

understand what 2 to be sure, you know, we can have -- that you

of the 3 I'm talking about, you can have two people found guilty

when it 4 same crime, but the sentence can be different; because

crime. You 5 comes to sentencing, you don't just think about the

unique 6 also think about the person who was found guilty as a

7 and individual being, human being.

8 A. Yes.

9 Q. You understand what I'm saying?

10 A. Yes, I do.

the end 11 Q. And then the court gives some instructions, too, at

because 12 of the penalty trial and identifies the things that,

13 they have been presented in the courtroom, the jury can

going 14 consider. I mean you understand these are -- there are

testify, 15 to be -- in this kind of a situation, witnesses

16 exhibits offered, evidence in the same fashion as at

the

17 question of guilt.

18 And the court then says, Well, now, these are
the

19 things that have been presented to you, and you can
consider

20 these things as aggravating factors that suggest death
is the

21 right decision for the defendant, and these are the
things that

22 you should consider as mitigating factors, which means,
really,

23 death is not deserved; despite the fact that he
committed the

24 crime, the defendant does not deserve a death sentence,
but

25 something different. Understood?

2403

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1 A. Yes, I do.

2 Q. And then the court will suggest some questions the
jury may

3 answer or consider in answering to sort of analyze
these

4 things, but it doesn't come down to any kind of formula
or

5 equation or any of those things that, you know,
engineers are

6 used to.

7 A. That's good.

8 Q. Yeah. It comes down to a matter of judgment.

9 A. Yes.

10 Q. And it really is a moral judgment by people. And
it -- you

11 know, what is the question? The question is: Should
the

12 defendant live or die? That's the question. And
nobody

13 suggests that that's an easy question to answer in any
case.

14 But what we want to know from you is -- well,
first of

15 all, do you have any question about the explanation
that I've

16 given you?

17 A. No.

18 Q. So having that explanation in mind, do you think
now that

19 if you were to serve on the jury, you would be able to
hear and

20 make a decision about whether a defendant should live
or die

21 based not only on the circumstances of the crime but
also

22 giving full consideration to that person's background
and

23 individual characteristics and then decide whether he
should

24 live or die?

25 A. I believe I can do that, yes.

Juror No. 190 - Voir Dire

1 Q. All right.

2 THE COURT: Well, we're going to -- the
lawyers have a

3 chance to ask you some questions, too.

4 JUROR: Okay.

5 THE COURT: They get to participate in this
process,

6 and they of course can see things from -- that I don't
see. So

7 bear with us. We're going to take about 20 minutes out
for a

8 little rest stop, and then we'll have you back and
finish this

9 up.

10 JUROR: Okay.

11 THE COURT: You can step out now, and we'll be
talking

12 with you some more in about 20 minutes.

13 JUROR: Thank you.

14 THE COURT: You can leave your coat there,
that's

15 fine.

16 (Juror out at 3:46 p.m.)

17 THE COURT: Okay. Recess. 20 minutes.

18 (Recess at 3:46 p.m.)

19 (Reconvened at 4:08 p.m.)

20 THE COURT: Please be seated.

21 All right. Thank you for rejoining us.

22 Mr. Mearns, do you have -- or Mr. Orenstein --
excuse

23 me -- do you have some questions?

24 MR. ORENSTEIN: I do, Judge, thank you.

25 THE COURT: All right.

2405

Juror No. 190 - Voir Dire

1 VOIR DIRE EXAMINATION

2 BY MR. ORENSTEIN:

3 Q. Good afternoon, sir.

4 A. Good afternoon.

5 Q. As the Judge introduced me before the break, my
name is
6 Jamie Orenstein. Together with my fellow prosecutors
sitting
7 at this table, my job is to present the evidence to you
if you
8 serve and to the rest of the jurors to try and prove
beyond a
9 reasonable doubt that Mr. Nichols is guilty of the
charges
10 against him.

11 If you serve as a juror, you would have a job,
too;

an open 12 and that job would be to listen to that evidence with
do that? 13 mind and fairly decide the case. Would you be able to

14 A. Yes.

15 Q. Now, you've had a long wait today. And I -- You
grew up in

16 Wisconsin; is that right?

17 A. Yes.

18 Q. And you're a football fan?

19 A. Yes.

20 Q. So you're used to long waits?

21 A. Well, I waited a long time for the Green Bay
Packers to win

22 the Super Bowl, so I can wait.

23 Q. Well, like that, this will be a happy ending,
because we're

24 nearly done. I have a few questions for you, one of
the

25 defense lawyers will, and then you'll be done.

2406

Juror No. 190 - Voir Dire

1 A. Okay.

2 Q. I see from your questionnaire that you have four
children.

3 Two of them are yours and two are your wife's?

4 A. Yes.

5 Q. Which of the two are yours?

6 A. The two youngest.

7 Q. Is that -- does that include the pilot?

8 A. Yes.

9 Q. What kind of flying does he do?

10 A. He is a commercial pilot for Mesa Airlines, and he
flies --

11 well, he's flying out of Scottsbluff to Denver right
now; and

12 he's flying a Beechcraft 1900. He will be going to
Dallas/Fort

13 Worth for further training on a Dash 8 this weekend.

14 Q. Oh. Does he have any military training?

15 A. No.

16 Q. But you get to see him fairly often because he
flies into

17 the area?

18 A. Not very often. I see him maybe about once a
month.

19 Q. His Honor has covered most of the questions that we
have

20 for you. I just have a few more, and let me start with
the

21 work that you've done in your career, I take it, some
time ago

22 with lawyers who also work for the government.

23 A. Yes.

24 Q. Did any of those involve federal prosecutions?

25 A. Well, Yellowstone, all the cases are federal cases.
I mean

2407

Juror No. 190 - Voir Dire

break
with
various
attorneys,
a juror
and read
attention to
Question 145?
received
coverage about

1 from feeding bears to arresting district attorneys who
2 the law; but no, they -- the attorneys that are worked
3 were primarily in consultation with compliances with
4 environmental laws and regulations that we were putting
5 together and which are used to manage our lands.
6 Q. So to the extent that you've worked with federal
7 that doesn't have any bearing on how you would serve as
8 here, where there are federal attorneys?
9 A. Right. Right.
10 Q. Now, let me ask you a bit about what you've seen
11 about this case, if I may. If I could direct your
12 page 33 of your questionnaire. Do you see that
13 A. Yes.
14 Q. Now, I see that you wrote there that before you
15 your summons, you had seen quite a bit of media
16 the Oklahoma City bombing; is that correct?

