

13

PROCEEDINGS

14

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

15

THE COURT: Be seated, please.

16

Good morning.

17

ALL: Good morning, your Honor.

18

THE COURT: Are we ready to resume?

19

Okay. If you'll bring 714 back.

20

(Juror No. 714 was recalled to the stand.)

21

THE COURT: Good morning.

22

JUROR: Good morning.

23

VOIR DIRE EXAMINATION CONTINUED

24

BY THE COURT:

25
explaining

Q. When we recessed yesterday afternoon, you were

2452

Juror No. 714 – Voir Dire

work with

1 something about your work and the microscopy. Do you

2 other laboratory equipment?

3 A. No, not at this time.

equipment?

4 Q. Have you in the past, chemical-type laboratory

5 I suppose you did some when you were in school?

printed

6 A. Well, at a previous job where I was working in

7 circuit-board manufacturing, I did work very briefly in

the

worth of 8 chemical lab, but it amounted to perhaps two weeks'

9 work.

10 Q. Okay.

11 A. Which was mostly training.

to tell 12 Q. Now, if you'll turn to page 9. I am not asking you

know, 13 us the name of the business or anything that might, you

organization. 14 identify you. I don't know the size of this
But

and what 15 could you explain a little more about what you do now

16 your company does?

clinic, 17 A. Basically I am the office manager of a health

evaluations on 18 slash, research facility that does bioenergetic

that we 19 people. Primarily it's a biofeedback-type technology

20 do where we're taking health assessments.

21 Q. And your wife is interested in health care as well?

22 A. Yes.

have some 23 Q. And does, as I understand it, also from page 9,

24 health-care work that she does in the home?

25 A. Yes.

Juror No. 714 – Voir Dire

- 1 Q. I mean for people who come in?
- 2 A. Yes.
- 3 Q. And this includes the acupuncture approach?
- 4 A. Yes.
- 5 Q. And that deals with certain points on the body
where you
- 6 can apply pressure and get beneficial results?
- 7 A. Yes.
- 8 Q. Therapeutic results?
- 9 A. Yes.
- 10 Q. And this whole area, bioenergetic medicine or
health care,
- 11 is a matter that you are pursuing, apparently, in your
reading
- 12 also; right?
- 13 A. Yes.
- 14 Q. So are you looking toward further development of
that? I
- 15 mean it appears to me that office management is not
exactly
- 16 your field. You're more interested in the care aspect.
- 17 A. Yeah. I did come into it rather serendipitously,
yes, and
- 18 I am certainly more interested in the practical
application.
- 19 Q. And for the future, you would hope to move towards
that?

20 A. Yes.

21 Q. Now, we discussed yesterday your service as a juror
on two

22 cases, one civil and one criminal. And I want to --
oh, excuse

23 me. Before that, I noticed on page 10 in connection
with your

24 other activities in Question 46, you've been a camp

25 counselor --

2454

Juror No. 714 - Voir Dire

1 A. Yes.

2 Q. -- at camps for persons with handicaps.

3 A. Yes.

4 Q. And that was children?

5 A. Yes.

6 Q. Do you still do that?

7 A. No. No, that was a good 20 years ago. Just a
couple of

8 seasons.

9 Q. Okay. Where was that?

10 A. In Michigan.

11 Q. Now, you made some statements about your
impressions of the

12 legal process and courts here based in part on your
experience

13 and so forth. If you'll turn with me to page 22,

please.

14 You had -- Question 99, you had a wage dispute
with an

15 employer and brought an action.

16 A. Yes.

17 Q. And was that one where you had counsel? Did you
have a

18 lawyer representing you?

19 A. No.

20 Q. It was a small-claims-court-type thing?

21 A. Yes.

22 Q. And that settled before you actually got before the
judge

23 or a referee, I take it?

24 A. Well, we got before the judge, but he gave us a few
minutes

25 to work it out before it proceeded any further
officially; and

2455

Juror No. 714 - Voir Dire

1 we were able to work out the dispute at that time in
his

2 presence.

3 Q. How long ago was that?

4 A. 13 years ago.

5 Q. Okay. Now, on the next question down, you -- where
we

put a 6 asked you to rate the effectiveness of the system, you
with it 7 question mark. And then you said, "I'm less impressed
comparison 8 in person than I am on TV." And tell us what the TV
9 is that you had in mind there.

don't 10 A. Oh, well, I don't watch too much law TV per se. I
divorce 11 watch too much TV as it is, but I suppose when one can
fictional or 12 oneself a little bit more easily from watching a
actually 13 even a factual account on television as opposed to
14 living it, you know, from a juror's perspective.

15 Q. Well --
allowed to see 16 A. So, you see -- you see, of course, or you're
behind-the- 17 more of -- more of what's -- what's going on, the
course is 18 scenes action. And my reference to television of
jury box, 19 more in a fictional sense in that when one is in the
what you 20 you are, of course, limited to what you can observe,
21 perceive.

22 Q. Yes.
vast 23 A. And a lot of that -- or, well, I should say the
24 majority of it is interpreted, you know, from a

personal

25 perspective, in past experience.

2456

Juror No. 714 – Voir Dire

1 Q. Sure.

biases

2 A. Needless to say, there were -- there were some

definitely

3 that -- prejudices, if you will, that I noticed

well

4 surfacing in me and in talking with other jurors as

two cases

5 regarding the whole nature of the proceedings of the

6 at the time.

it to

7 Q. Can you give us an illustration without attributing

8 any named person?

9 A. Oh, I couldn't remember names specifically.

names. But

10 Q. All right. Well, we don't want you to give us

your

11 I think we're more concerned with what would illustrate

12 generalization about biases coming into it.

What

13 A. First impressions, first impressions. Behavior:

type

14 appeared to be by myself and to others manipulative-

15 behavior, you know, what you might call showmanship.

16 Q. By lawyers?
17 A. Yes, by lawyers. Yes. That appeared to try to
sway or
18 have more influence on us, the jurors, beyond what the
actual
19 or physical evidence itself would have presented
objectively.

20 Q. Now, is this an impression gained from both trials?

21 A. Yes. More so the criminal than the civil.

22 Q. Again, is there any particular example that comes
to mind?

23 A. No. It was more the manner and bearing of the
attorneys.

24 Some of the questions, perhaps, that the lawyers were
asking

25 seemed -- seemed aimed at giving us more information
than what

2457

Juror No. 714 - Voir Dire

1 was really necessary to sort of elaborated more on the
2 character of the individuals when the character of the
3 individuals was not in question as being presented by
the
4 evidence at that point in time.

5 Q. I see. Did you have the feeling that there were
questions

6 that you and other persons on the jury had that did not
get

7 answered? I mean by the evidence?

8 A. Oh, yes. Definitely.

9 Q. And was that a frustration to you?

10 A. It was.

11 Q. But of course you've recognized, as we have already
12 discussed, that there are rules that limit -- rules of
evidence

13 that limit what can come in.

14 A. Yes.

15 Q. It's not open to all possible information.

16 A. Yes.

17 Q. And carrying this a little further on page 30, we
asked

18 about your view of the importance of following court's
19 instructions, and you said you agreed somewhat, and
then you

20 gave as part of your -- well, your written explanation,
21 "Everyone has the right to answer to the Higher Law."

22 Please explain that answer for us.

23 A. I find difficult, if not next to impossible, to --
I

24 personally -- to disregard my perceptions on the orders
of

25 another. If I happen to perceive something, something
that

2458

1 would strike me, say, as important or might strike a
deeper
2 chord, that is -- that we are instructed to disregard,
to me
3 that's something that's already in one's memory. It
might not
4 stand out in conscious memory, but it could have an
effect on
5 the subconscious memory. It's there, the impact has
already
6 been made. And though during deliberation one may try
to
7 disregard that, there are elements of it that are
already
8 there, they're already present; and to some degree it
has an
9 influence on the decision. And it becomes extremely
difficult
10 at that point to -- to disregard entirely.

11 Q. Are you thinking of things like intuition,
intuitive
12 perceptions, that type of thing?

13 A. Oh, yes, yes, definitely.

14 Q. Yeah. Well, let me explain to you that when you
wrote this
15 and you capitalized the H and the L in "Higher Law,"
that
16 suggested to me -- and I want to discuss it with you --
that
17 you may be among those who feel that -- or believe --
that
18 there are certain either natural law or moral codes
that you

19 subscribe to or religious doctrine that you subscribe
to that,
20 to the extent that it may conflict with the law as
explained in
21 a court by a judge, your allegiance would have to be to
that
22 law rather than to the instructions. You understand
that
23 question?
24 A. Yes.
25 Q. Now, did you mean something like that by
capitalizing

2459

Juror No. 714 – Voir Dire

1 "Higher Law" and saying this to us?
2 A. There's not a clear-cut answer to that question.
It's not
3 entirely yes or no. It's a conditional yes.
4 Q. Well, can you expand on it a bit for us?
5 A. I guess it's a matter of applying a conditional
conscience.
6 I personally do not ascribe to any -- any particular
religious
7 dogma, not anything that would be considered
established dogma
8 by any means. But I do believe that -- that everyone
has to
9 rise to the fullest extent of their own ethics and
morality,

below, 10 however that might be defined, from above or from
11 internally or externally, and -- go ahead.
would be 12 Q. If you want to continue to expand on that, that
13 helpful to us. Go ahead.
explicitly 14 A. And that's something that may or may not be
15 defined, depending on your own moral code. For me it's
not 16 something that is explicitly defined. But there may be
some 17 instances where I would find it, say, impossible to act
or not 18 to act under a given circumstance. And under the
19 circumstances, therefore it becomes a very relative
issue, very 20 difficult to say.

21 But it may go beyond the limitations imposed
by other 22 persons or other institutions.

23 Q. Like a court.

24 A. Yes.

25 Q. You don't presently have a religious affiliation
according

2460

Juror No. 714 - Voir Dire

1 to the answer. Did you --

2 A. I do not.

3 Q. Did you in the past at sometime? Were you brought
up in --

4 A. I was raised Catholic.

5 Q. And then you left that when at some point along the
way --

6 as you developed your own thought patterns and --

7 A. It was a natural migration.

8 Q. Did that happen like when you were in college or
about what

9 time?

10 A. Didn't happen at any particular point. I would say
it's

11 still in the process of evolution.

12 Q. All right. Now, you also are aware, of course,
that we

13 asked you some things in this questionnaire regarding
penalties

14 and the question of when the law should, in your view,
use

15 punishments of life in prison without any possibility
of

16 release and also the punishment of death. And you said
on

17 page -- let's see, it's Question 56, I think. Yeah,
page 13 is

18 where it is.

19 And of course this Question 56 was not limited
to

20 penalty but to beliefs that may affect your service as
a juror.

that 21 We won't know until we get there. And we understand
the 22 nobody can lay out before you now what the evidence at
trial on 23 trial may be or what may be presented in a subsequent
when you 24 punishment if that were to happen. So I understand
are you 25 say you won't know until you get there, you know, what

2461

Juror No. 714 - Voir Dire

1 going to be presented.
2 Is that the nature of your answer here: It
depends on 3 what you hear and see? I mean is that what you're
telling us? 4 Do I interpret you correctly?
5 A. Well, yes. Yes, it does. Not only what I hear and
what I 6 see, but how I would react to that.
7 Q. Okay.
8 A. It's really kind of an -- it's an issue of asking a
9 question: What would you do in a particular
circumstance. I
10 may be able to give you Answer A in that circumstance.
But
11 depending on that particular circumstances, depending
on the

Answer B 12 extenuating circumstances, I just might come up with
13 at that time.
14 Q. Yes. And of course that puts us all at a
disadvantage
15 because we can't describe circumstances that none of us
know.
16 We don't know what's going to happen. You know, there
has been
17 a trial of Mr. McVeigh. Mr. McVeigh was named in the
same
18 indictment, and that evidence was presented; but that
doesn't
19 mean the same thing will happen here. In fact, we have
to
20 assume that it won't. Because as I mentioned to you
yesterday,
21 the results of that case and even what was presented at
the
22 trial of that case to the extent that it was reported
and read
23 or seen by you has to be set aside. We talked about
that
24 already.
25 But I want now to go to this punishment issue
because

2462

Juror No. 714 - Voir Dire

page 28 1 of the possibility of that coming up. And it is on

2 that you -- and 29 -- that you gave answers about your
views of
3 the appropriateness meant by life in prison without
release,
4 and death. Without regard to any particular case but,
you
5 know, we asked it -- you may remember the preliminaries
6 there -- we asked it, first of all, recognizing that
there's a
7 presumption of innocence, so it's not expected and
should not
8 be expected that this would arise; but on the other
hand, it's
9 a possibility. And we only talk to jurors one time
before
10 selection, so that's why we have to cover it.

11 But the questions were asked of you in the
broadest
12 possible terms, as you note in that paragraph just --
of
13 explanation just before Question A, "If you could
decide what
14 the law would be, how would you do it?"

15 And I take it that's the view and the context
in which
16 you gave us these answers. Is that right?

17 A. Well, I gave you the best answer I could at the
time, based
18 on my understanding of the statements.

19 Q. Yeah. Now, are your answers -- I want you to be
sure to

20 read your answers so that -- have you done so?

21 A. I'm doing so now.

22 Q. Please do it.

23 A. I would not disagree with them or change them.

24 Q. All right. Those are your answers today; that's
what I
25 wanted to know.

2463

Juror No. 714 - Voir Dire

1 Now, I would like you to explain one statement
at C

2 where you say: "The punishment should not fit the
crime; it

3 should reflect the crime." That's kind of a catchy
phrase, but

4 I don't know what it means.

5 A. Don't know that I have a pat answer to that
question. And

6 I'm not really playing with semantics here.

7 Q. Are you -- what I thought it meant was that you
were saying

8 that it should reflect a societal view of the crime, a
reaction

9 to it. Is that what you had in mind?

10 A. Partly, in scope. Partly I suppose because . . .
because

11 in a sense when we're dealing with the issue of
reasonable

with 12 doubt, it seems to me that to an extent we're playing
have to 13 probabilities; that is to say, if we have to -- if we
concept 14 consider the evidence and make a decision based on the
that, whose 15 of beyond a reasonable doubt, then how do we define
percent? 16 reason defines "reasonable"? Is it beyond that point,
17 51 percent beyond a reasonable doubt, 75 percent, 99
that a 18 Are we talking about, say, we are reasonably certain
if 19 person is 99 percent guilty of a particular crime? And
jurors, 20 that's the case, do we -- do we consider -- not we the
punishment? 21 but we the judicial system -- consider 99 percent
22 When we're talking about dispensing a form of
to the 23 punishment that will have an effect on a person's life
a person 24 tune of 100 percent and we are certain 98 percent that
Does that 25 is guilty, what do we do with the other 2 percent?