17 A. That was right after it happened, and we were
particularly
18 concerned about it because there were Bureau of
Reclamation
19 people in Oklahoma City, some that I worked with. Of
course,
20 the question came up were there any people there that I
knew.
21 Q. And I take it from your answers that there were
not.
22 A. That's correct.
23 Q. Would the fact that they were then Oklahoma City at
the
24 time have any bearing on your service here as a juror?
25 A. Pardon me? Repeat it.

2408

Juror No. 190 - Voir Dire

1 Q. Would the fact that there were people from the same
that
2 department in Oklahoma City at that time that you had
decide
3 concern -- would that affect in any way your ability to
4 the case fairly?
5 A. No.
6 Q. Now, you also wrote that to the extent you know
things
7 about the Oklahoma City bombing -- and this is on page
36,
8 Question 158 -- to the extent that you know something

about the

9 bombing, it's what you've seen and heard and read in
the media.

10 Is that correct?

11 A. That's correct.

12 Q. Now, I won't ask you to keep jumping all over the
13 questionnaire, but I noticed that in response to
another

14 question about your opinion on the media, you said that
15 generally the stories you see in the media are not very
16 accurate.

17 A. That's true.

18 Q. So is it fair to say that anything you see or hear
or read
19 you take with a pretty big grain of salt?

20 A. Yes, I do.

21 Q. And you realize, of course, that whatever you
already have

22 seen or heard about the Oklahoma City bombing and about
this

23 case in the media: That's not received in this case;
correct?

24 A. That's right.

25 Q. And you realize that the only evidence would be
what you

2409

Juror No. 190 - Voir Dire

1 hear from the witness stand or see in exhibits; right?

2 A. Correct.

3 Q. And since the trial hasn't started, there is no
evidence.

4 A. Right.

5 Q. So is it fair to say you come here with a pretty
clean

6 slate?

7 A. Yes.

8 Q. And I also noticed that you -- you recalled some
statements

9 by public officials that you saw on TV about the
bombing. And

10 that's on page 31. See at the top of the page,
Question 133?

11 A. Whoops. I'm on 32. Excuse me.

12 Okay. Here we are. Which question?

13 Q. At the top of the page, 133.

14 A. Okay.

15 Q. Do you actually recall what the statements were
that you

16 saw on TV?

17 A. No, I don't recall anything that were -- the
statements

18 that were made on TV.

19 Q. So, then, obviously those wouldn't have any effect
on your

20 ability to serve here; is that correct?

21 A. Right.

his 22 Q. Let me talk to you for a moment about an issue that
And you 23 Honor covered, which was the question of punishment.
question 24 realize, of course, that we don't even address that
the 25 unless the jury decides beyond a reasonable doubt that

2410

Juror No. 190 - Voir Dire

1 charges have been proved. You understand that?
2 A. Yes.
then 3 Q. And at that point, if the jury makes that decision,
Government 4 there is this whole second proceeding at which the
death 5 would present its evidence that it thinks justifies the
6 penalty --
7 A. Yes.
present 8 Q. -- and the defense would have an opportunity to
And you 9 evidence that they think justifies a lesser sentence.
10 understand that; correct?
11 A. Yes.
before the 12 Q. What I picked up from your answers to his Honor
13 break was that that's something that would strike you

as a very

14 grave responsibility, having that decision.

15 A. That's correct.

16 Q. Is it fair to say that you would want to know as
much as

17 you possibly could not only about the crime but about
the

18 defendant on trial, if you ever had to make that kind
of

19 decision?

20 A. Yes. And as the Judge pointed out, there are
certain

21 mitigating circumstances, whatever.

22 Q. And you realize that you couldn't make that
decision until

23 you had heard all of those mitigating circumstances as
well as

24 aggravating?

25 A. Yes. Yes.

2411

Juror No. 190 - Voir Dire

1 Q. So if we ask you, for example, to decide or to
predict how

2 you would decide just after hearing the aggravating

3 circumstances, you couldn't do that, could you?

4 A. I couldn't predict anything.

5 Q. And just to go back to what you discussed with his
Honor,

6 you said in general your view of the criminal justice
system

7 was that it works well because it's objective,
thorough, and

8 fair. Is that right?

9 A. Yes.

10 Q. Would you bring those objectives, those qualities
to your

11 own job as juror if you were serving here?

12 A. Yes.

13 Q. To be objective?

14 A. Yes.

15 Q. And thorough and fair? And would that objectivity
and

16 thoroughness and fairness require you to hear
everything before

17 making a decision?

18 A. Yes.

19 Q. Finally, on the other side of that, if you were to
listen

20 to all of that evidence, both aggravating and
mitigating, and

21 discuss it with your fellow jurors and if as a
unanimous group

22 you decided that the correct moral choice was to impose
the

23 death penalty, do you think that you would be able to
announce

24 that decision that you had decided on the death
penalty?

25 MR. TIGAR: Objection, your Honor.

2412

Juror No. 190 – Voir Dire

1 THE COURT: Overruled.

2 JUROR: It would be a tough one; and I can't
answer

3 your question honestly because I've never been in a
situation

4 like this where I would have to make a decision of that
nature.

5 I can't tell you. I don't know.

6 BY MR. ORENSTEIN:

7 Q. Is your hesitation because you just don't know what
the

8 facts would be?

9 A. I can't answer that, either. I really don't know.

10 Q. You understand why we'd be interested in asking
these

11 questions.

12 A. Yes.

13 Q. Because we're not going to ask them again if there
is a

14 guilty verdict and we proceed to that second phase. So
I guess

15 the question is really do you think you'd be able to
come to a

16 decision?

17 A. I'd make a decision, yes.

18 MR. ORENSTEIN: Well, that's all we can ask,
sir; and

19 I thank you for answering my questions and for
participating in

20 this process.

21 Thank you, your Honor.

22 THE COURT: Mr. Woods?

23 MR. WOODS: Thank you, your Honor.

24 VOIR DIRE EXAMINATION

25 BY MR. WOODS:

2413

Juror No. 190 - Voir Dire

1 Q. Good afternoon.

2 A. Howdy.

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

4 of the two lawyers that was appointed by the Federal
Court over

5 in Oklahoma City to help Terry Nichols in this case.
Mike

6 Tigar and I were asked right after Mr. Nichols was
arrested to

7 represent him in the charges that were filed against
him by the

8 federal government.

9 Do you have any feeling one way or the other
about

10 court-appointed lawyers vs. retained lawyers?

11 A. No, I don't have any opinions.

12 Q. Would you hold it against Mr. Nichols because he
didn't

13 have money to pay for his own lawyer?

14 A. Absolutely not.

15 Q. Okay. Now, there has been a lot of talk here about
the

16 punishment stage of the trial. We certainly don't want
you to

17 have the impression that we're conceding the guilt on
this

18 case. The Government has a theory that Mr. Nichols was
19 involved in the bombing of the Murrah Building in
Oklahoma

20 City. We contest that theory. We disagree with it.

21 During the trial, the Government will be
calling a

22 number of witnesses, and we will thoroughly cross-
examine and

23 question those witnesses. We will also call witnesses
after

24 they get through. We will call witnesses that
contradict the

25 Government's theory; so I don't want you to leave here
with the

2414

Juror No. 190 - Voir Dire

1 impression that you came in here and you talked about

what the

2 punishment is going to be, because we're not conceding
that

3 we're even going to get to that stage. Do you
understand that?

4 A. Yes, I do.

5 Q. Okay. Now, as I understand your answer to the
prosecutor

6 and the Court, you feel that you could sit impartially,
weigh

7 the facts on both sides, and make a decision as to
guilt or

8 innocence?

9 A. Yes.

10 Q. It's an onerous duty, but that you feel you could
do that?

11 A. Yes.

12 Q. I'd like to talk to you -- Before we get to the
penalty

13 stage, let me talk to you about a couple other things
that were

14 mentioned. You had worked with assistant U.S.
attorneys over

15 the years, a case up in Yellowstone when the district
attorney

16 was accused of the boating violation. That case was
prosecuted

17 by an assistant U.S. attorney, was it not?

18 A. The attorney defended himself, sir and the
commissioner was

19 the only one who prevailed in the court proceedings.

20 Q. Oh, it was tried without a prosecutor?

21 A. No prosecutor or anything of that sort. I mean,
this was a

22 court that was set up in Mammoth, which is the
headquarters of

23 Yellowstone. It was -- the other Federal Court would
have been

24 in Cheyenne, Wyoming; and if it had gone any further
with

25 representation of legal personnel and so forth, then it
would

2415

Juror No. 190 - Voir Dire

1 probably have gone to Cheyenne. But this was a minor
2 infraction.

3 Q. Sure. I understand. And it was a boating
violation, and

4 it depends on how close it was to shore and who put the
boat

5 there; right?

6 A. There is a saying that good judgment is based on
experience

7 and experience is based on poor judgment. And I've
learned or

8 I got quite a bit of experience from that particular
case. And

9 the district attorney chided me a little bit about it,
and he

10 says, "It's your first case, huh?"

he's 11 Q. Well, as I understand the defense to that -- was
12 saying it could have been me, or could have been my
wife, or it 13 could have been my kids?

14 A. He raised reasonable doubt.

15 Q. Right. Okay. And what did you think of that
experience?

16 Did you think that was the way it should work, or did
you think 17 that was a little hypertechnical?

18 A. No. I think that the system worked well, because I
could 19 not prove beyond a reasonable doubt that he was the
person 20 indeed who committed the infraction.

21 Q. What did you think of a prosecutor being a defense
-- 22 advocating his own defense and saying, "Maybe it was my
wife 23 that did it"?

24 A. Could have been her. She's perfectly capable
probably. If 25 she can drive a car, she can probably drive a boat.

2416

Juror No. 190 - Voir Dire

1 Q. Or even the prosecutor saying, "It could have been
my 2 kids"?

in the 3 A. Well, he did raise, you know, how many people were
4 party.

5 Q. Okay. Okay. But then I take it you've worked with
6 assistant U.S. attorneys more recently. As I
understand, you

7 gave this example -- was it at Ft. Morgan about the
relocation
8 of a number of people?

9 A. Well, in that situation there, the National
Environmental
10 Policy Act requires full disclosure of what the
environmental
11 impacts are of a proposed federal action. The federal
action
12 was to develop water. Some of the impacts included the
13 relocation of numerous people from that location which
the
14 federal government proposed to purchase.

15 It was my job not to judge whether that was
good or
16 bad but to make sure that this information was
disclosed and
17 made available for the public to review.

18 Q. Okay.

19 A. That was my job.

20 Q. And how did you work with the assistant U.S.
attorneys both

21 in that case and then in other cases that you had with
the

22 Bureau?

23 A. We had public information meetings, and the
attorneys ran

24 the public information meetings, made sure that we made

25 information available and answered questions that the
people

2417

Juror No. 190 - Voir Dire

1 raised. And, of course, we provided information that
we had
2 available at the time.

3 Q. Okay. And I assume that you were in frequent
contact with
4 assistant U.S. attorneys over the years that you were
5 responsible for those type of activities; is that
correct?

6 A. Off and on, yes.

7 Q. And you mentioned in your questionnaire that you
had
8 friends that were in that position; is that correct?

9 A. I'm on the board of directors for the National
Society for
10 Park Resources, and we have an attorney who is also a
board
11 member. He writes the law reporter; and I've consulted
his
12 materials, his publications quite often in regard to
helping
13 our people understand the viewpoints of enforcing

certain

of our 14 regulations and laws, and so forth, and the utilization

15 water resources for recreation purposes.

the

16 Q. What I was speaking of mainly was your work with

this up.

17 assistant U.S. attorneys. And the prosecutor brought

people

18 We're both concerned about it. All this table full of

is when

19 here are all assistant U.S. attorneys; and our concern

know,

20 we start this case, are you going to go into it, you

21 slightly giving them the advantage because you've known

trust

22 assistant U.S. attorneys, you've worked with them, you

23 them, you like them?

over

24 A. I wouldn't say I'd favor them any more than I would

25 you.