2464

Juror No. 714 - Voir Dire

1 make sense?

2 Q. Yes. And sometimes that gets expressed in terms of

who 3 "residual doubt." People have used that phrase, people
you're 4 discuss this academically. And I think that's what
reasonable 5 talking about, that there's some -- it goes beyond a
-- 6 doubt but there's some residue of doubt; is that what
being 7 A. Yes, that's -- yes, that's why I refer to it not
white, 8 categorical. It's not black and white. I think I've
9 maintained in the past that everything is black and
10 except the rules.
scientific 11 Q. Well, there is black and white; and, you know,
applicable. 12 values or arithmetical, mathematical values aren't
There's a 13 We're talking about a human process in all of it.
presented, 14 human process in the way in which evidence is
perceived 15 there's a human process in the way whatever we get is
judgment. And 16 by us, and then there's a human process called
course 17 when you say how do you define a reasonable doubt, of
something 18 what we say to juries is -- and you probably heard
criminal 19 like this in the instruction given to you on the

would 20 case -- that reasonable doubt is the kind of doubt that
important 21 make a reasonable person hesitate to act in the most
human beings 22 of your own affairs. It's a judgmental thing, and
doubt at 23 come in and make the judgment; and what is reasonable
24 any given case is what 12 jurors say it is, at bottom.
25 Now -- now, when it comes to this issue of
punishment,

2465

Juror No. 714 - Voir Dire

you 1 I'd like to review it with you now procedurally so that
which the 2 understand what the process is and in the context in
3 jury would be making a judgment about punishment.
You 4 So let's go back to the case that you decided.
the jury, 5 participated in the decision with 11 other people on
what the 6 that drug case. As I asked you yesterday, do you know
responded that 7 punishment was, what the sentence was; and you
that was 8 you did not. And then I said something about, well,
all cases 9 up to the court. And indeed, that's the way it is in

10 where we're not talking about the punishments of life
in prison
11 without release, or death. Those decisions, individual
for
12 each defendant, we have made by judges in most systems.
At
13 least in the federal system that's true and in most
states.

14 So when a jury brings in a verdict of guilty
in such a
15 case, the jury -- well, of course, they could bring in
a
16 verdict of not guilty, their job is done and they
leave. But
17 even in most cases where the jury brings in a verdict
of
18 guilty, again, the jury's performed its role in making
that
19 decision about the quality and quantity of the
evidence.

20 Then the matter goes to the judge to decide
the
21 sentence for that person. And before judges make that
22 decision, more happens. They get more information,
more about
23 the circumstances of the offense and a lot about the
defendant
24 as an individual human being; and these are the things
about
25 his background, his or her life's experiences,
childhood

Juror No. 714 - Voir Dire

1 experiences, work history, marital history, you know,
2 everything that really goes to make up an individual
human
3 being. And you well recognize that all of us are
different in
4 part based on what happens to us in life and in part
based on
5 just who we are individually. Understood?

6 A. Yes.

7 Q. And all of that becomes, then, factored in, as it
were, in
8 a sentencing decision; and the judge holds a hearing at
which
9 this information is all reviewed. And the prosecution
speaks
10 to the issue of punishment and so does counsel for the
defense,
11 and then the judge decides that this is the sentence
that is
12 just for this person and this crime. And it is not
dictated by
13 the crime itself. There are categories of punishment
that
14 result from the criminal conduct, but the conduct
doesn't
15 control the sentence. That's an individual decision
made by a
16 judge. Understand that?

17 A. Yes.

18 Q. Now, when it comes to life or death, we don't leave
that up
19 to judges. That's a decision to be made by jurors in
the
20 federal system. And there are variations of this among
the
21 states. Different states who have the death penalty
have
22 different ways to decide it. But here we're only
concerned
23 with the federal law, the federal way, and it is the
jury who
24 decides.
25 And just as I have described the process when
a judge

2467

Juror No. 714 – Voir Dire

1 makes a specific sentence decision, so, too, before a
jury can
2 make the decision, the jury has to hear more than what
we just
3 heard at the trial.

4 Now, of course, this hearing doesn't take
place unless
5 there is a guilty verdict. So the jury has already
found that
6 the evidence proved to their satisfaction beyond a
reasonable
7 doubt that the defendant was guilty of one or more of
the

8 crimes charged, so the issue of guilt has been
resolved; and
9 the question then is a penalty. And the laws we're
dealing
10 with here, the choices for the jury really are life in
prison
11 without any possibility of being released. I mean it's
not --
12 no parole involved. Another possibility is death, and
a third
13 is, well, something less than both of those, in which
case it
14 goes back to judge sentencing. But life or death is up
to the
15 jury.

16 Now, at that second hearing which proceeds
just like a
17 trial -- and we refer to it sometimes as a punishment
trial or
18 as a sentence hearing or whatever -- but both sides
19 participate, and the jury who have determined guilt in
this
20 case now hear more about it, more about the
circumstances of
21 the offense and the consequences to others and things
of --
22 like that and of course a lot more about the defendant
as a
23 human being because we are talking about the life of a
specific
24 human being, and that has to be considered and these
very
25 things that I've discussed, you know: background, the

2468

Juror No. 714 - Voir Dire

1 history -- the life history of the person. And also it
can
2 include things about psychological makeup and, you
know,
3 everything that's unique to this person whose life is
being
4 judged.

5 And then there's a set of instructions given
at the
6 end of that hearing, and the court attempts to assist
the

7 jurors by outlining for the jury, based on the
information that
8 got presented at the hearing, what are the factors that
can be
9 considered as aggravation or aggravating factors, those
things
10 that suggest that death is justified, and then also
outlines
11 from that information what factors are there that the
jury
12 should consider as mitigating factors, those things
that
13 support the view that death is not deserved for this
person
14 regardless of the crime. Understand?
15 A. Yes.

16 Q. And then finally the jury is asked to make a
decision, and
17 each juror must make this decision individually. And
what it
18 comes down to now is not some mathematical formula or
equation
19 or anything but make a moral judgment about another
human being
20 and decide whether he should live or die.

21 Now, do you have any question about the
process as

22 I've explained it?

23 A. No.

24 Q. So with this in mind, my question of you is: Do
you think

25 that if you were to serve on a jury that you would base
your

2469

Juror No. 714 - Voir Dire

1 decision upon whether -- about whether a defendant
should live

2 or die on everything that you hear including not only
the

3 circumstances of the crime but these things about the
personal

4 background and individual characteristics of the
defendant as a

5 human being?

6 A. Oh, everything would be factored in, yes.

here as 7 Q. And then would you consider the range of sentencing

8 options that are open to you in that particular case?

9 A. Yes.

10 Q. All right.

11 THE COURT: The lawyers have some questions
for you,

12 too, so bear with us a bit longer. They may want to
explore

13 some of these things a bit further, and they may have
some

14 other questions generated by your questionnaire or
anything

15 else. Thank you.

16 MR. RYAN: Thank you, your Honor.

17 VOIR DIRE EXAMINATION

18 BY MR. RYAN:

19 Q. Good morning.

20 A. Good morning.

21 Q. My name is Pat Ryan. I'm the United States
Attorney in

22 Oklahoma City. I'm here with the prosecutors at this
table to

23 present the evidence in this case involving Mr.
Nichols. I

24 have a few questions, and I'd appreciate your
indulgence.

25 Let me first ask you about this death penalty
issue

Juror No. 714 - Voir Dire

1 that his Honor talked to you about just recently. If
you
2 would -- you have your questionnaire there handy, if
you'd turn
3 to page 28.

4 His Honor asked about your response here to
subsection
5 C, "When, if ever, do you think that life imprisonment
without
6 parole should be the appropriate sentence?" And then
his Honor
7 asked you what you meant by that answer, and I must
confess I
8 didn't fully appreciate your answer. Do you have an
opinion
9 about whether or not life imprisonment can be an
appropriate
10 sentence in a given set of circumstances?

11 A. Given a set of circumstances, I'm sure that it can
be.

12 Q. In your mind --

13 A. Yes.

14 Q. -- appropriate? And when you say the punishment
should not
15 fit the crime, what do you mean by that?

16 A. That the punishment should not fit the crime.

17 Q. I just wondered if you --

18 A. I don't know what more choice words I could conjure

up at

19 the moment to elaborate on that. First of all, it's
off of --

20 insofar as it's a figure of speech, the punishment fits
the

21 crime. I'm merely turning that around.

22 Q. But to what end? I mean when people say -- when I
hear

23 people say the punishment fits the crime, I'm thinking
of in

24 terms they think it's a terrible crime and we should
have a

25 very severe punishment, and I'm wondering if you're
saying

2471

Juror No. 714 - Voir Dire

1 something different from that in this phrase.

2 A. No, I'm not saying anything different.

3 Q. Do you have in mind types of crimes that you think
that a

4 jury at least should consider the life -- punishment of
life in

5 prison for?

6 A. No, I don't, not off the top of my head.

7 Q. When you get up in the morning, you read the paper
and you

8 read about various things that have happened in the
previous 24

9 hours, do you think, well, this lady was raped or this

child

like, 10 was killed or this event happened, do you have thoughts

11 well, I think this ought to be the punishment for that?

12 A. I try not to.

13 Q. Why is that?

just a 14 A. I prefer to be as nonjudgmental as I can. It's

15 personal preference and philosophy of mine.

to -- 16 Q. Does your preference for being nonjudgmental extend

which 17 how far does that extend? I mean you sat on a jury in

have a 18 you decided the guilt or innocence of someone. Did you

19 difficult time with that?

just about 20 A. Yes, I did. I have a difficult time with it in

to. 21 every respect. It doesn't go as far as I would like it

and some 22 Q. Could you tell me about that experience as a juror

23 of the frustrations you felt.

was . . . a 24 A. Probably the biggest frustration that I recall

but it 25 lack of information. We did the best with what we had,

1 wasn't -- it just seemed like it wasn't enough
sometimes. And

2 other times we had to disregard what we wanted to
consider, and

3 it made the proceedings rather difficult for some of
us.

4 Q. If you had had all of the information that you felt
that

5 you needed, would it have been much easier for you to
make a

6 judgment, or is judging people in any set of
circumstances a

7 very difficult thing for you?

8 A. For me it's difficult under any circumstances. It
might

9 have -- it might have made it easier. That's water
under the

10 bridge. It's hard to say.

11 Q. Right. Do you think it's wrong for humans to judge
other

12 humans?

13 A. Can't answer yes or no to that one.

14 Q. Why is that? What are you thinking?

15 A. It's one of those things that I would probably
consider a

16 necessary evil that I suppose . . . could be more evil
than

17 necessary at times. History would probably attest to
that.

18 It -- I don't know -- it's hard to -- it's hard to put
it into

19 a right-or-wrong perspective, really. It's one of
those things
20 that happens all the time, continuously, 24 hours a
day. I
21 would hazard to say that most, if not all of us, do it
to some
22 extent. It's just one of those things that kind of
infiltrates
23 one's life from one side or another.
24 Q. Well, you know, the ultimate judgment that any of
us can
25 make is the judgment of whether or not a person should
live or

2473

Juror No. 714 – Voir Dire

1 die. Would you agree with that?
2 A. I would.
3 Q. And we can't predict -- again, as Judge Matsch has
told
4 you, we can't predict what the evidence will be. As I
stand
5 here, I can't predict, whether you're a juror, if
you'll
6 conclude whether Mr. Nichols is guilty or innocent. I
can only
7 ask this question on the assumption that a jury will
find him
8 guilty. And then there you are as a juror faced with a
9 decision as to whether or not another human being's
life should

10 be taken for the crime they committed. And what I'm
asking you

11 is: Can you make that kind of judgment?

12 A. I don't know.

13 Q. And you're obviously an intelligent person, and I'm
sure

14 you appreciate the fact that this is the only
opportunity that

15 the lawyers have to talk to you. And if you don't
understand

16 that, we'll explain to you that we have this
opportunity, and

17 then once a jury makes a guilt or innocent decision, we
don't

18 get a chance to talk to them again in the event of a
guilty

19 verdict to say, okay, now you found Mr. Nichols guilty,
now

20 that you've done that, can you go to the next step and
make a

21 decision about life or death. We can't do that. This
is our

22 only chance. So I just need you to be as level with me
as you

23 can. Are you going to be able to make that decision?

24 A. Sir, this is as level as it gets for me. I do not
know.

25 Q. And can you amplify on that in any way for us?

Juror No. 714 – Voir Dire

1 A. I'm not certain that I can.

2 Q. And I'm not -- I want to make clear that I'm not
asking

3 you, you know, whether you're going to find him life
4 imprisonment or the death sentence. That's not my
question.

5 My question is simply: Are you going to be able to
make a

6 decision that might involve taking his life?

7 A. I can't give you a more explicit answer than that.

8 Q. All right. Thank you.

9 Now, if you'd turn to the next page on
subsection E.

10 If I'm reading this correctly, the last line, "The fact
that

11 court instructions disregard this issue,
notwithstanding." Am

12 I reading that correctly?

13 A. Yes.

14 Q. What do you mean by that?

15 A. Okay. Let me read the whole thing here.

16 That would -- that would reflect back on the
two other

17 trials that I was a juror on regarding the court
instructions

18 as to -- as to what -- what could be considered and
what could

19 be disregarded. It comes back, once again, to -- to
the -- the

20 impact, the first impression, that is presented by some
21 evidence, either intentionally or unintentionally, that
is
22 there. And once it's out, it becomes -- it becomes
absorbed by
23 me, the juror. And that's one of those things that
under the
24 circumstances could be difficult to disregard, yet we
have
25 to -- under court order to disregard that when we go
into

2475

Juror No. 714 - Voir Dire

1 deliberation. And I couldn't give you specific
examples.

2 Q. Let me --

3 A. Based on those two trials.

4 Q. Let me ask it this way: Were there matters in
those two

5 trials that you had -- were there occasions where the
court

6 told you you must consider a certain fact or you must
take

7 certain action with respect to how you viewed evidence
that you

8 just simply could not follow that instruction?

9 A. No. Under the circumstances, I pretty much forced
myself

10 to follow it.

11 Q. Were there matters in the two trials that you had
or a
12 matter in one of the two trials that you had that the
court
13 told you to disregard a fact and you just were unable
to
14 disregard it in your deliberations?

15 A. It came mighty close, if I remember correctly, a
few times
16 to the point of argument over such issues that matters
17 perceived by myself or another juror, that could not be
18 disregarded . . . but ultimately were put into
perspective for
19 the sake of coming to a verdict.