2418

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We're

1 Q. Okay. And that's what both sides are looking for.

2 not trying to --

3 A. Right.

4 Q. -- do anything other than that.

5 Now, as to the punishment stage of the trial,
6 theoretically -- and we're certainly contesting that
we're
7 never going to get to that stage of the trial -- as I
8 understand, you were born in Wisconsin and grew up in
Wisconsin
9 but you graduated from high school in Texas, or was
that --

10 A. No, no, no. I graduated from high school,
Wauwatosa High
11 School in Wisconsin.

12 Q. Who was it that graduated from high school in
Texas?

13 A. I don't think there was any reference made to high
school.

14 I taught at junior high school in Uvalde, Texas,
elementary

15 Spanish.

16 Q. Okay.

17 A. Perhaps that's what you're referring to.

18 Q. I'm sorry. It was your -- on page 8 of the
questionnaire,

19 it was your spouse that was a high school graduate in

20 San Antonio, Texas.

21 A. Yes.

22 Q. I'm sorry I made that mistake.

23 Of course, you know that Texas has the death
penalty;

24 and as I understand, Wisconsin does not have the death
penalty.

I'm not 25 A. It's been a long time since I lived in Wisconsin.

2419

Juror No. 190 - Voir Dire

1 current with their laws.

2 Q. That was going to be my next question. You still
have a

3 brother there. Have you discussed this case with him
or the --

4 A. Absolutely not.

5 Q. -- or the death penalty with him at all in the past
two and

6 a half years?

7 A. Well, I've talked about the bombing of Murrah
Building; and

8 of course, since this procedure started involving me, I
have

9 not said anything to anybody.

10 Q. Sure. I didn't mean that you had after you got the
11 summons. I meant before that period.

12 A. Well, I told him that I didn't have any friends
that were

13 in the building at the time, and I -- you know, it
didn't have

14 that much importance to me to pursue it any further.

15 Q. Okay. Okay. Have you ever discussed the death
penalty

16 issue just in general with your brother?

17 A. With my brother?
18 Q. Yes, sir.
19 A. Yes, I probably did. And of course, until you're
there,
20 you can say a lot of things --
21 Q. Theoretically, just talking about policy issues?
22 A. Sure.
23 Q. But then all of a sudden you're faced with the
specific
24 question. I want to talk about just policy issues,
because
25 Wisconsin is one of the minority of states that does
not have

2420

Juror No. 190 - Voir Dire

I'm not
the
discussions just
penalty with
here --
1 the death penalty. Have you ever discussed his -- and
2 saying he has the views that the death penalty is not
3 proper punishment; but have you ever had any
4 in general on policy issues pro and con the death
5 your brother?
6 A. No.
7 Q. Okay. When did you leave Wisconsin? You've been
8 you've been here 26 years. You left in '71. Okay.

9 A. Well, I left Wisconsin in '61.

10 Q. Okay.

11 A. And that's when I came out West and --

12 Q. So I take it you were not in Wisconsin when it was
voted on
13 one way or another whether to enact the death penalty
statute?

14 A. No.

15 Q. Okay. Now, you indicated on your questionnaire on
page 33,
16 144 -- at Question 144 -- and the question was, "If
you've
17 heard or read anything about the Oklahoma City bombing,
please
18 indicate where you heard or read about it."
19 And you checked off TV news, radio news,
newspaper,
20 and conversations.

21 And then 145, "How would you describe the
amount of
22 media coverage you've seen about the Oklahoma City
bombing?"

23 And you checked, "Quite a bit."

24 A. It seemed as though every time I turned on the
television
25 right after the incident, there was quite a bit of
coverage on

1 the bombing of the Murrah Building.

2 Q. Yes, sir.

3 A. And it was kind of like the Kennedy funeral: It
just
because you've
4 rolled on and on and on. You'd just turn it off
5 seen or heard it before.

6 I did not follow all the evolving events or
anything
7 of that sort because, knowing journalism, journalism
really
8 doesn't have much chance to get at the facts. They
just give
9 the first impressions, whether factual or not. In
fact, I --

10 Judge, I got a little story here. May I tell
it?

11 MR. WOODS: Depends on how little it is.

12 THE COURT: Be careful. If it's about judges,
we
13 don't want to hear it.

14 JUROR: No, no, no.

15 There was a little article written about my
retirement

16 in The Denver Post, and the article headline said
something

17 about (Juror's name expunged per court order),
BLM . . . da,

18 da, da . . . retires, or something of that sort; and
that

19 BLM -- Carrier knew that it was not BLM, that it was

the Bureau

20 of Reclamation that I worked for. And he was very
embarrassed

21 by the change that was made by the editor, assuming
that BLM

22 and the Bureau of Reclamation are the same agency,
which they

23 are not. So I take it with a grain of salt that a lot
of these

24 things really are not factual.

25 BY MR. WOODS:

2422

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1 Q. Right. Have you heard that excuse before from
reporters;

2 that it wasn't their fault, it was their editor's
fault?

3 A. Oh, yeah.

4 Q. Concerning your employment with the Bureau of
Reclamation,

5 did you know the individuals that were seated -- were
you here

6 yesterday?

7 A. No.

8 Q. Did you know the individual that preceded you out
here

9 today?

10 A. Did I know him?

11 Q. Yes, sir.

12 A. No. He worked in the same agency. I learned that
today

13 when I visited with him a little bit.

14 Q. But you all didn't work together in any fashion?

15 A. No, uh-uh.

16 Q. And since you weren't here yesterday, you probably
weren't

17 aware of who was here yesterday amongst the jurors. Is
that

18 correct?

19 A. That's correct.

20 Q. Okay. Now, back to the publicity issue and the
issue you

21 raised about what you saw those initial days. If you
were

22 chosen as a juror in this case, there will be some
pretty

23 emotional, traumatic photographs and testimony
introduced into

24 evidence likely that will have a very emotional pull on

25 individuals. And I assume you recall those TV images
that you

2423

Juror No. 190 - Voir Dire

1 saw at that time. It's going to affect everyone very
2 emotionally.

3 A. Yes.

4 Q. My question to you is if you are on a jury and that
type of
5 evidence came in, could you look at that but at the
same time
6 put that where it belongs in the emotional stage and
look at
7 the evidence that the Government has that they say
associates
8 Terry Nichols with the bombing? Could you look at that
coolly
9 and without emotion?