20 Q. When you say -- I don't want you to disclose any
content,
21 but when you say an argument with a juror over whether
to
22 disregard certain information, can you tell us
generally what
23 you're talking about?

24 A. Information that was picked up or perceived by
another
25 juror and observation made that they -- they
interpreted in

2476

Juror No. 714 - Voir Dire

1 such a way that others would not agree with necessarily
or

2 certainly it wasn't unanimous agreement. It's
difficult,
3 really, to put -- to put it into any specifics at this
point,
4 but --

5 THE COURT: We don't want you to, anyway.
Those
6 deliberations are matters among the 12 of you, and
that's it.

7 BY MR. RYAN:
8 Q. What I'm trying to determine and what I need your
help with
9 is are you -- if the Court instructs you to disregard
things
10 that you've read or seen or matters that are being
discussed
11 out of your presence, are you going to be able to set
aside
12 those matters and not take those into account in any
way,
13 shape, or form with respect to your deliberations?

14 A. I can only promise you, sir, that I would do my
best to do
15 so.

16 Q. You agreed on Question 129, No. -- page 30, were
asked
17 about the importance of following court instructions.
You
18 don't mark "Agree strongly," you mark rather "Agree
somewhat."

19 Do you see that?

20 A. Uh-huh.

21 Q. What did you -- why did you not mark "Agree
strongly"? Why

22 did you mark "Agree somewhat"?

23 A. Because I believe that other -- other factors would
--

24 would come into -- would come into play.

25 THE COURT: Well, this is an area that we
already

2477

Juror No. 714 - Voir Dire

1 discussed, and it's a question, I think, Mr. Ryan's
asking if

2 you have any additional comment on that.

3 Aren't you?

4 MR. RYAN: Yes, your Honor.

5 THE COURT: I mean if you've already told us
what you

6 can on that, we understand that.

7 JUROR: Well, let me try to put it this way.
If you

8 ask me to consider deciding the fate of another human
being and

9 expect me to sleep well at night after doing so, I
would

10 certainly consider all that my personal ethic and
morality

11 would allow me to consider, even if that meant going
above

point, 12 court law. I'm the one who has to live with it at that

13 and I have no one else to answer to but me.

14 BY MR. RYAN:

I don't 15 Q. Again, I'm -- if I sound like I'm arguing with you,
here. 16 mean it that way. There are no right or wrong answers

17 We're just trying to get your answers.

ethic view 18 If there's a conflict between your moral or

19 and court instructions, which are you going to follow?

of which 20 A. That depends on a great many things, not the least

21 would be the nature and severity of the crime involved.

correct in 22 Q. On page 26, Question 120, subparagraph 3, am I

agree with 23 reading, "My experiences with impartiality did not

24 the judge's expressed convictions"?

25 A. Yes.

2478

Juror No. 714 - Voir Dire

talking 1 Q. Does that mean the same thing that we've been

2 about, or is that a different concept?

disregard 3 A. Basically, yes. It's one thing to be ordered to

to 4 something, ordered to be impartial; it's quite another
5 actually be impartial, from your personal perspective.

impressions 6 Q. Now, you were asked about whether you had any
7 of the lawyers. Do you recall that?

8 A. Yes.

9 Q. Question 149 on page 35.

10 A. Yes.

11 Q. What did you mean by your response there to
subparagraph B?

12 A. That was one of those prejudicial observations made
at the

I will 13 time the Judge was addressing us at the auditorium, and

14 admit this is one of those things that I harbor that is

15 difficult to overcome. It's one of those little mini

it's 16 judgmental things that so many of us carry around. And

17 one that brought back some memories to me that I
realized at

18 the time in -- this whole process of judgment was -- on
my

19 part -- was coming back.

Judge's 20 And that was at one point during -- during the

21 comments, the lawyer was smiling and nodding during
some of the

22 comments in such a way that it appeared to me that he
was

23 smiling and nodding not necessarily because he was in

agreement

24 with the Judge but because he was signaling to the rest
of us
25 his agreement with the Judge. A message was being
conveyed

2479

Juror No. 714 - Voir Dire

1 there, body language, if you will.
2 And I personally have experienced that before
in -- in
3 a number of conversations with my superiors at work
where in
4 the process of trying to convey what you believe is an
5 important issue, your -- in the course of your
conversation,
6 this is going on; and it's very difficult to get a
point across
7 when someone is doing this, looking you straight in the
eye.

8 You know what I'm saying?

9 Q. Yes.

10 A. Same kind of thing. The impression to me was there
is a
11 message being sent out here to the crowd. It wasn't
just a
12 silent agreement that, yes, I'm in accord with what's
being
13 said here, but I want everyone else to know that I'm in
accord

14 with what's being said here. And that to me is just a
matter

15 of someone trying to make an impression.

16 Q. Now, if you're a juror in this case, of course you
17 understand that a decision has to be based on the
evidence

18 perceived -- I mean the testimony of witnesses and the
exhibits

19 that you examine and not on your opinion of one of the
defense

20 lawyers or any other lawyer in the case, for that
matter.

21 A. Yes.

22 Q. Will you be able to do that?

23 A. This kind of comes back around to what we were
talking

24 about earlier. In that I would have to say that I
would, to

25 the best of my ability, weigh the evidence and to the
best of

2480

Juror No. 714 - Voir Dire

1 my ability do it objectively; but I cannot promise or
guarantee

2 100 percent, you know, with absolute conviction that
those

3 factors would not come into play as having some amount
or

4 degree of influence.

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

6 Thank you, your Honor.

7 THE COURT: Mr. Tigar.

8 VOIR DIRE EXAMINATION

9 BY MR. TIGAR:

10 Q. Good morning, sir.

11 A. Good morning.

12 Q. My name is Michael Tigar. I'm one of the lawyers
appointed

13 by the court in Oklahoma City, along with Ron Woods, to
help

14 out Terry Nichols. Am I the tall lawyer?

15 A. Yes, you are.

16 Q. And do you remember what message that you thought I
was

17 trying to send? I'm not trying to get in your face
about it,

18 but --

19 A. What message you were trying to send?

20 Q. Yeah, that you perceived --

21 A. I don't recall the Judge's words, but it -- no, it
seemed

22 that you were agreeing with whatever it was he was
saying.

23 Q. Well, I want to start by saying that of course if
you're

24 selected as a juror in this case, the Government goes
first,

25 they present their evidence; and our job is to cross-

examine

2481

Juror No. 714 - Voir Dire

1 every single one of their witnesses to try to make an
2 impression on you and then to -- when our turn comes,
to
3 present witnesses of our own and that they can cross-
examine.

4 And then the -- before we start, we'll make an
opening
5 statement that describes what we think the evidence
will be,
6 and then there will be these closing arguments that the
lawyers
7 make before the Judge instructs on what the law is to
follow.

8 That's the process you went through as a juror in the
other
9 cases you sat on, I guess?

10 A. Yes.

11 Q. Is that right? Did you think that -- in the
criminal case
12 that you sat on -- that the arguments made by the
lawyers were
13 helpful, or was it just so much hot air?

14 A. Some of it seemed like hot air.

15 Q. That's fair. Now, in the criminal case where you
were a
16 juror, did the defendant have court-appointed counsel

or

-- 17 retained counsel or were you able to make a judgment or

18 A. I don't recall.

19 Q. Okay. And does that make a difference to you,
whether a

20 defendant is -- because he doesn't have the money to
retain

21 counsel, has court-appointed counsel -- appointed by
the court?

22 A. Doesn't make a difference to me.

23 Q. Now, I wanted to ask you your -- because of your
last name,

24 do you have a relative who -- that you know of, who
works or

25 worked in Torrance, California, for an automobile --
Japanese

2482

Juror No. 714 - Voir Dire

1 automobile manufacturer?

2 A. I don't know.

3 Q. Okay. Well, if you don't know, then, fine; but you

4 understand why we would ask the question.

5 A. No, I don't.

6 Q. Okay. Oh. The reason is that if you had such a
relative

7 and that was a person who might be involved in the case
in some

8 way, then we'd ask further questions about it.

9 A. Okay.

10 Q. Then I notice in your questionnaire that you said
you watch

11 PBS documentaries.

12 A. Yes.

13 Q. Do you remember seeing a documentary about parrots
and

14 other talking birds in the nature series?

15 A. Yes, part of it.

16 Q. Okay. Now, would it have any influence on your
judgment in

17 the case if a member of one of the teams here -- that
is, the

18 teams of lawyers -- were someone who was on that
documentary

19 and had a parrot who sang opera? I mean if you should
see --

20 if you should see that person and say, well, I saw them
on

21 that?

22 A. Would it have any --

23 Q. Would it have any influence on your judgment if you
-- you

24 know how it is, you see somebody in one context that
you've

25 seen in another context. I'm asking you if that should
happen,

Juror No. 714 – Voir Dire

the 1 would that have any effect on your being able to weigh
2 evidence in this case?

particular 3 A. There may be circumstances; but given that
4 example, I don't think so.

birds or 5 Q. Well, it won't be any evidence in this case about
effect. 6 opera, so I suppose, I take it, it would not have an

7 Is that right?

8 A. More than likely not.

you'd 9 Q. Okay. I want to turn now to the questionnaire. If
said 10 please take a look at page 4 with me, Question 17. You

attention, 11 that your memory is pretty good if you're paying
about 12 particularly visual. Could you tell me a little more
13 what you mean there?

with 14 A. It's my preferred method of learning. Going along
methods of 15 what are, you know, known in education as the seven

have a 16 learning, I'm particularly visual. I have -- I don't
memory for 17 photographic memory, but I certainly have a better

18 things that I see as opposed to things that I hear.

And I've

19 found it in the past much easier to consider evidence
that is

20 presented visually simply because it sticks -- it
sticks in my

21 mind. Is that --

22 Q. Right. No, that's what I'm trying to find out. Do
you

23 remember seeing pictures on television or in magazines
or in

24 the newspapers about the devastation in Oklahoma City?

25 A. Yes.

2484

Juror No. 714 - Voir Dire

1 Q. Do you remember seeing pictures of children injured
or

2 killed in the blast?

3 A. Yes.

4 Q. Now, in this case there may very well be evidence
that is

5 pictures of that devastation and those deaths and those

6 injuries. Given your -- you know, the way that you
approach

7 problems or your preferred method of learning, would
you --

8 even if that evidence were to come in and it were quite

9 graphic, to be able to analyze all of the evidence to
see

doubt 10 whether the Government had proved beyond a reasonable

involved in 11 that Terry Nichols was knowingly, intentionally

12 this event?

13 A. Yes, I think so.

Question 29. 14 Q. Okay. Would you please take a look at page 6,

you ever 15 You said your parents lived on farms as children. Did

16 live on a farm?

17 A. No.

You tell 18 Q. Okay. And if you'll turn over, then, to page 7.

literature and 19 us that your favorite subjects in school were

particularly 20 history. What period or type of history were you

21 interested in?

22 A. American history.

23 Q. Okay. The history of the United States?

24 A. Yes.

genre 25 Q. And how about literature: Was there any particular

2485

Juror No. 714 - Voir Dire

1 or field?

2 A. No. No, there wasn't, actually. I read what was

required

3 of me, but I enjoyed the classes.

4 Q. And from your study of American history, did you
gain an

5 appreciation of how our adversary system of trials
works?

6 A. Not really, no. That constituted one-half year's
class as

7 a senior in high school of American government.

8 Q. I see. Did you study famous trials?

9 A. No.

10 Q. Well, obviously all of us here are focusing on
these

11 questions in talking about this process, and I'd like
to go

12 through some -- some examples just to get a better
idea. In a

13 criminal case such as this -- that is, where the
Government has

14 a theory and they present evidence and the defense
challenges

15 it -- the Judge would instruct you: If for some
reason,

16 Mr. Nichols doesn't take the witness stand in his own
defense,

17 you're not to consider that. All right? And that
instruction

18 may go against human nature. But is that an
instruction that

19 you feel you could follow; that is, consider the
evidence

20 without regard to trying to draw any conclusions from

the fact

21 that he didn't testify, if in fact he doesn't?

22 A. Yes.

23 Q. And if the Judge said to all the jurors, Look, we know

24 you've read something about this; you may have seen pictures of

25 this terrible, terrible devastation and these deaths; put that

2486

Juror No. 714 - Voir Dire

1 out of your mind and make sure that if there is a reasonable

2 doubt, you return a verdict of not guilty and you will not

3 convict or find guilty unless the Government presents proof

4 beyond a reasonable doubt: Can you follow that?

5 A. It's the putting it out of your mind part --

6 Q. I understand.

7 A. -- that would be most difficult to follow.

8 Q. Yeah.

9 A. One can only do one's best in doing that.

10 Q. Yeah. Nobody says it's easy. In the last case you were

11 in, were you able to make a judgment without your

12 preconceptions getting in the way of a rational judgment?

the 13 A. I believe we came to a rational judgment despite
14 preconceptions.
15 Q. All right.
16 A. But they were there.
17 Q. I understand they were there. And did people
identify them
18 so that you could talk about them and say, well, that's
not the
19 way we're supposed to do it; we're supposed to do it
some other
20 way?
21 A. We did.
22 Q. And do you think at the end of the day that the
defendant
23 in that case received a trial that was in accordance
with the
24 principles of law that the judge had given?
25 A. Yes.

2487

Juror No. 714 - Voir Dire

of the 1 Q. Well, I'd like to ask you a little bit about some
currently 2 work you do. If you could turn to page 7. You're
3 seeking certification as a nutritional microscopist and
4 applying to this International Academy of Bioenergetic

5 Practitioners. Now, the term "bioenergetics" is not
one I know

6 about, and so I'd like to just ask you a little more.

7 I understand there are two uses of the word
out there.

8 One was Dr. Wilhelm Reich had a view of bioenergetics
as body

9 energy, and the other is more related to cell biology,
the

10 movement of electrons and ions through cell membranes.
Is one

11 of those the -- describe the field of bioenergetics in
which

12 you're interested.

13 A. In a sense, it's a combination of both. We do not
-- we do

14 not necessarily adhere in full to Reich's philosophies.
We

15 deal actually more with applications of the Chinese
principles

16 of acupuncture.

17 Q. Okay. So that -- well, so is what you're saying
that, you

18 know, Reich talked about the movement of energy and
energy

19 blockages in the body.

20 A. Yes.

21 Q. And you're interested in that?

22 A. Yes.

23 Q. Now, is your wife also interested in that?

24 A. Yes.

Chinese 25 Q. And in her field of acupressure, does she use the

2488

Juror No. 714 – Voir Dire

1 medicine chart that shows the meridians and points?

2 A. She uses a variation on that.

3 Q. All right. Are chakras involved in that, or is
that --

4 A. Yes.

5 Q. And then how does that in your work relate to the
6 microlook; that is to say, the microscopy and the
movement of

7 substance across cell membranes, which I gather is one
of the
8 things that you're looking at?

9 A. Yes.

10 Q. Tell me if I'm wrong about that.

11 A. No, that's correct. How does it relate?

12 Q. Yes, how do these two interrelate, as you see it,
in your
13 work?

14 A. Right now, we are -- excuse me -- we are in the
process of

15 researching interrelationships between the two. They
are not

16 firmly established in the field. We have found that
within our

can -- 17 own business, there are certain limitations to what we
by 18 we can find by utilizing a bioenergetic evaluation and
found 19 effecting changes in the body energetically. We have
block 20 that there is -- we've reached a stumbling point or a
21 where --
22 Q. What point, I'm sorry?
23 A. A block.
24 Q. You used a word, a something point.
25 A. Stumbling point.

2489

Juror No. 714 - Voir Dire

1 Q. Stumbling point. Okay; I'm sorry.
2 A. -- where we cannot -- we cannot -- we cannot cross
what
3 is -- what is known -- and I'm not going to belabor you
with,
4 you know, too many details -- but what is known as the
5 unidentified biological zone where the effectiveness of
certain
6 energetic medicines and therapies do not have an effect
on the
7 physiology or the biochemistry of the body. So what
we're
8 trying to do by bringing the microscopy into the
picture is

find out 9 come in through the back door, so to speak, and try to
10 where these two actually do interrelate and if there's
a
11 interrelationship. As I said, this is a matter of
research for
12 us right now just to make our work more effective.

13 Q. Okay. I -- understanding that, you are a
scientist, you
14 would say?

15 A. Well, thank you. No, I wouldn't call myself one,
no.

16 Q. Well, the reason I ask is there may in this case be
a great
17 deal of evidence by forensic scientists; that is,
people who
18 have done analyses and are going to present to the jury
the
19 results of their analyses. And, for instance, there
may be a
20 microscopist, not a nutritional, but somebody who
presents
21 that, you know, tells you what they see when they look
through
22 a microscope, shows you the pictures. There may be
someone who
23 presents the results of chemical analyses and so on.
24 If you were selected as a juror in this case,
would
25 you be able to base a decision on the evidence
presented from

Juror No. 714 - Voir Dire

1 the witness stand and put to one side any extra
information

2 that was not presented in evidence even though it
related to a

3 scientific subject?

4 A. That's a tough one.

5 Q. Well --

6 A. That's the kind of issue that came up at the
previous two

7 trials that I attended.

8 Q. Oh, it did?

9 A. Oh, yes, as far as deliberations. And here again,
not to

10 get into any of those details --

11 Q. Right.

12 A. -- but here again -- here again, I can only say
that . . .

13 to the best of my ability, I would disregard that. I
do not

14 consider myself, in either of these two fields that I
am

15 currently pursuing, an expert.

16 Q. Okay. And nobody -- nobody expects jurors to
disregard

17 their life experiences totally. I mean the system
doesn't ask

18 it; and even if it did, I don't know if anybody could

do it.

19 All I'm saying is that in your prior case where you
found that

20 conflict, again, do you feel that those litigants
received

21 verdicts that comported with what the instructions were
from

22 the court about how to consider evidence?

23 A. Ultimately, yes.

24 Q. I have to ask you about a little -- a little more
about --

25 not this "tall one" thing. We went through that. But
you talk

2491

Juror No. 714 - Voir Dire

1 about manipulative behavior by lawyers and I think when
you

2 were talking to the prosecutor. It's no secret that
the

3 lawyers in this case are going to try to persuade you
of

4 things. That doesn't come as a surprise, does it?

5 A. No.

6 Q. Okay. And would you be able -- do you have a low
opinion

7 of what lawyers do in society?

8 A. Well, let's see. How many lawyers are there today?
I only

9 know of a few personally.

10 Q. Okay.

11 A. And I would not necessarily say that they represent
the
12 national average by any means.

13 Well, let me put it to you this way: From
what I have
14 seen when I've witnessed personally, what I have seen
15 represented by the media has left me with more negative
16 impressions than positive. Still, I try to give
everyone the
17 benefit of the doubt when I am dealing with them
personally.

18 Q. Okay. And these negative impressions that you
have: Are
19 they more negative or less negative with respect to any
part of
20 the legal profession? And you know what I'm asking:
That if
21 lawyers who are appointed to represent people presumed
innocent
22 and charged with crimes or prosecutors whose job it is
to
23 present their evidence or personal-injury lawyers? I
mean, are
24 there any categories --

25 A. No, I disregard all lawyers equally.

1 Q. All right. An equal opportunity. Now, in that
case where
2 you were the foreperson, was that an election by the
jury, the
3 jury elect the foreperson, or was that someone that was
4 selected by the judge?

5 A. No, that was a jury election.

6 Q. Would you take a look, please, at page 27, Question
122.

7 You say about the Constitution: I think it's sad that
we need
8 a legal document guaranteeing this. Could you tell me
what you
9 meant by that?

10 A. Well, I suppose it's considering the difference
between an
11 inalienable right and a legal right.

12 Q. Okay.

13 A. Something that might be considered God-given, for
instance.

14 Q. So you like that language in the Declaration of
15 Independence, "And they are endowed by their creator
with
16 certain inalienable rights"; that resonates for you?

17 A. It does, yes.

18 Q. And so in the Constitution -- so help me a little
more.

19 It's this difference --

20 A. It's grand to have it, but it's sad that we need
it, that

21 we have not risen up to that level of ethic and
morality,
22 ourselves, that such a document is not needed.
23 Q. Okay. And is this related to your view that
government --
24 that is to say, the process of government -- for
instance in
25 legislatures, courts, and so on, is a necessary evil?

2493

Juror No. 714 - Voir Dire

1 A. Yes.
2 Q. Now, recognizing that, I want to turn for a minute
to this
3 question of how penalties or punishments for criminal
acts are
4 assessed in the criminal justice system, what the Judge
and the
5 prosecutor were talking about. Of course in this case
we're
6 not conceding that we'll ever get there. We're going
to fight
7 the Government's theory here, we're going to present
evidence
8 and so on. But as somebody said before: This is our
only
9 chance to talk to you about it.
10 If you were a juror in a case and the question
of what
11 is a just punishment fell to you -- let me talk a
little bit

views 12 about the process. I think everyone in the world has
on. It 13 about life, death, the morality of punishment, and so
would 14 would be a situation where one side, the prosecutors,
offense 15 present evidence, aggravating circumstances, about the
they would 16 and how terrible it was and about other things that
different than 17 think of in aggravation, much more information,
Then 18 was ever presented on the issue of guilt or innocence.
that with 19 the defense would come forward, and they would meet
would 20 mitigating information. And the mitigating information
the 21 be of two types that would be to rebut with respect to
focus on 22 circumstances of the offense, and also then it would
23 the individual defendant.
that's 24 You notice I'm talking hypothetically? And
be. We 25 because none of us here can say what the evidence will

2494

Juror No. 714 – Voir Dire

1 think we know. That's that lawyer, you know how we

think we

2 know. But what one side presents, the other side
3 cross-examines, and vice versa. And then as Judge
Matsch has
4 said, he presided over that earlier trial, but he
doesn't know
5 what the evidence will be this time. So I speak
6 hypothetically. But the defense would then present
evidence:

7 This is an individual human being, with a certain
background,
8 with a certain family life, with certain aspirations
for the
9 future, either was or wasn't involved with the law
before, and
10 so on.

11 Then it would fall to the jurors, and the
Judge would
12 say: Members of the jury -- in essence now; again, we
don't
13 predict -- the Judge describes how the law regards
these
14 aggravating and mitigating factors; and then at the end
the
15 Judge says: Members of the jury, there is no
arithmetic,
16 you're to make a reasoned, moral response; ultimately
question
17 of the jury as the conscience of the community. That
as we
18 understand it is the process.

19 Now, given that government, this necessary

evil is

20 instituted among men, could you follow that,
participate in

21 that process and give consideration to the full range
of

22 potential punishments?

23 A. Insofar as I had to do it, yes.

24 Q. Okay. You recognize that no one is required to
vote for a

25 death penalty, 'cause nobody's going to preordain your

2495

Juror No. 714 - Voir Dire

1 decision.

2 A. Right.

3 Q. And when you say "had to do it," you didn't
volunteer, did

4 you?

5 A. Most assuredly I did not.

6 Q. Okay. You got the summons in the mail. Well, I
want to

7 follow along a little bit about that, then; and if you
would

8 turn, please, with me to page 27. Can you -- because I
know

9 folks have talked about your answer, but I'm still a
little,

10 you know -- I don't feel quite filled up about this.
Could you

penalty? 11 share with me your general views about the death
Can 12 you think of cases in which it is an appropriate
sanction? 13 A. It would have to be something extreme, something
that would 14 really, really hit me to the core.
15 Q. All right. But -- all right, let's -- let me give
some 16 examples. A Nazi war criminal who had presided over a
gas 17 oven: Would that be a case in which you think one
would 18 consider the appropriateness of the death penalty?
19 A. That, yes -- it would be appropriate to consider
it, yes. 20 Q. How about -- I don't know if you've been reading in
the 21 paper about this -- about Mr. Davis, who is scheduled
-- whose 22 execution is scheduled next week. Did you hear about
that? 23 A. No.
24 Q. Did you have any reaction to the death penalty
verdict with 25 respect to Mr. McVeigh? Was that something on which
you had

2496

Juror No. 714 - Voir Dire

1 formed an opinion?

2 A. No.

3 Q. Now, in talking to -- and I can't remember -- one
of the
4 other lawyers or the Judge, you said that should that
decision
5 fall to you under your oath as a juror, everything
would be
6 factored in. Do you remember something like that?

7 A. Yes.

8 Q. Okay. And I just want to be sure that in factoring
in
9 everything, would you consider, would you be open to
consider
10 that no matter how the crime hit you, struck you as a
heinous
11 crime, would you still be open to consider the personal
12 circumstances of the life history of the defendant that
you had
13 found had committed that crime?

14 A. Yes.

15 Q. Now, I notice -- if you could please turn to page
-- I
16 think it's 32. Yes, it is. Question 139. It said:
"Have you
17 ever attended a gun show?" Can you tell me a little
bit about
18 that?

19 A. Very little. It was long ago, back in Michigan.

20 Q. Oh, okay. Now, do you remember where in Michigan?

21 A. Detroit area, I believe.

browsing? 22 Q. And were you looking to buy a gun, or just

23 A. Looking to sell one.

24 Q. Oh, to sell a firearm?

25 A. Yes.

2497

Juror No. 714 - Voir Dire

closed- 1 Q. Oh. And did -- did you see -- I shouldn't ask a

2 ended question. What did they have for sale there?

just 3 A. Well, I'm not expert on firearms, but I would say

4 about everything under the sun.

5 Q. They had firearms for sale; right?

6 A. Oh, yes.

7 Q. Ammunition?

8 A. Yes.

of 9 Q. Military surplus items like ammo cans and that sort

10 thing?

11 A. Yeah. Historical antiquities, all kinds of things.

12 Q. Did they have books and literature, and so on, too?

13 A. Yes.

show to be 14 Q. Now, and how did you -- did you register for the

15 able to sell a firearm?

16 A. No.

17 Q. Just you were a walk-in?

18 A. Just a walk-in.

19 Q. Oh, is that how it worked?

20 MR. TIGAR: Would you indulge me just a
moment, your

21 Honor?

22 Excuse me.

23 I know this is a long process, and I know I
share with

24 everybody: Thank you very much for coming and sharing
with us

25 your thoughts. We really appreciate it. Thank you.

2498

1 THE COURT: Well, we have asked you a lot of
2 questions, and now we're done questioning you; and I'm
sure you
3 have a question for me, and that is when will you know.

4 JUROR: You read my mind.

5 THE COURT: Well, I can't answer that
question. I

6 regret that I can't or even give you a time frame for
it. But

7 as you can appreciate, having waited so long before you
ever

8 got in here yesterday afternoon and then the amount of

time

9 spent with you this morning, we don't have a program
here where

10 we can estimate the time. As you can appreciate, it
all

11 depends. And, of course, it depends on answers that we
hear

12 and the views that counsel have with respect to jurors;
so it's

13 a slow, human process. Indulge us that, please. And
we will

14 get back to you as soon as we can but can't give you a
time

15 frame. I know that affects your planning and your work
and

16 your life, but there's just no way for us to be able to

17 estimate it. We will do the best we can.

18 That means that until you hear from us, you
must

19 continue to follow the cautions that I have given you
before

20 and do now repeat and emphasize. And that includes not
only,

21 of course, the avoidance of things that may be on the
radio or

22 in newspapers, magazines, television that could relate
to the

23 trial and could influence you but this process itself.
We ask

24 you not to discuss your answers or these questions with
other

25 people. Will you do that?

1 JUROR: Yes.

2 THE COURT: And in the event that you have a
change of
3 address or a change of phone number or something --
and, of
4 course, this would be an unexpected one, I take it --
you let
5 us know. We want to be able to get in touch with you,
and we
6 will. All right.

7 JUROR: One question: If I were to leave the
state
8 for a few days or, you know, about five or six days
9 consecutively or so, would I need to notify the Court
of that?

10 THE COURT: Yes. Yes, please check with us
first.

11 JUROR: Okay.

12 THE COURT: All right? Don't go on any long
trips or
13 even short trips without letting us know so that we
can, you
14 know, factor that in, as it were. Okay?

15 JUROR: Fair enough.

16 THE COURT: Good, thank you. You're excused
now for
17 this day.

18 (Juror out at 10:12 a.m.)

We'll

19 THE COURT: I'm going to take the recess now.

20 take a 20-minute recess.

21 (Recess at 10:12 a.m.)

22 (Reconvened at 10:31 a.m.)

23 THE COURT: Be seated, please.

24 351.

25 Good morning. If you'll please raise your
right hand

2500

1 and take the oath from the clerk.

2 (Juror No. 351 affirmed.)

3 THE COURTROOM DEPUTY: Thank you.

4 THE COURT: You have to answer out loud for us
so we

5 can record it. Did you say that you --

6 JUROR: Yes, I did.

7 THE COURT: I didn't hear you. I'm sorry.

8 Please be seated there by the microphone.
That chair

9 swivels around. You can make yourself comfortable; and
this is

10 the kind of microphone you don't have to talk right
into it, so

11 anywhere near it, we can hear you.

12 VOIR DIRE EXAMINATION

13 BY THE COURT:

14 Q. Now, you recall that some time ago, you received a
summons

15 in the mail notifying you that you were summoned as a
possible

16 juror for the trial of the case of United States
against Terry

17 Lynn Nichols.

18 A. Yes, I do, honor -- your Honor.

19 Q. And you recall, too, that you sent back a responses
to a

20 questionnaire asking you some questions?