10 A. Yes.

11 Q. Okay. From the information that has been on the
12 television, newspaper, and magazines and the
conversations you
13 mentioned here, do you recall how many people were
killed in
14 the bombing?

15 A. I think there were two figures. One was 168 or
169.

16 Q. Do you recall whether or not there were any
children
17 killed?

18 A. Yes, there were children killed.

19 Q. And do you understand what the reason why there
were
20 children killed in a bombing of a federal building?

21 A. They had a day-care center there at the federal
building, I
22 believe.

were? 23 Q. Okay. And do you recall how many children there

24 A. No.

25 Q. That were killed, I mean.

2424

Juror No. 190 – Voir Dire

1 A. No.

building? 2 Q. Do you recall how the bomb was placed at the

3 A. Yes.

4 Q. And how was that?

materials. 5 A. Using a Ryder truck loaded with explosive

in the 6 Q. Do you recall from what you've seen, read, or heard

was? 7 publicity what the nature of the explosive materials

there 8 A. There was a lot of fertilizer, I know, and I think

idea. 9 was some diesel fuel; and beyond that, I don't have any

read, or 10 Q. All right. Do you recall from what you've seen,

11 heard how Mr. McVeigh was arrested?

12 A. He was in a vehicle that was committing some other
13 infraction, I believe. He was stopped on a highway.

do you 14 Q. Okay. And from what you've seen, read, or heard,

federal 15 recall how Terry Nichols initiated contact with the
16 authorities?
17 A. (Juror shakes head.)
18 Q. Do you recall anything about his subsequent arrest?
19 A. The only thing I know is that he's been accused of
being an 20 accompanying -- he's accompanied McVeigh in some
capacity, and 21 that's the only thing I know.
22 Q. All right. From what you've seen, read, or heard,
is it 23 your recollection that he accompanied McVeigh in
placing the 24 bomb there?
25 A. No. As far as I know, he was not involved in
placing the

2425

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1 bomb.
2 Q. Okay. Do you recall where Mr. Nichols was at the
time of 3 the bombing?
4 A. Another state, wasn't it?
5 Q. Okay. Now, let's end it up by talking about the
death 6 penalty issue that the Court has talked with you about
and the

a couple 7 prosecutor has talked to you about; and I'll only have
publicity 8 of questions for you. Have you kept up with the
where he's 9 concerning Mr. Davis? It's a local case in Colorado
10 scheduled to be executed sometime this month.

and the 11 A. I understand that Mr. Davis is to be put to death;
12 date is next week, I believe.

verdict that 13 Q. Okay. Do you have any disagreement with that
14 was rendered in that case?

that 15 A. I have no opinion in regard to how they arrived at
16 decision.

crime 17 Q. Okay. Did you keep up with it at the time the
18 occurred?

19 A. No.

Do you 20 Q. What about the verdict of death as to Mr. McVeigh?
21 have any disagreement with that verdict?

22 A. No.

penalty 23 Q. If you're chosen on the jury and we do get to a
and 24 stage, the Judge explained to you about the aggravating
evidence. 25 mitigating circumstances that would be offered into

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1 You recall that?

2 A. Yes.

3 Q. What do you understand would be the nature of
mitigating
4 circumstances?

5 A. There are circumstances that would probably explain
why
6 Mr. McVeigh or anybody, whoever committed any crime --
why they

7 may have done it or the circumstances. I really
couldn't say.

8 It's -- each individual case on its own value is what
--

9 Q. Okay. Well, is it your understanding that the
10 circumstances that would be presented at the punishment
hearing
11 relate to the crime, or do they relate to the crime and
to the
12 individual, the background and the history of the
individual?

13 A. I would say the crime and the individual -- would
have to
14 have a pretty strong link.

15 Q. So I take it you understand what the Judge was
telling you
16 about what the nature of the circumstances would be
that would
17 be offered into evidence at that hearing?

18 A. Yes.
19 Q. Now, if you were chosen on a jury, not this jury,
but a
20 jury where the death penalty is an issue involving a
case with
21 multiple murders, would you be able to listen to both
22 circumstances, aggravating and the mitigating, and make
a
23 decision on those, or do you feel that the death
penalty is the
24 proper verdict, the appropriate verdict, when there are
25 multiple murders?

2427

Juror No. 190 - Voir Dire

1 A. No, I'd have to weigh both.
2 Q. Okay. Okay. Now, if you're chosen on this jury,
sir, can
3 you look Terry Nichols in the eye and tell him that you
would
4 give him a fair trial?

5 A. Yes, I can.
6 MR. WOODS: Thank you very much, sir. I
appreciate
7 your time.

8 THE COURT: Well, we're not going to be able
to tell
9 you whether you're on this jury for a while, because as
you can

with 10 appreciate, I'm sure, we are proceeding here talking
talked 11 people one at a time, and there will be a lot of people
12 to, so we don't know how long this process may take.

13 What you have to do is assume that you will
have the 14 responsibility to decide the case. And we want you to
be able 15 to come back then at a later time, days from now, and
be able 16 to come into this room and do what you say you can do
and 17 provide a fair trial.

18 So as a part of that, obviously, I have to
caution you 19 again about being careful with respect to the things
that you 20 read, see, and hear anywhere and be careful with
respect to 21 your conversation with others so that you would not be
do that? 22 influenced by anything outside the evidence. Will you

23 JUROR: Yes, I will.

24 THE COURT: And you'll stay in contact with us
so that 25 if you have a change of address or phone number or
something,

1 you'll let us know right away.

2 JUROR: All right.

3 THE COURT: All right. You're excused for
now, and
4 thank you for your cooperation.

5 JUROR: Thank you, Judge.

6 THE COURT: We have 714 -- yes?

7 Just a moment.

8 MR. TIGAR: Your Honor, may I suggest
respectfully

9 that -- may I approach the bench, your Honor, very
briefly?

10 THE COURT: All right.

11 (At the bench:)

12 (Bench Conference 20B1 is not herein transcribed by
court

13 order. It is transcribed as a separate sealed
transcript.)

14

15

16

17

18

19

20

21

22

23
24
25

2432

1 (In open court:)

2 THE COURT: 714, yes.

3 Would you please raise your right hand and
take the
4 oath from the clerk.

5 (Juror No. 714 affirmed.)