21 A. Yes, I do, your Honor.

22 Q. Okay. You don't have to say "your Honor" every
time. I

23 appreciate your respect, but you don't have to do that.

24 Then you were notified to come out to the
Jefferson

25 County Fairgrounds, and you came out there with a lot
of other

2501

Juror No. 351 - Voir Dire

1 people on the 17th of September; and I was there and
introduced

2 myself and introduced some other people. You recall
that day?

3 A. Yes, sir.

4 Q. All right. And I want to introduce them again
because we
5 want you to be aware of who is here, and we have a
couple of
6 additional people as well.

7 So you may remember meeting Mr. Lawrence
Mackey, who
8 is here at the first table, and Ms. Beth Wilkinson next
to
9 Mr. Mackey. They were there as attorneys for the
Government in
10 this case. They're joined now by Mr. Patrick Ryan and
11 Mr. Geoffrey Mearns, who are with them.

12 And at the other table, Mr. Michael Tigar and
13 Mr. Ronald Woods, attorneys for Terry Nichols; and
14 Mr. Nichols -- they were all with us there and are with
us
15 again.

16 And what we did then was I gave some
explanation about
17 the case and the background of it and then gave you a
18 questionnaire and asked you to answer a lot of
questions. And
19 you did do that. Yes?

20 A. I did answer some of the questions that I have, you
know,
21 known Terry Nichols. Those questions that I have seen
that I
22 don't know the answer, so I just put "Not applicable."

23 Q. Yes. We understand you wrote "Do not know" or
"Don't know"
24 on parts of them, and we may come to those and ask you
a little
25 something; but I just want to make sure that the record
here

2502

Juror No. 351 - Voir Dire

1 shows the background. That's why I'm asking some
things that
2 may be obvious to you. You understand?

3 A. Yes, sir.

4 Q. And what we did was take your answers, made copies
for the
5 people who are here in front of you so that we can
follow it up
6 with some additional questions for you; and that's why
we asked
7 you in this morning. And your answers are private. We
have
8 looked at them, but they're not public. They haven't
been
9 given to anybody else, and those of us who have seen
them will
10 respect your privacy. And indeed, in the way in which
we
11 question you, we will do that. Your name is not being
used
12 here, and you were brought to and from the courthouse
or

13 brought in in a way that nobody can take your picture;
and that
14 will be true when you leave, too. You understand?
15 A. I do understand, sir.
16 Q. Okay. Now, you remember -- here again, I'm going
to repeat
17 some things that I said not because I think you have
forgotten
18 them but to make sure that we have kind of a base here
on which
19 to ask some questions. You recall me telling you that
the case
20 arises as a result of an explosion that destroyed a
federal
21 office building in Oklahoma City, Oklahoma, on April 19
of 1995
22 and people died and were injured in that explosion and
that
23 then the Government lawyers filed charges in Oklahoma
City in
24 the Federal Court there against a man named Timothy
James
25 McVeigh and Terry Lynn Nichols, the defendant here --
and then

2503

Juror No. 351 - Voir Dire

1 the indictment says "and other persons not named" --
with the
2 crimes -- charging them with the crimes of conspiracy,
an

carrying 3 agreement to bomb that building, and with crimes of
4 out such a bombing and with the murders of eight law
5 federal enforcement agents who were in the building from the
6 government.

7 You recall that?

8 A. Yes, sir. Yes, your Honor. I'm sorry.

9 Q. Well, now I say, you don't have to, you know, say
"your
10 Honor" all the time. But when you were there and the
others, I
11 explained, too, that the case was moved from Oklahoma
City,
12 where it was filed, where the charge was -- charges
were filed,
13 here to Denver because of a concern about the people in
that
14 community being able to be on the jury. And then when
it came
15 here to Denver, I entered an order that separated the
trials of
16 Mr. McVeigh and Mr. Nichols so that it's like two
separate
17 men to be cases, because it would not be fair for both of these
different
18 judged by the same jury because evidence may be quite
19 from one and the other. You understand that?

20 A. I do understand.

21 Q. And then as I explained and you may have been aware
of it

22 anyway, there was a trial of the case against Mr.
McVeigh, and
23 the jury did find him guilty. And then there was
another trial
24 about the sentence, and the jury, based on what they
heard and
25 saw at that separate hearing, recommended a death
sentence.

2504

Juror No. 351 – Voir Dire

1 And then I explained to you and the others present that
that
2 cannot be considered now by jurors or by me, either,
with
3 respect to Mr. Nichols' case. We start over, because
to in any
4 way be influenced by what a jury did at Mr. McVeigh's
trial
5 would violate the order for separate trials. You
understand?

6 A. Yes, sir.

7 Q. Okay. And then I explained some things about our
criminal
8 justice system, some of the fundamental rules that we
go by,
9 principles of law, under the United States
Constitution, which
10 are that any person who is charged with any crime in
any court
11 in the United States is presumed to be innocent, not

guilty, of

12 the charges made, no matter what those charges are or
where

13 that -- who that person is or where the case is, if
it's in the

14 United States. And that presumption of innocence
carries

15 through the trial and entitles that person to be
acquitted by a

16 jury if found not guilty unless a jury of 12 people
considering

17 fairly the evidence and following the law decides that
the

18 evidence proved him guilty. And the proof has to be
such that

19 there is no reasonable doubt about it, has to rise
above

20 reasonable doubt.

21 No defendant in a criminal case has to prove
anything.

22 Certainly, he doesn't have to prove himself not guilty.
No

23 defendant has to call any witnesses or introduce any
evidence

24 or take the stand and give any testimony or
explanation. He

25 doesn't have to answer questions or explain anything.
He does

2505

Juror No. 351 - Voir Dire

1 what the law says. The Constitution says is that,
look, the
2 Government makes the charge, it's up to the Government
to prove
3 it and to bring in the exhibits and the witnesses they
rely on
4 through the lawyers. Understand these points?

5 A. I do, sir.

6 Q. And do you accept those and agree with them?

7 A. As far as you're speaking, your Honor, I was just
reading

8 Terry Nichols, you know, appearance and comparison to
Mr. --

9 Mr. McVeigh's background --

10 Q. Uh-huh --

11 A. And I think that Mr. McVeighs (sic) and Mr. Nichols
are
12 buddies.

13 Q. Where did you get that idea?

14 A. Well, I had noticed that when I was -- Mr. McVeigh
is in
15 the jury duty about a couple months ago; and it's been,
you

16 know, under my perspective that, you know, they are
friends and
17 they did, you know -- they did organize, you know, how
to bomb,
18 you know.

19 Q. Well, can you accept that because two people are
friends,
20 that doesn't mean they did a crime together?

21 A. Well, they are both in the military, you know, as
far as,
22 you know, their background, so probably they have, you
know --
23 they have dream about it, bombing the Oklahoma City
federal
24 court, federal building. You know, they have planned
that, you
25 know, a couple months ago before, you know, they did
the

2506

Juror No. 351 - Voir Dire

1 bombing.
2 Q. Well, let's back up a little. I've been talking
about the
3 principles of law that we follow in trials.
Understand? Do
4 you understand what I've been saying?
5 A. Yes, I do.
6 Q. All right. Now, what I want you to answer first is
whether
7 you agree with those things.
8 A. We do agree, sir.
9 Q. Okay. And then you understand that under these
principles
10 of law, Mr. Nichols is here in this room with us this
morning
11 presumed to be not guilty. Do you understand that?

12 A. I do, sir.

13 Q. And he's entitled to a finding of not guilty if the

14 evidence at the trial does not prove to the
satisfaction of

15 jurors that he has been shown guilty beyond a
reasonable doubt.

16 The things that people read and see and hear or any
opinions

17 they have before coming in as jurors have to be set
aside. The

18 law says you have to decide whether the evidence shows
guilt,

19 not whether something that is out in the newspaper or
on the

20 radio or television or anything like that suggests. Do
you

21 hear what I'm saying?

22 A. I do, sir.

23 Q. Now, you've told us some things that apparently
you've read

24 or heard somewhere. Right?

25 A. Yes, sir.

2507

Juror No. 351 - Voir Dire

1 Q. And where -- these things that you've mentioned,
where did

2 you get them from?

3 A. Well, I've been reading the newspapers since Mr.
McVeighs

4 was guilty.

5 Q. And about that case?

Nichols

6 A. About that case, that, you know, I assume that Mr.

7 will be, you know -- his companion to do the bombing.

you're

8 Q. Well, you can't make that assumption. Now, if

set that

9 saying here to us that there is no way that you could

saying?

10 aside, that's another thing. Is that what you're

11 A. Yes, sir.

opinion

12 Q. So are you telling us now that you have a fixed

with this

13 here that you think Mr. Nichols had something to do

14 bombing?

15 A. Yes, sir.

16 Q. And you think he's guilty of something?

17 A. He is guilty to kill all 168 people.

proof

18 Q. And are you telling us that you don't care what the

19 is in the case?

20 A. No, I care.

you can

21 Q. Well, that's what I'm trying to find out is whether

can't. I'm

22 be open-minded about the case. If you can't, you

for you

23 not trying to argue with you, but I've been outlining

24 what our system of justice requires; and it requires
people to
25 come in as jurors and decide about the evidence, not
about what

2508

Juror No. 351 - Voir Dire

1 their opinions are. Tell me about that.

Nichols 2 A. As far as my opinion, your Honor, and -- I felt Mr.
3 is the same as punishment with Mr. McVeighs.

4 Q. I'm sorry. I didn't understand what you just said.

Nichols' 5 A. I feel that Mr. Nichols' jury -- I mean Mr.

6 situation, the bombing at the Oklahoma City as the same
7 punishment he should get with Mr. McVeighs.

8 THE COURT: Okay. May I have counsel, please.

9 (At the bench:)

10 (Bench Conference 21B1 is not herein transcribed by
court

11 order. It is transcribed as a separate sealed
transcript.)

12

13

14

15

16

17
18
19
20
21
22
23
24
25

2512

Juror No. 351 - Voir Dire

1 (In open court:)

2 BY THE COURT:

3 Q. When you -- were you here yesterday?

4 A. Yes, sir.

5 Q. So you were here all day yesterday?

6 A. I do. I was.

7 Q. Waiting?

8 A. Waiting, till 5:00.

9 Q. Well, we're sorry that we had you here all day
yesterday.

10 You know, we can't program this and say this is the
time you'll

11 be here and out. So when you were here yesterday, you
were

12 with some other people who were?

13 A. They were in there, too.

14 Q. They were waiting with you. Did you talk about
your views

15 and opinions with any of them?

16 A. No, sir. We don't talk about what was going on.

17 Q. Okay.

18 A. We just read books.

19 Q. Okay. And so what you've said to us here, did you
say

20 anything like that to anybody who was waiting with you?

21 A. No, sir.

22 Q. Okay.

23 THE COURT: Well, we're going to excuse you in
the

24 case and not ask you to do something that, you know,
you've

25 told us I'm sure honestly that you feel that you can't
do. So

2513

1 you're going to be excused now. You'll be leaving, but
I do

2 ask you not to talk about it with anybody else.

3 JUROR: I do, your Honor, sir.

4 THE COURT: All right. We appreciate that.
Not just

know -- 5 other people you see here in the courthouse but, you
6 you're a little different from others in that you've
been here 7 in the jury selection process, so please don't talk
about your 8 opinions with other people until we have a jury and the
trial 9 is underway. Okay? Is that a -- can we ask you to do
that?

10 JUROR: Yes, sir.

11 THE COURT: And you will?

12 JUROR: I will do, Honor.

13 THE COURT: Thank you very much for your time
with us.

14 You are now excused.

15 JUROR: Thank you.

16 (Juror out at 10:50 a.m.)

17 THE COURT: 45? Is that right?

18 Good morning. Will you please raise your
right hand

19 and take the oath from the clerk.

20 (Juror No. 45 affirmed.)

21 THE COURTROOM DEPUTY: Thank you.

22 THE COURT: Please be seated there by the
microphone.

23 You can move that chair around in whatever way it's
24 comfortable.

25 JUROR: Thank you.

1 THE COURT: And the microphone, you don't have
to
2 worry about. I mean you don't have to lean over or
anything.
3 It will pick you up.

4 VOIR DIRE EXAMINATION

5 BY THE COURT:

6 Q. You remember taking an oath like that before when
you and
7 others came out to the Jefferson County Fairgrounds in
response
8 to a summons that notified you that you may be a juror
in the
9 case of United States against Terry Lynn Nichols.
Right?

10 A. Yes, I do.

11 Q. And at that time, I was there and some other people
who are
12 here in the room with us were also there, so I want to
let you
13 know who is here and reintroduce people because you've
already
14 been introduced to most of them.

15 We have here at the first table as the lawyers
for the
16 Government Mr. Lawrence Mackey, Ms. Beth Wilkinson.
They were

and 17 both with us. They're joined now by Mr. Patrick Ryan

18 Mr. Geoffrey Mearns.

19 Mr. Ryan and Mr. Mearns were not out there
with us on

20 that day, but we did also have with us Mr. Michael
Tigar and

21 Mr. Ronald Woods; and of course, Terry Lynn Nichols.
Mr. Tigar

22 and Mr. Woods are the lawyers for Mr. Nichols.

23 And those of us who have been introduced to
you and

24 you see here have received the answers that you wrote
out. As

25 I told you, we would make copies for those directly
involved

2515

Juror No. 45 - Voir Dire

1 with this; but knowing that we asked you some rather
personal

2 things -- and we appreciate your cooperation in
answering these

3 questions, some of which are very difficult to answer.
But we

4 respect your privacy, and these answers are not public
and your

5 name is not public; and the people who have copies of
what you

6 wrote are not going to give them to anybody else.
They're used

7 only for this purpose.

8 And, of course, you know, we arrange for you
to come

9 and go to the courthouse without anybody having an
opportunity

10 to take your picture, anything like that. All of that
is to

11 assure you of your privacy insofar as we can do so,
recognizing

12 also, of course, that this is a public trial and that
we are

13 now in public in this courtroom so that what is said
here in

14 questions and answers will be public, you understand.

15 A. Uh-huh.

16 Q. Okay. Now, you have the questionnaire as you
completed it

17 in front of you; and we're going to ask you some more

18 questions. I'll be asking some and then a lawyer on
each side

19 will have an opportunity to ask questions. Some of
these will

20 be based on what you've told us here, and we may ask
you for

21 some explanation of a few of your answers or to expand
on this

22 information. We're not going to go through it page by
page.