6 THE COURTROOM DEPUTY: Thank you.

7 THE COURT: Please be seated there.

8 You don't have to speak right into the
microphone.

9 Anywhere near it will work.

10 VOIR DIRE EXAMINATION

11 BY THE COURT:

12 Q. We've kept you waiting all day, and we apologize
for the
13 delay; but I hope you understand we can't program this
14 according to a certain timetable. This being a human
process,
15 like other human processes, is subject to variations.
But you
16 recall getting a summons advising that you had been --

your

jury

Terry

it was,

you

17 name had come up in a chance process as summoned for

18 service possibly in the case of United States against

19 Lynn Nichols?

20 A. Yes.

21 Q. And that we sent you a short-form questionnaire, as

22 about -- asking you a few questions. You gave us --

23 cooperated, sent that back.

24 A. Yes.

25 Q. And we asked you to come out to the fairgrounds at

2433

Juror No. 714 - Voir Dire

very

1 Jefferson County and asked you a lot more questions,

2 lengthy questionnaire.

3 A. Yes.

And

4 Q. And you did that for us, too, and we appreciate it.

for the

5 what we have done is taken your answers and made copies

6 people here; but no one else is, you know -- these are

matters and

7 questions that asked you personal -- about personal

8 private matters, and we try to respect that. But I

want you to

9 meet again those who are here, who have seen your
answers and

10 who have, of course, been instructed they can't share
them with

11 anybody else but the people right here in front of you.

12 And so you recall that I was at the Jefferson
County

13 Fairgrounds and introduced myself to you and the other
juror --

14 jury panel members and also introduced Mr. Lawrence
Mackey, who

15 is here at this first table, and Ms. Beth Wilkinson,
attorneys

16 for the Government; and now we have joining them Mr.
Patrick

17 Ryan, who is next to Ms. Wilkinson, and Mr. James
Orenstein.

18 You met before Mr. Michael Tigar, Mr. Ronald
Woods,

19 attorneys for Terry Nichols. Terry Nichols, of course,
was

20 there with us, too.

21 And before giving you the questionnaire to
answer all

22 these questions, I told you about the background of the
case;

23 right?

24 A. Yes.

25 Q. And I need to simply review that with you for
purposes of

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1 this record so that it's clear that you have been so
advised;
2 and by doing that, I don't mean to suggest that you've
3 forgotten all of it or that you didn't know some of
these
4 things before I told you, anyway.

5 But of course, the background of the case is
there was
6 an explosion that destroyed a federal building, an
office
7 building in Oklahoma City, Oklahoma, on April 19 of
1995; that
8 following that, charges were filed by the federal
government
9 through federal lawyers in Oklahoma City in the Federal
Court
10 and that those charges in a formal document called an
11 indictment that -- I think you've heard about
indictments
12 before --

13 A. Yes.

14 Q. -- charged that a man named Timothy James McVeigh
and
15 Mr. Terry Nichols here, and then the indictment says
"and other
16 persons not named," with a conspiracy to bomb the
building and
17 kill and injure people in it and charged also with the

criminal

with 18 conduct of actually carrying out such a bombing and

with 19 charging first-degree murder -- charging the defendants

agents, 20 the first degree murder of eight law enforcement

about that? 21 federal people who were in the building. You knew

22 A. Yes.

entered 23 Q. And that as I explained, both the named defendants

trial; and 24 pleas of not guilty, thereby creating the issues for

Denver 25 then the trial was moved from Oklahoma City here to

2435

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the 1 because of a concern about selecting a jury there where

trial 2 event happened and with a lot of consequences. So the

jurors 3 was moved here to have a better possibility of getting

4 who could fairly decide.

the 5 And then an order was entered by me separating

trial as 6 defendants for trial so that there would be separate

7 to each defendant; and that was done because it would

not be

because 8 fair to them to have them both judged by the same jury

what 9 there would be significant differences in the cases,

explained, of 10 evidence would be received, and so forth. And I

is that 11 course, what I guess you already knew as well; and that

the trial 12 after this order for separate trials, there has been

the 13 of Mr. McVeigh before a jury who found him guilty under

question 14 evidence and then a separate trial in addition on the

sentence. 15 of punishment for Mr. McVeigh resulting in a death

16 You knew that, I assume, before I told you anyway.

17 A. Yes.

would have 18 Q. But I repeated it, of course, so that everybody

19 the same basic information.

the trial 20 And now, of course, we're getting ready for

Nichols; 21 of whatever the evidence may be as it relates to Mr.

answer 22 and as I explained to all of you before we asked you to

to 23 these questions, the outcome of the case with respect

24 Mr. McVeigh both as to the guilty verdict and as to the

25 sentence cannot be considered at all here. We're

starting

2436

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1 fresh. You understand that?

2 A. Yes.

3 Q. And I also talked about some of the fundamental
principles

4 of our criminal justice system. And you have had prior
jury

5 experience yourself, been on a jury before -- in fact,
two

6 juries?

7 A. Yes.

8 Q. One criminal and one civil?

9 A. Yes.

10 Q. And we want to ask you a little bit about that, but
I want

11 to turn right to something that you answered on the

12 questionnaire, and that is on page 38 -- you have your

13 questionnaire there; right? And your answers?

14 A. Yes.

15 Q. Okay. And turn to page 38, because right there you
just

16 told us in plain language that you're reluctant to
serve in the

17 case. I mean, we asked you -- it's Question 165.

18 A. Yes.

Court's 19 Q. Just asks about anything you want to bring to the
"Only 20 attention in regard to your service; and you just said,
21 my reluctance to serve."

22 A. Yes.

23 Q. Now, tell us about that. What is your reluctance
to serve?

24 A. Oh, my reluctance to serve is based upon so many
things

25 that are happening on the home front right now with
regards to

2437

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at this 1 pursuing a new career, which I'm in the throes of doing
a 2 point in time and knowing that it -- it would simply be
entirely 3 matter of, as is my nature, being difficult to focus
4 on the public service side --

5 Q. Yes.

6 A. -- certainly of the trial; that is to say, it's one
of 7 those situations where if necessary I would be here,
but I 8 couldn't guarantee that my heart would be in it.

9 Q. All right. Fair enough. And that's exactly the
kind of

mind 10 thing we want you to tell us, you know; what is in your

answers to 11 and in your heart. There aren't any right or wrong

12 any of these questions and it isn't a test; it's to get
you say 13 information, including attitudes. So what I just heard

14 is it isn't anything about the case; it's about the
timing and

15 its impact on your life?

16 A. Yeah. Timing is everything.

And I 17 Q. Okay. Well, we're going to talk about some things.

18 hope you'll bear with us, because I don't think we'll
get done

19 by 5:00; so much as it may distress you, I'll have to
ask you

20 back in the morning. But we want to go as far as we
can.

21 Now, these cases that you served on before --
and you

22 told us about them on page 26, so feel free to look at
these

23 references that I call your attention to and any others
that

24 come to mind, because we don't want to take you at a

25 disadvantage. You should know what you wrote.

1 As I understand this -- and I think you gave
us a good
2 deal of information -- you were on a jury in 1993 in
Denver
3 dealing with some kind of criminal charges of some kind
of
4 drug-dealing. Yes?
5 A. Yes.
6 Q. Was that here in the Federal Court, or over in the
City and
7 County Building on the state court?
8 A. I think that was state court.
9 Q. Okay. And do you recall now the particular drugs
involved?
10 A. No, I don't right offhand.
11 Q. And how many defendants there were?
12 A. I believe there were two.
13 Q. And they were both at trial at the same time?
14 A. Yes.
15 Q. And was it the kind of case where there was like an
16 undercover buy, or something like that?
17 A. Yes.
18 Q. Where a police officer, an informant --
19 A. Yeah.
20 Q. That was the kind of thing?
21 A. Yes.
22 Q. And what did the jury decide in that case?

23 A. The jury decided that the defendants were guilty.

24 Q. Both of them?

25 A. Yes.

2439

Juror No. 714 – Voir Dire

case;
1 Q. And you were -- you were not the foreperson in that

2 you were in the second case we're going to talk about?

3 A. Yes.

trial
4 Q. Is that right? And do you recall how long the

5 lasted? I'm talking about the criminal trial now.

6 A. It lasted one week.

something
7 Q. And you went through a jury selection process

8 like this but not as long?

9 A. Not quite like this.

10 Q. Okay. You were asked questions.

11 A. Yes.

12 Q. About your background and so forth?

13 A. Yes.

14 Q. Willingness to serve and ability to serve.

15 A. Yes.

both of
16 Q. And do you recall in that trial whether either or

17 the defendants testified?

18 A. If I remember correctly, they did not testify.

19 Q. Okay. Now, you know defendants are not required to
20 testify.

21 A. Yes.

22 Q. Basic principle of the whole system is that people
who are

23 accused of any crime in this country under the
Constitution, no

24 matter who they are or what the charges, are presumed
to be

25 innocent of those charges; and they don't have to prove

2440

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1 anything at their trial. They don't have to prove
themselves

2 not guilty or anything else. It is up to the charging

3 government, whatever it is, to -- through their lawyers
to come

4 in and present the evidence; right?

5 A. Yes.

6 Q. And the defendant, of course, doesn't have to take
the

7 stand, doesn't have to answer any questions, doesn't
have to

8 say anything or explain anything; and that can't be
held

9 against him or even considered by the jury. And you
probably

given 10 don't remember in detail the instructions that you were
couldn't 11 by the court in that case, but probably told you
your 12 consider the fact that the defendants didn't testify in
that? 13 deliberations. Do you recall that? Something like
umpteen 14 A. Oh, something like that. The instructions ran
15 pages, most details of which I do not recall.
some 16 Q. Sure, and I wouldn't expect you to; but there are
cases. So 17 fundamental things in there. They run across all
as far 18 the instructions, long as they are, dealt with details
nature of 19 as what had to be proved in that case because of the
witnesses, 20 the charge, and so forth, and the credibility of the
cases is 21 and a lot. But basically, of course -- basic to all
can't 22 the presumption of innocence and the fact that a jury
with 23 consider the failure of any defendant to come forward
can't even 24 evidence or to testify. What I tell juries is you
25 talk about it. And you understand that?

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1 A. Yes.

2 Q. And then I assume that the defendants were
represented by

3 lawyers who cross-examined the witnesses and all of
that.

4 A. Yes.

5 Q. Made objections to evidence that was offered?

6 A. Yes.

7 Q. And largely probably -- and I'm just guessing here,
but you

8 tell me what happened -- largely suggested through
their

9 questioning and cross-examination that these people
were set up

10 in some way. Is that right -- that whoever made this
deal with

11 them set them up, or is that --

12 A. I don't recall that there was -- there was an
element of

13 that in the defense.

14 Q. Or that it was some sort of entrapment, or they
asked you

15 that you shouldn't believe the informant or the
undercover

16 officer or whatever it was?

17 A. Yes, of course it was that, an element of that; but
as far

18 as entrapment goes, I don't recall that being part of
the

19 defense. Most of it was a matter of it being a
shoddily run

20 operation.

21 Q. You mean by the defendants?

22 A. Yes.

23 Q. And that's why they got caught; right? Okay. Do
you

24 remember how long the jury deliberated before making a

25 decision, how long that took?

2442

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1 A. It was the better part of a day.

2 Q. All right. So they discussed it thoroughly?

3 A. Yes.

4 Q. And do you know what happened after that as far as
the

5 sentencing of those persons is concerned?

6 A. No, not a clue.

7 Q. You turned in your verdict -- I mean the verdict
was read

8 in open court and you were discharged and that was it?

9 A. That was it.

10 Q. Okay. So you understand that somebody, then -- the
11 court -- made a sentencing decision at a later time.

12 A. Yes.

13 Q. We'll come back to that process and talk about it
some

14 more, not that case but the process.

15 Now, tell us about the civil case, because
this was an

16 automobile accident; right?

17 A. Yes.

18 Q. And this was earlier, in '91, I think you told us;
and was

19 that in Fort Collins? I mean the trial?

20 A. Not the city proper. It was south of Fort Collins
-- oh,

21 the trial was in Fort Collins, yes.

22 Q. And you were living there then, were you?

23 A. Yes.

24 Q. And what, a collision of automobiles?

25 A. Yes, it was a collision at the time; and the suit
was

2443

Juror No. 714 - Voir Dire

1 basically for damages, loss of income.