23 Don't worry about that.

24 And if as we go and your attention is directed
to any

25 answer and you want to expand on it yourself, even

though there

2516

Juror No. 45 - Voir Dire

1 isn't any question, you can do that.

2 A. Okay.

3 Q. Now, I want to refresh your memory. It probably
doesn't

4 need refreshing, but I want to talk about what I -- and
review

5 what I said out there about this case and the
background of it

6 and some sort of fundamental propositions of the law,
because I

7 want to have sort of a foundation here before we start

8 questioning. Okay?

9 A. Okay.

10 Q. And you -- you've never been on a jury, have you?

11 A. Yes, I have.

12 Q. Oh, you have?

13 A. Uh-huh.

14 Q. Well, I -- were you -- where you participated in a
trial

15 and a decision?

16 A. Yes.

17 Q. Okay. I guess I missed that. Let me just turn to
that

18 part of the questionnaire.

Counsel? 19 THE COURT: What page is prior jury service,

20 Can I get your help on that?

21 MR. RYAN: 117 to 118.

22 THE COURT: Thank you.

23 BY THE COURT:

24 Q. Oh, yes, you did tell us, back in 1990, over in the
25 City/County Building?

2517

Juror No. 45 - Voir Dire

1 A. Yes.

2 Q. It was a traffic matter?

3 A. Yes.

4 Q. It was in county court?

5 A. It was in county -- Denver -- well --

6 Q. Or municipal court or -- well, what kind of a
traffic
7 matter? Let me ask you.

8 A. It was a woman who was -- the defendant was a woman
who had

9 run through a stop sign and was bringing the course --
or the

10 case to trial because she needed her driver's license
for her

11 work; in other words, so she couldn't have any
infractions

hours,
12 against her on her license. And it was a matter of
13 actually, before the jury came to a verdict -- for the
whole
14 thing -- it was processed within a day.
15 Q. All right.
16 A. From beginning of jury selection to end of trial.
17 Q. All right. And -- but there were lawyers?
18 A. Yes.
19 Q. Both sides, and a judge?
20 A. Hum. Yes.
21 Q. And how many jurors? Do you remember?
22 A. I don't remember if there were 6 or 12 of us. I
don't,
23 really.
24 Q. Okay. Well, even though the time involved was not
much,
25 it's an important matter.

2518

Juror No. 45 - Voir Dire

1 A. Right. Uh-huh.
2 Q. And you knew the importance -- excuse me -- to the
woman.
3 A. Right.
4 Q. How did you find that out that --
5 A. Her lawyer presented to us her circumstances that
she was

6 postal employee who also worked a job as a -- as a
newspaper

7 delivery person early in the morning and the
circumstances

8 surrounding her going through the stop sign on icy
roads and so

9 forth, and it was --

10 Q. I see.

11 A. -- fairly obvious to see that she needed her
license to

12 continue supporting her family as a single mother.

13 Q. What did the jury decide?

14 A. That she was not guilty.

15 Q. Did the -- I hesitate to inquire about a verdict
and jury's

16 deliberations because we very much appreciate the need
for

17 secrecy on that, privacy there; but, you know, is it
the kind

18 of a situation where you thought, yes, she went through
the

19 stop sign but we'll forgive because she needed her
license?

20 A. No. No. The circumstances were explained that she
had

21 slid through the stop sign and actually was attempting
to come

22 to a stop.

23 Q. Okay.

24 A. So it was sort of further extenuating
circumstances, not

no. 25 that she violated the law and we felt sorry for her,

2519

Juror No. 45 – Voir Dire

what I 1 Q. Okay. Well, that's what -- you perceived exactly
2 was asking and thank you.

principles 3 You know something, then, about fundamental
4 that relate to trials and in criminal cases. Let me
back up,

is no 5 though, to explain the whole background here so there
6 question about it that we're here as a result of an
event in

explosion 7 Oklahoma City, Oklahoma, on April 19 of 1995, when an
8 destroyed a federal office building over there
resulting in

9 deaths and injuries to many people and that later, the
10 Government, Department of Justice lawyers, brought
charges in

what's 11 Oklahoma City in the Federal Court there and by way of
12 called an indictment, which is just a charging
document, making

Terry 13 allegations that a man named Timothy James McVeigh and

14 Lynn Nichols here and other persons not named in the
indictment

15 were, according to the Government, in a conspiracy to
cause a
16 bombing of that building and that they took action to
carry it
17 out and achieve that bombing and the resultant deaths
and
18 injuries and that in these charges there are eight
charges of
19 first-degree murder of law enforcement agents who were
in the
20 building, federal law enforcement agents; that the two
named
21 defendants pleaded not guilty to those charges, thereby
22 disputing them and causing trials to be held.

23 The case was moved from Oklahoma City Federal
Court to
24 this court in Denver for the reason that there was
concern
25 about whether the people there should be asked to serve
on a

2520

Juror No. 45 - Voir Dire

1 jury when the case happened in that community -- I
mean, the
2 event. And then when the case came here, I ordered
separate
3 trials for the two defendants on the view that it would
not be
4 fair to both Mr. McVeigh and Mr. Nichols to be in front
of the

5 same jury because of differences in their situations
and what
6 the evidence against them may be; so it requires an
independent
7 evaluation of the evidence.

8 There has been a trial of the charges, the
evidence on
9 those charges as it related to Mr. McVeigh. A jury
came in
10 here, listened to that evidence and decided that it
proved his
11 involvement beyond a reasonable doubt, and then there
was a
12 hearing after that verdict on the question of
punishment. And

13 we'll talk about that process, but that jury then also
14 recommended that there be a death sentence for Mr.
McVeigh.

15 Now, you probably knew those things before my
telling
16 you about them.

17 A. Uh-huh.

18 Q. But it's important to repeat them so that it's
clear here.

19 And one of the things that is important to repeat --
and I said

20 it to you and the others on the 17th of September, but
I say it

21 again strongly today -- no juror can consider the
outcome of

22 the Timothy McVeigh trial as having anything to do with
this

23 case. To do so would violate the very reason for the
order for
24 separate trials. You understand that?
25 A. Yes.

2521

Juror No. 45 - Voir Dire

1 Q. And, you know, it's an issue of fundamental
fairness.
2 That's why the court separates defendants for trial, so
we're
3 here now with Mr. Nichols on a clean page, so to speak.
4 And, of course, all defendants in criminal
cases in
5 the United States under our national constitution are
presumed
6 to be innocent of the charges made against them no
matter who
7 they are, no matter what those charges are. And that
8 presumption of innocence carries throughout the trial
and
9 entitles that person to an acquittal, a verdict of not
guilty,
10 unless 12 fair-minded jurors decide on the basis of the
11 evidence alone and the law given at trial that guilt
has been
12 proved.
13 A defendant in a criminal case has no duty or
burden

No 14 of calling any witnesses or introducing any evidence.
15 charged defendant has any obligation to take the
witness stand
16 and answer questions or give any explanations or say
anything.
17 Defendants in criminal trials can simply challenge the
evidence
18 brought in against them and cross-examine the witnesses
and
19 make objections and make sure that the evidence is
within the
20 rules and so forth. These concepts are familiar to
you, are
21 they?
22 A. Yes.
23 Q. And do you accept them as our fundamental
principles?
24 A. Yes, I do.
25 Q. And I take it in your case with the -- in Denver
with the

2522

Juror No. 45 - Voir Dire

1 woman and the stop sign or stoplight, she did testify,
did she?
2 A. Yes, she did.
3 Q. Talked about the circumstances --
4 A. Yes, she did.
5 Q. -- and the icy conditions. Now, you know, nobody

is

6 required to do that.

7 A. Uh-huh.

8 Q. And that in a trial in which a defendant does not
testify,

9 the jury may not consider that. They can't draw some
sort of

10 an inference: Well, he's hiding something, or he's
guilty and

11 won't admit it. Nothing like that. In fact, what I
instruct

12 juries on in situations like that, trials where a
defendant

13 does not testify: Look, not only can you not consider
that,

14 you can't even talk about it. It's not a subject for

15 conversation among the jurors. Do you understand those
things?

16 A. Yes.

17 Q. Now, are you willing to accept and abide by these
18 principles if you were to serve on this jury?

19 A. Yes, I would.

20 Q. So it's clear to us all that as you view Mr.
Nichols today,

21 you must view him as a person who has been charged but
who is

22 presumed innocent of those charges?

23 A. Uh-huh. Yes.

24 Q. Now, I want to turn to your questionnaire and ask
you a few

25 things about your background and some of your
experiences. As

2523

Juror No. 45 – Voir Dire

1 I understand it, you were born in Washington, D.C.

2 A. Yes.

3 Q. And then you lived in -- well, did you grow up in
4 Washington?

5 A. Until nine years old and then into New York. Moved
to
6 New York.

7 Q. All right. And then you went to college in Paris?

8 A. Yes. For two years.

9 Q. Two years?

10 A. Yes.

11 Q. And you had been at a college in New York first?

12 A. No, actually, Paris was first, and then I came back
and

13 continued --

14 Q. I got it.

15 A. -- in New York.

16 Q. The school in Paris is an American --

17 A. Yes.

18 Q. -- school?

19 A. Uh-huh.

20 Q. Okay. And then you were at -- in New Rochelle?

21 A. Right.

22 Q. And then you came to Colorado when?

23 A. 1983.

24 Q. Yeah. And you first lived in Longmont?

25 A. Yes.

2524

Juror No. 45 - Voir Dire

1 Q. And then here in the Denver area?

2 A. Uh-huh.

3 Q. When you were in France in school, what were you
studying

4 besides French?

5 A. I was doing just sort of your core requirements for
my

6 four-year liberal arts education, so I wasn't studying
-- I was

7 taking English classes, French classes, you know, your
basic

8 core requirements. I was also working as an au pair or

9 mother's helper full-time, so --

10 Q. Did you live with a French family?

11 A. Yes, uh-huh.

12 Q. And did you also travel in Europe while you were
there?

13 A. Yes, I did.

14 Q. Rather extensively?

15 A. I didn't have a lot of time or money to do too
much, but I

16 did a fair amount of local, certainly, and within the
country

17 and a little bit into Germany and over to England.

18 Q. All right.

19 A. Into the Netherlands.

20 Q. And when you came out to Colorado, what work were
you first

21 doing here?

22 A. I was still a student at the time, had just had a
baby, and

23 my husband and I -- his job brought him out here.

24 Q. And you had met -- looks like maybe he's from the
same

25 school?

2525

Juror No. 45 - Voir Dire

1 A. No, not the same -- local, though. He was local,
and we

2 met at a mutual friend's wedding.

3 Q. Okay. And what job brought him out here?

4 A. He's a chef.

5 Q. Okay. So that was -- and he is now, and we'll talk
about

6 that briefly.

7 A. Uh-huh.

8 Q. He had an opportunity here and took it?

9 A. Yes.

10 Q. And you came along?

11 A. Right.

12 Q. And then it looks like you worked at several jobs
and then

13 worked in a religious education.

14 A. Uh-huh.

15 Q. And that was what church?

16 A. Most Precious Blood Parish here in Denver.

17 Q. Catholic --

18 A. Yes, Catholic.

19 Q. -- Church. And was that school -- is also -- you
know,

20 it's religious education, but it's also education like
21 elementary?

22 A. Actually, I was the coordinator for the Sunday
school

23 program, so it was primarily just the religious aspect.

24 For the children who are in public schools who
come

25 for their faith and confirmation education.

2526

Juror No. 45 - Voir Dire

1 Q. So that they can be confirmed in the faith and so

on?

2 A. Right.

public

3 Q. And then you became a substitute teacher in the

4 schools?

5 A. Right.

6 Q. And that's what you do now?

7 A. Yes.

8 Q. In the elementary grades?

9 A. Right.

you're

10 Q. So, what, your schedule is such that you go when

11 called?

primarily

12 A. Yeah. Most of my jobs are prearranged. I work

13 in two elementary schools in our community and teach a

and

14 curriculum that has been prearranged by the principal

15 scheduled ahead. Generally two to three days a week.

but on a

16 Q. And as a substitute teacher -- just -- not just --

17 one-year contract?

it's a

18 A. No, it's ongoing, actually. I suppose it is --

interested

19 renewal each summer to make sure that you're still

20 or haven't gone on to take a full-time position.

21 Q. When you got the summons that told you you're being

22 considered, would be considered for jury service in

this case

23 and recognizing that this case would take a lot longer
than one

24 day to try, like the case you had before, did you talk
with

25 anybody in the school system about the fact that you've
got a

2527

Juror No. 45 - Voir Dire

1 summons and the possibility of your service for several
months?

2 A. I spoke with the principle at the school where --
not the

3 principle but the school secretary, because she's the
one who

4 schedules us, to warn her that if this came up that I
would be

5 out of commission but that we would know and would have
to deal

6 with that when the time came, so she knows.

7 Q. And was there a response that that -- did that
person say

8 anything to you?

9 A. No, not really; just said, "Keep us posted."

10 Q. Okay. And you're not looking at any loss of job --
well,

11 they can't fire you for being on a jury, but do you
have any

12 expected loss of income?

13 days a week

A. I -- I suppose not. Since I only work a couple

14 or three days a week, it would be probably a trade-off
15 financially, if I was here.

16 Q. Have you actually talked about that with them?

17 A. No, uh-uh.

18 mention Q. Okay. Well, in talking with the person, did you

19 the trial, what trial it is?

20 A. I did not.

21 Q. So -- but did say that it was --

22 A. Long --

23 Q. -- long?

24 A. -- standing, yeah.

25 Q. Now, are you teaching Sunday school now?

2528

Juror No. 45 - Voir Dire

1 A. No. This year, I'm not.

2 Q. And you -- your husband now, as I understand it, is
3 of responsible for food service to be provided in a number

4 health care facilities.

5 A. Actually, he just changed jobs two days ago.

6 Q. Oh, he did?

7 A. Yes.

the 8 Q. Well, that's what he was doing when you answered
9 questionnaire?

10 A. Yes.

11 Q. What is he doing now?

his own 12 A. He's starting up a food-manufacturing company of
13 with some investors, some backers, so --

14 Q. And are they going to make some specialty food?

saucers, and 15 A. Yeah. They use a method that is making soups,
16 stews and so forth and then selling it to -- for
instance, they

build a 17 have a contract with all the ski areas and hope to
18 larger base, you know, spread the market somewhat.

19 Q. Sure. So he's --

20 A. Specialty food.

21 Q. So he's gone into business as an entrepreneur?

22 A. Yes.

23 Q. As well as applying his arts to it.

24 A. Uh-huh.

are his 25 Q. And I guess some of these sauces and things were --

2529

Juror No. 45 - Voir Dire

1 secrets from his other work assignments.