2 Q. So there were injuries?

3 A. Yes. Apparently so.

4 Q. Well, I mean somebody claimed there were injuries?

5 A. Yes.

6 Q. What was the verdict in that case? I don't mean if
it's

7 dollars.

8 A. No, that was -- it was more of a complicated
verdict, if I

9 recall correctly, because it was like a split
percentage of who

10 was at fault and what percentage they were at fault.

11 Q. Sure. Colorado has a system of comparative fault,
they

12 call it, where if -- in a situation like that, if the

13 plaintiff, the person seeking damages, seeks the
damages

14 claiming negligence of the defendant, then the
defendant says,

15 well, you, too -- you were negligent, too; then the
jury has to

16 apportion the fault and say what percentage one party
and what

17 percentage the other. Is that the kind of thing?

18 A. Yes. I don't recall what the percentage was.

19 Q. No, I wouldn't expect you to, or -- was there a
dollar

20 figure, too, then, as to measuring the amount of
damages?

21 A. Yes.

22 Q. Sure. How many people were on that jury, if you
recall?

23 Sometimes there are six, sometimes nine.

24 A. I was going to say a box full, but I don't recall
exactly

25 how many seats there were.

Juror No. 714 - Voir Dire

1 Q. Okay. And this time, you were the foreperson?

2 A. Yes.

3 Q. And so there was some discussion and it ended up
with
4 saying, "You're the foreperson, you be our leader,"
something
5 like that?

6 A. Something like that, yes. I did not volunteer for
the
7 position.

8 Q. Okay. But you got named and then you were the
leader of
9 the jury?

10 A. Yes.

11 Q. And sort of led the discussions.

12 Now, that was -- When you came up to Denver in
the
13 criminal trial, I suppose somebody asked you about
this, saying
14 had you been on a jury before?

15 A. Oh, they probably did, yes.

16 Q. You may not remember it clearly, but usually that
kind of
17 thing is asked. And do you remember if when -- talking
about
18 the criminal case, when the jury went back to

deliberate -- and

19 please understand we're not allowed to ask you all the
details

20 of deliberation because the whole process is based on
the

21 jury's secrecy there, so you're not being asked what
different

22 people said or what you said excepting that I'm just
curious as

23 to whether -- if anybody sat around and said, Well, who
has

24 been on a jury before, anything like that?

25 A. I don't recall that specifically.

2445

Juror No. 714 - Voir Dire

1 Q. Okay. Very good.

2 Well, let's get back to just a couple of
things about

3 your background. You do live in the Fort Collins area
now?

4 A. Yes.

5 Q. But you're from Michigan?

6 A. Yes.

7 Q. Detroit area.

8 A. Yes, originally.

9 Q. You went to Michigan State?

10 A. Yes.

11 Q. And got a wildlife biology degree there?

12 A. Yes.

13 Q. You also lived in Battle Creek and Kalamazoo?

14 A. Yes.

15 Q. And was that after you had gone to Michigan State.

16 A. Yes.

17 Q. What were you doing in Battle Creek? What kind of
work?

18 A. Oh, I worked in a photo lab there.

19 Q. And Kalamazoo?

20 A. A photo lab there, too.

21 Q. And then you met your wife and married; and did she
go to

22 Michigan State when you were there?

23 A. Yes, she did.

24 Q. And you knew each other there?

25 A. Yes.

2446

Juror No. 714 - Voir Dire

1 Q. Okay. And then you came out to Colorado about
when?

2 A. '84.

3 Q. And there is this -- a question that I wanted to
ask you

4 about page 7, on page 7. Excuse me. In connection
with your

5 seeking certification for some position or some skill
-- and

6 frankly, I can't read your writing there, and I'd --

7 A. I apologize for that. Shall I read it to you?

8 Q. Sure.

9 A. "I'm currently seeking certification as a
nutritional

10 microscopist and am applying for the International
Academy of

11 Bioenergetic Practitioners."

12 Q. Can you tell me what that says, what that means?

13 A. I'm in the process now of trying to bring the
modality of

14 live blood analysis into the research facility where I
work up

15 in Fort Collins; and as a part of that I -- as part of
my

16 training, it involves being certified as what is known
as a

17 nutritional microscopist. It's not a licensure or
anything of

18 any kind. It's just a series of classes that one takes
in

19 order to learn this process. The academy or IABP is
more

20 directly involved with the work that we do at the
facility,

21 which involves doing bioenergetic evaluations with
rather

22 sophisticated biofeedback equipment. It's a two-year
program

23 that I have applied for.

24 Q. Now, you work in a laboratory setting now?

25 A. It's more of a clinic than a laboratory.

2447

Juror No. 714 – Voir Dire

1 Q. Use the scientific methodologies in your work?

2 A. Oh, we certainly try to, yes.

3 Q. I mean, you are a scientist by training and by your
4 experience, using scientific methods and scientific
techniques
5 that I guess include microscopes?

6 A. Yes.

7 Q. Electron microscopy?

8 A. No, dark field specifically.

9 Q. Okay.

10 THE COURT: Well, I'd like to come back to
that
11 tomorrow and some more things; so we'll -- you know,
we've been
12 at it all day, and you've been waiting all day and
you'd like
13 to get done; but I'm afraid we won't be able to get
done in a
14 reasonable time, so I'd like to resume at quarter to 9
in the
15 morning. So I'll have to ask you to take another day,
16 interrupting your work, and come in here tomorrow to
ask --

to talk 17 answer some more questions. And I'd also like you not

right? 18 about this with anybody else in the meantime. All

19 JUROR: Yes.

of time 20 THE COURT: Again, I apologize for the amount

need for 21 that it has taken here; but I hope you appreciate the

22 it and the importance of it.

morning. 23 We'll visit with you some more tomorrow

24 You're excused for now.

25 JUROR: Okay.

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1 (Juror out at 5:04 p.m.)

2 THE COURT: Okay. We'll recess till 8:45.

3 (Recess at 5:04 p.m.)

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17 REPORTERS' CERTIFICATE
18 We certify that the foregoing is a correct
transcript from
Dated 19 the record of proceedings in the above-entitled matter.
20 at Denver, Colorado, this 9th day of October, 1997.
21
22

Paul Zuckerman

23

24

Kara Spitler