2 A. Yes. Well-kept secret.

3 Q. Sure. I wanted to ask you a couple of things off
of your
4 questionnaire to just tell us while we're on the
subject of
5 employment. At page 11 on Question 53, you were asked
to
6 indicate whether anybody in your immediate family had
any
7 employment with any of these organizations; and you
marked
8 "federal intelligence agencies."

9 A. Yes.

10 Q. What -- tell us about that.

11 A. My father worked -- was employed by the CIA from
1952 until
12 1967.

13 Q. And that's why you were living in Washington at
that time?

14 A. That's right. Yeah.

15 Q. Do you know anything about what he did?

16 A. Only that he was -- analyzed intelligence. That's
17 basically what he let us know.

18 Q. Is he still with the agency?

19 A. No, he's not.

20 Q. Is he retired?

21 A. He's retired now, but -- yeah, he held subsequent
jobs
22 after that.

23 Q. What other -- in the government?

24 A. Well, after we left Washington, he worked in the
Council on

25 Foreign Relations for ten years and then went back to

2530

Juror No. 45 - Voir Dire

1 Washington and worked in the -- as a staff person in
the

2 House -- both the House and the Senate, Foreign Affairs
and

3 Foreign Relations respectively.

4 Q. The committees?

5 A. Committees, yeah.

6 Q. And what did you say, the foreign nations --

7 A. The Council on Foreign Relations, New York.

8 Q. What -- is that a private organization?

9 A. Yes, it is. He was hired to do some study on India
and

10 Pakistan and write a book and ended up lasting longer
and -- a

11 think tank of sorts, I suppose you could call it.

12 Q. All right. And he did that how many years?

13 A. Ten years.

14 Q. And so is there a book published by him?

15 A. Yes.

16 Q. I want to review with you a couple of other things.

You

17 read Newsweek?

18 A. When I get the chance.

19 Q. You subscribe to it?

20 A. Yes, we do.

21 Q. And how long have you subscribed to Newsweek?

22 A. Years. I think at least five or six years.

Oklahoma

23 Q. Have you read about anything connected with the

in

24 City bombing or the case of Mr. McVeigh or Mr. Nichols

25 Newsweek?

2531

Juror No. 45 - Voir Dire

1 A. I probably have, yes.

-- not

2 Q. As you sit here now, do you remember specifically

read?

3 word for word, but specifically the things that you've

the actual

4 A. The only thing that comes to mind is right after

personal

5 bombing itself and some of the reports of just the

6 tragedies and so forth of what --

7 Q. How about the trial of Timothy McVeigh, if that was

8 reported?

9 A. I didn't follow -- follow it.

any 10 Q. Did you follow that news reports of that trial in
11 source?

it's 12 A. Only, you know -- I listen to public radio; and if
13 announced or something is on, I heard it. But I wasn't
14 following it, you know, in a very detailed way or close
way.

case 15 Q. Well, you know, I talked about the need to set that
you think 16 aside and consider this one separately. Will you --
17 that you can set aside whatever it is that you heard or
read 18 about that trial?

19 A. Yes, I think I could.

20 Q. Focus on what happens in this one?

21 A. Right, uh-huh.

22 Q. Now, we asked you at the time you finished this
23 questionnaire and left to not discuss the case with
anybody

24 else or your status as jurors or the subject of the
25 questionnaire. But I'm sure you must have talked with
your

2532

Juror No. 45 - Voir Dire

1 husband about what the impact would be --

2 A. Yes.

3 Q. -- and particularly where he's now starting up a
new
4 business; and, you know, you also have three children
in
5 school.

6 A. Yes.

7 Q. One of whom is pretty young.

8 A. Right.

9 Q. And what sort of arrangements do you have for the
care of
10 the children?

11 A. Right now?

12 Q. I mean right now, as you're working and he's
working.
13 A. Well, right now, I work in the school district that
they
14 are in school in, and everyone is in school for the
actual day.

15 And as a substitute teacher, you can pretty much leave
as soon
16 as the day is over; so I'm -- if I have to be at a
school
17 earlier than my youngest goes, I have neighbors and
friends who
18 watch her and walk her to school in the morning.

19 Q. Have you developed a plan for care of your children
if you
20 were on the jury and you'd be here, you know, longer
hours than
21 you have now, 9 to 5 essentially?

22 A. Right.
23 Q. And of course, you'd be here -- you'd be committed
to an
24 earlier arrival time to get here on time.
25 A. I haven't specifically, no, because I didn't know
how far

2533

Juror No. 45 - Voir Dire

1 this would go.
2 Q. Sure.
3 A. But there are options, yeah. I have enough -- my
older
4 ones are old enough that they --
5 Q. That's what I -- you know. By age, you would think
--
6 strike that.
7 There is the potential by age for one to take
care of
8 the others?
9 A. Right.
10 Q. But in some circumstances I've known, it doesn't
work out
11 that way because of the relationship among the
children. All I
12 want to know is, you know, you can work it out and it
wouldn't
13 be an insurmountable problem for you?

14 A. No.
15 Q. Okay. Now, we have discussed already the matter of
the
16 trial on the evidence and the jury's responsibility to
consider
17 the evidence and then make a decision at the conclusion
of the
18 trial as to whether the evidence proves the charges
beyond a
19 reasonable doubt; and if not, then the jury, of course,
gives
20 the defendant the benefit of that reasonable doubt and
finds
21 him not guilty.

22 On the other hand, if the jury is persuaded
beyond a
23 reasonable doubt that the evidence shows guilt, the
verdict is
24 guilty. And when there is a verdict of guilty, there
is
25 another step yet to be taken, and that is the
determination of

2534

Juror No. 45 - Voir Dire

1 the sentence, the punishment for the crime.
2 Now, in cases that do not involve the
possibility of a
3 sentence to life imprisonment without any possibility
of any
4 release or death, the sentencing decision is made by a

judge in

And 5 most courts and certainly it is in the federal courts.

Court 6 here, of course, you understand we are in the Federal

arrived 7 under the federal system. And so a jury, once it has

is, not 8 at the verdict in those cases, whatever that verdict

the end 9 guilty or guilty, has performed its function and that's

decide if 10 of it for the jury. And then it goes to the judge to

11 it's a guilty verdict what should be done.

that, it's 12 Now, before a judge makes a decision like

the 13 not done on the basis, well, here's the crime, this is

and more 14 punishment. It's done on a very individualized basis,

provided, 15 information is given to the court and collected and

with 16 information that wasn't in the trial as evidence, both

respect 17 respect to the circumstances of the crime and also with

unique 18 to the individual being sentenced as a distinct and

19 human being.

course, 20 And with respect to that aspect, it is, of

family 21 things like that person's background; early childhood;

22 relationships; the marital history, if there is one;
employment
23 history; previous contacts with the law; you know, what
it is
24 about that particular person that is unique and
characteristic
25 of him and separates him from others -- or her.

2535

Juror No. 45 - Voir Dire

1 And then the judge holds a hearing and
considers that
2 and also hears statements from the prosecutor and the
defense
3 counsel and then makes a decision: This is for this
crime and
4 this person the appropriate sentence. Understand that
process?
5 A. Yes.
6 Q. Now, it is different when there is the possibility
under
7 the statutes involved of the sentences that I've
mentioned.
8 And here, if it's -- when it's a life-and-death
situation, then
9 it becomes a matter for the jury to decide, because we
don't
10 leave the question of life and death up to a judge.
Our policy
11 in the federal courts is that that goes to a jury, the
same

12 jury that heard the trial.
13 But again, the jury that found a defendant
guilty does
14 not immediately sentence that person but must hear more
in much
15 the same manner that I've just referred to when a judge
makes
16 an individual sentence decision, and that more is
presented at
17 another hearing. Before we talk about that, though, I
want to
18 review with you your views and opinions and beliefs
about
19 punishment; and we asked you questions about this in
the
20 questionnaire and you gave us answers.

21 A. Uh-huh.

22 Q. And I -- I want to emphasize -- and it's page --
we're
23 going to go to page 28 and 29. And what I want to
emphasize
24 before asking you more about this is that we're not
asking you
25 about the law at this time but what do you think coming
in here

2536

Juror No. 45 - Voir Dire

1 and what have you thought before being advised about
the law.

2 You understand that's the way in which this was
presented, as

3 we explained in a rather lengthy explanation on page 27
to 28?

4 A. Uh-huh.

5 Q. Take your time to review that, if you wish.

6 A. Okay.

7 Q. And you also made a statement on page 38 at
Question 164.

8 Okay?

9 A. Uh-huh.

10 Q. Now, you told us that you have a religious point of
view --

11 I mean, a point of view developed through your
religion. Yes?

12 A. Yes, I do.

13 Q. And have you read any papers or material from the
Church

14 with respect to an official position of the governing
elements

15 of the Church regarding the punishment of death?

16 A. I've not read the papers themselves. I've read
reports of

17 the papers and know what the Church's stand is on it.

18 Q. And what is it?

19 A. The Church -- and I'd have to say that I don't
always agree

20 with everything that the Church says --

21 Q. It's not a heresy trial. You're not on trial.

22 A. The Church's stand is against capital punishment

except, as

23 they state, in the most extreme of cases, which I don't
know

24 exactly what those cases might be.

25 Q. And no definition of that in any of the doctrine?

2537

Juror No. 45 - Voir Dire

1 A. No. No. Not that I'm aware of.

2 Q. Okay. And what you say here, as I understand it,
is -- we

3 asked, of course, in A your view about life in prison
with no

4 release; and you say, "Possibly for certain crimes."
And B,

5 with respect to death, you say, "I'm not sure death
should ever

6 be imposed."

7 A. Uh-huh.

8 Q. And then we asked you some more, you know, sort of
pressing

9 the point in the next two questions. And as I look at
D at the

10 bottom, you I guess are paraphrasing exactly what
you've just

11 said; that what you understand the Church's points of
view to

12 be, the most extreme cases?

13 A. Yeah, and I'm not sure I could even define those,
either.

when it 14 Q. And then you say you have a hard time imagining
15 would be appropriate.
16 A. That's right, yes.
that 17 Q. Now, there have been cases publicized, of course,
18 generate comment about the death penalty, whether it is
or 19 isn't appropriate for a certain case. And you keep up
with the 20 news. You are, I assume, aware that in the state
courts in 21 Colorado there has been capital punishment and that
indeed 22 there is a man who has been so sentenced, who is
scheduled to 23 be executed next week.
24 A. That's right, yeah.
that case 25 Q. Now, just -- I don't know how much you know about

2538

Juror No. 45 - Voir Dire

1 or how much you've read about it. Has it been
something that 2 you've followed in the papers, or on the radio?
3 A. Not real closely, but I'm familiar with the general
4 circumstances.
5 Q. Do you have some awareness about what the jury

found him

6 guilty of?

7 A. Yes.

8 Q. And does that come within your view of an extreme
case?

9 A. No.

10 Q. Without knowing more, because you weren't on the
jury --

11 A. Right.

12 Q. -- do you have a disagreement with the outcome
there?

13 A. Disagreement with the verdict?

14 Q. Yeah -- well, with the sentence.

15 A. The sentence, I do. I'm not sure that taking of
one life

16 is -- is appropriate punishment for someone taking
another's

17 life.

18 Q. Well, whatever you know about that case, it's not
extreme

19 enough to fit your category; is that what you're
saying?

20 A. That's right. Yeah.

21 Q. But you're holding open the possibility that there
is

22 something that would in your view justify the taking of
a human

23 being's life through this process of trial and
decision. Is

24 that what you're saying?

it's 25 A. The only reason I hold it open, because I think

2539

Juror No. 45 - Voir Dire

further 1 something I'd have to think longer and harder and

have a 2 about. I've not thought more about it, but I really

appropriate 3 hard time seeing when it would -- when it would be

4 punishment. I think that life imprisonment without the

That's 5 possibility of parole is worse punishment than death.

worst 6 part of my faith belief, too. That death is not the

7 thing that can happen to us.

see death 8 Q. Because you don't -- is this right that you don't

9 as an end --

10 A. No, I don't.

11 Q. -- of all life?

12 A. No, I don't.

13 Q. And the life of the soul, and so forth?

14 A. That's right.

15 Q. And you know, your beliefs aren't on trial.

16 A. That's right.

argue 17 Q. Please understand that, and nobody here is going to

18 with your beliefs. What we have to pursue is the
ability of
19 persons called in here to participate in the process
with minds
20 sufficiently open to act responsibly and within the law
and its
21 requirements. And I want to therefore review with you
what the
22 law is in terms of how a decision like this is made in
the
23 Federal Court, what the process is and what the jury
then
24 ultimately must do, because we don't do this punishment
issue
25 with a jury differently from the way, you know,
basically I've

2540

Juror No. 45 - Voir Dire

1 explained it with judge sentencing. It isn't the
question of
2 this is the crime, this is the punishment. Much more
needs to
3 be considered; and so there is in a murder case or
certain
4 other crimes in the Federal Court system this
sentencing
5 process.
6 If a jury determines that a person has been
proved
7 guilty beyond a reasonable doubt of one of these types

of

8 offenses, the offense itself gives rise to the
possibility of a

9 sentence to death or life in prison without release;
but it

10 doesn't determine it, because we then proceed with a
second

11 trial, really. And it is at that second trial, or
sometimes

12 referred to as a penalty hearing or sentence-stage
hearing, the

13 opportunity -- and indeed it happens that a lot more
has

14 been -- then gets provided, more information to the
jurors --

15 A. Uh-huh.

16 Q. -- for them to consider on deciding punishment.
And just

17 like the trial itself, we have two sides in the case;
and the

18 government's people, the government's lawyers, would
bring in

19 information about the circumstances of the offense that

20 includes things that were never in evidence at the
guilt or --

21 stage of the trial, the evidentiary stage. And that
includes,

22 you know, anything that they bring in, but it can
include

23 things about the crime itself, suggesting that it's
extreme,

24 suggesting that because of what has happened to people
and the

25 effects of the crime on others and so forth, death is

2541

Juror No. 45 – Voir Dire

1 justified, a justified sentence.

2 opportunity to

The defense, on the other hand, has the

3 it is at

bring in evidence or information to the contrary. And

4 defendant

this time that the jury hears information about the

5 that a

as a human being, the kinds of things that I mentioned

6 value

judge would be interested in, really things that go to

7 the --

another person's life. And that, of course, includes

8 background,

everything that might be there about a person's

9 that he

life history, characteristics of the individual, ways

10 personality

has acted in the past, attitudes that he may have,

11 make this

aspects of the person, all the things that add up to

12 unique human being.

13 hearing,

And then at the end of this second trial or

14 the court, the judge, reviews that with the jury in

15 instructions and says essentially these are the things

that you
things
and, on
as
that no
not
for this
21
22

16 heard that you may consider as aggravating factors, the
17 that you may consider to support the penalty of death,
18 the other hand, these are the things that you've heard
19 mitigating factors, the things that support the view
20 matter that he committed the crime, this person does
21 deserve to die and that death is not a just punishment
22 human being.

Even
together,
25

23 Now, here, again, it's measured separately.
24 though two people may have committed the same crime
25 the sentence has to be in consideration of each of them

2542

Juror No. 45 - Voir Dire

1 separately. Understand?
2 A. Yes, I do.
3 Q. And then what the court tells the jury is, all
right, these
4 are the aggravating factors, these are the mitigating
factors,
5 and can present some questions that may help the jury
analyze

6 them. But, you know, I can't give a jury some kind of
a
7 formula or any an equation. It's not mathematics.
What it is
8 is human judgment and essentially a moral judgment to
be made
9 by each juror. And it is a life-or-death decision,
because the
10 choices for the jury are life in prison without any
possibility
11 of release, death, or the jury can say neither of
those,
12 something less than that by the court. But life or
death is up
13 to the jury.

14 And what I have to ask you -- well, first of
all, do
15 you have any question about my explanation of the
process and
16 the nature of the decision that has to be made?

17 A. No. I understand it.

18 Q. All right. So the question that you must answer
for us is
19 with this explanation in mind, do you think that you
will be
20 able to base a decision about whether the defendant
should be
21 found guilty, be sentenced to life or death and
consider his
22 personal background and individual characteristics as
well as
23 the circumstances of the crime?

able 24 A. Could you repeat the question? Could -- would I be
25 to --

2543

Juror No. 45 - Voir Dire

religious 1 Q. Consider all that you hear and then make not a
a juror, 2 decision but a moral decision, as you understand it as
3 now, a citizen, and make a decision and consider the
4 circumstances of the crime and also all of these things
that 5 are unique to the defendant, weigh them in your own
mind and 6 come to a judgment as to whether another human being
should 7 live or die?

8 A. I'm not sure that I could. I don't know.

9 Q. And what is the uncertainty?

may -- I 10 A. I guess that one last question of whether I -- I
extreme 11 may rather ponder that question of what exactly is an
12 case forever rather than pondering whether I've made
the right 13 choice at some point in sentencing somebody to die.

the 14 Q. Well, the definitions under the law don't include
15 definition that you're suggesting, "extreme"; but, of

course,

16 the circumstances of the offense, how it's viewed in
terms of
17 it isn't just a question of every murder gets the same
18 sentence. But murderers, killings of people have to be
19 evaluated; and there is no formula for that. It's a
matter of
20 judgment of people. You know, the reason that we have
jurors
21 make these sentencing decisions is that they come to us
and
22 represent the community, the conscience of the
community in a
23 way.

24 A. Right.

25 Q. And people come to us with a lot of different
backgrounds;

2544

Juror No. 45 – Voir Dire

1 and frames of references and attitudes and is sort of
the part
2 of the process that they talk it over. This is part of
3 deliberation. I mean, you have to make an individual
decision;
4 but it is made in connection with and cooperation with
other
5 people who are free to express their views. But
finally, the
6 question is up to each person as an individual

judgment.

7 So what we're struggling with -- and we can't
sit here
8 and say these are the circumstances that are going to
be
9 presented, or these are the factors you're going to
hear. We
10 have to operate in the dark because we don't know what
it will
11 be; but what you have to tell us is whether you're open
to the
12 consideration of all that is presented and open to the
13 possibility of the range of sentences that I've
described.

14 A. I have to honestly say that I -- I could not in
good -- in
15 good conscience sentence -- sentence somebody to death
because
16 of my -- maybe lack of having figured the question out
fully in
17 my own mind or -- and because of my basic belief that
human
18 life is sacred and that it's not for us to take. And
that's --
19 and that certainly the state -- I don't believe the
state
20 should be in the business of taking it.

21 Q. Your religion has the concept of sin in it?

22 A. Yes, it does.

23 Q. And again, please, if you're uncomfortable
answering
24 questions, you tell me. But, you know, would you

consider it a

25 mortal sin for you to make a decision that a person
should die

2545

Juror No. 45 - Voir Dire

1 as a result of this legal process?

2 A. I'm not sure that this is something I would lay on
my

3 religion. My religion is more -- my faith helps to
form my gut

4 and heart feelings, and that's -- no, I don't know that
I would

5 call that a mortal sin.

6 Q. Okay. Well, that's why I asked the question, to
see how

7 much religion was the factor.

8 A. Yeah.

9 Q. And then explore with you your other basic beliefs
as a

10 human being. So religion is not the only factor?

11 A. No, it's not. It forms who I am and it's part of
my belief

12 system, but it's not the only factor.

13 Q. All right. Well, I've talked about how this
decision is a

14 moral judgment.

15 A. Yes.

16 Q. And is it your view that since it's a moral

judgment, you

17 couldn't make a judgment of death because that's not
moral? Is

18 that what you're saying?

19 A. Yes.

20 Q. I'm not trying to push you into a decision -- I
mean, into

21 a statement, but to --

22 A. No, but that sums it up, yes.

23 Q. -- to help you express it.

24 A. Uh-huh.

25 THE COURT: Okay. Well, Mr. Mearns, do you
have any

2546

Juror No. 45 - Voir Dire

1 questions?

2 MR. MEARNNS: I do, your Honor. Thank you.

3 VOIR DIRE EXAMINATION

4 BY MR. MEARNNS:

5 Q. Good morning, ma'am.

6 A. Good morning.

7 Q. As the Judge has told you, my name is Geoff Mearns;
and I'm

8 one of the prosecutors who will be presenting our
evidence in

9 this case.

10 We recognize that you've answered a lot of
questions
11 for us on the questionnaire and a lot more questions
this
12 morning; and as the Court has indicated, we recognize
that some
13 of these questions, particularly the ones that the
Court has
14 just put to you, are very personal ones. But I would
15 appreciate if you'd just bear with us just a little bit
longer.

16 A. Sure.

17 Q. Thank you.

18 You indicated to the Judge and on your
questionnaire
19 that you have three children that you're raising now?

20 A. Yes.

21 Q. And you work part-time as a substitute teacher?

22 A. Yes.

23 Q. And I noticed on the questionnaire that you
indicated that
24 you volunteer part-time with charitable organizations;
is that
25 right?

2547

Juror No. 45 – Voir Dire

1 A. Yes, I do.

2 Q. What kind of volunteer work do you do for

charities?

our 3 A. I've worked with the Interfaith Task Force; through
4 church, some lunch programs and soup kitchen work; also
5 Samaritan bringing some of the teens in our group down to the
6 House, working with some of the children that are
there.

7 Q. So most of your charitable activities again relate
to 8 your -- to your relationship with your church?

9 A. Yes.

10 Q. You indicated on the questionnaire and this morning
that 11 you're a Catholic.

12 A. Yes.

13 Q. Were your parents Catholic as well?

14 A. Yes.

15 Q. And were raised that way?

16 A. Yes.

17 Q. Does your husband share that faith as well?

18 A. Yes.

19 Q. Do you and your husband take your children to
church 20 regularly?

21 A. Yes.

22 Q. In response to your questions about possible
punishment in

23 the case, you indicated that your views were not simply

based

24 on religious conviction but also were informed by some
general
25 spiritual or moral issues.

2548

Juror No. 45 - Voir Dire

1 A. Yes.

2 Q. Do you consider yourself to be a spiritual as well
as a
3 religious person?

4 A. Yes.

5 Q. Do -- I'm going to get in a moment to ask you just
a few
6 questions about punishment. Do you consider yourself
or do
7 your religious and spiritual values affect your daily
life in
8 certain ways?

9 A. Absolutely, yeah.

10 Q. You indicated in response to one of the Court's
questions
11 that you were generally aware of the Catholic Church's
position
12 on the death penalty.

13 A. Uh-huh.

14 Q. And correct me if I'm wrong, but I think in
response to one
15 of the questions, you seemed to have used the same

words to

16 describe your view; that is, it should be reserved for
only

17 certain extreme cases.

18 A. Yeah, because I didn't want to shut the door
completely,

19 but I haven't -- I can't -- I can't say that I can
define that

20 particularly.

21 Q. You shared with us that you don't necessarily agree
with

22 the Catholic Church on all issues?

23 A. Yes.

24 Q. But do you agree with the Catholic Church's
teachings on

25 the issue of the death penalty?

2549

Juror No. 45 - Voir Dire

1 A. From what I'm aware of, yes, I do.

2 Q. You indicated on page 38 that -- this was the
general

3 question near the end of the questionnaire. I believe
it was

4 Question 164 that you said, I fear that my beliefs on
capital

5 punishment might -- and I'm just summarizing -- might
interfere

6 with your ability to render a fair verdict. And you
used the

7 word "fear" there twice in your response to that
question. Why
8 did you use the word "fear"?
9 A. I guess I used the word "fear" when I'm thinking
about
10 unknowns; and this is just wandering into a realm that
I'm
11 really unfamiliar and haven't explored, you know,
completely
12 within myself and my heart. Yeah.
13 Q. The Court a few moments ago explained some of the
procedure
14 that we'll follow if we get to a penalty phase and some
of the
15 preliminary instructions on what the law might be if we
get to
16 a penalty phase.
17 A. Uh-huh.
18 Q. Will you be able to set aside your religious and
spiritual
19 convictions regarding the death penalty and follow the
law and
20 render a decision based upon the facts and the law as
it will
21 be presented in this courtroom if we get there?
22 A. I don't know that I can set aside spiritual and --
I can --
23 probably my religious convictions at times could be set
aside,
24 but I don't think my spiritual and moral beliefs can.
25 Q. And that's -- and specifically in terms of the

issue that

2550

Juror No. 45 - Voir Dire

1 we're presenting to you this morning, you don't feel
you could

2 do that with respect to possible punishment in this
case?

3 A. I don't think so.

4 Q. You said on your questionnaire -- and I believe
again this

5 morning -- that you had a hard time imagining any case
where

6 the death penalty could be sanctioned or where it could
be an

7 appropriate punishment. Is that -- did I understand
you

8 correctly?

9 A. Uh-huh.

10 Q. Okay. And I believe you said in response to one of
the

11 Judge's questions that you believe human life is
sacred?

12 A. Yes.

13 Q. And that you believed -- or did not believe that
the state

14 should be in the business of taking life?

15 A. Yes.

16 Q. Is that accurate?

17 A. That's right.
18 Q. If you were selected as a juror, you understand
that if the
19 jury -- unanimous jury were to decide that Mr. Nichols
was
20 guilty of the charges that you could conceivably be
faced with
21 this issue of life or death.

22 A. Right.
23 Q. As you sit here today, can you imagine any case
where you
24 would be able to come into a courtroom like this and
announce
25 that you had participated in a decision to sentence a
man to

2551

Juror No. 45 - Voir Dire

1 death?
2 A. I can't imagine a case where I would, no. I
suppose in my
3 worst nightmares, an ongoing -- it would be a difficult
thing
4 to imagine -- it would, where I could not -- where I
could
5 sanction somebody's death based on no matter what they
had
6 done.

7 MR. MEARNS: Thank you, ma'am.

8 Thank you, your Honor.

9 THE COURT: Mr. Tigar?

10 VOIR DIRE EXAMINATION

11 BY MR. TIGAR:

12 Q. Good morning again.

13 A. Good morning.

14 Q. My name is Michael Tigar. I'm, along with Ron
Woods, one

15 of the lawyers appointed by the court in Oklahoma to
help Terry

16 Nichols.

17 A. Uh-huh.

18 Q. And we, too, have some questions. I wanted to
start with

19 asking about your education and your husband's
education.

20 A. Okay.

21 Q. He attended the Culinary Institute of America?

22 A. Yes, he did.

23 Q. Now, do you all talk that you've got now family
members who

24 went to CIA?

25 You knew where that was going. Okay.

2552

Juror No. 45 - Voir Dire

1 But your father was with the other CIA?

2 A. That's right.

Paris, you 3 Q. And when you attended the American College in
4 also worked as an au pair?
5 A. Yes.
there? 6 Q. Now, did you study French culture and history
7 A. When you're living there, it's hard not to. Yes.
8 Q. What part of Paris is that in?
9 A. It's in the Seventh Arrondissement.
10 Q. So over by the Eiffel Tower?
11 A. Yeah.
Bank? 12 Q. And you were an au pair there, what, on the Right
13 A. Yes. Yeah.
14 Q. And across the river to --
haven't been 15 A. Well, let me see, it was 23 years ago; and I
16 back since I was 19. The Right Bank is south of the
Seine? Is 17 that right?
18 Q. Right.
19 A. Yes, that's where I was.
Is 20 Q. Now, you have -- you were raised in Catholic faith.
21 that correct?
22 A. Yes.
court 23 Q. And this is the first time, you know, coming into

24 today, that anybody has ever asked you this many
questions
25 about the question of what punishment can justly be
meted out

2553

Juror No. 45 - Voir Dire

1 by a civil society?
2 A. Yes.
3 Q. In your teaching elementary school kids, do they
have
4 course units or curriculum units that talk about the
justice
5 system?
6 A. Civil -- kids take civics more into the sixth and
seventh
7 grade. I teach through the fifth grade.
8 Q. I know in some elementary schools they have little
mock
9 trials that elementary school kids do. Do they have
that sort
10 of thing?
11 A. I've heard of that, yes.
12 Q. Do you think that's a good way to introduce
children to
13 their civic responsibility?
14 A. Sure.
15 Q. And it helps teach them about the -- what, the way
a

16 decision gets made?

17 A. Sure.

18 Q. I notice also that you are a McGruff house?

19 A. Yes.

20 Q. Does that mean you take a bite out of crime?

21 A. Yes.

22 Q. Well, what does it involve in your family view to
be a
23 McGruff house?

24 A. It's just considered a safe house for children who
may be
25 in some sort of trouble, being approached by a
stranger, lost,

2554

Juror No. 45 - Voir Dire

1 feeling unsafe in any way; that they know that this as
home
2 that they can go to and find safety.

3 Q. So it's a part of making the world a safer place to
live
4 for kids?

5 A. Right. Right.

6 Q. I notice that -- I want to turn to this question
again --
7 and I'm sorry we keep going back over it, but I would
like to
8 ask you about you said that you think that the death
penalty

9 could be appropriate in extreme cases. Is that --

10 A. Yes, I guess.

11 Q. Now, is that -- that notion of extreme cases, this
idea of

12 contingency -- is that -- that is, that there might be
-- is

13 that based on what you've studied in the Catholic
faith?

14 A. No. Even though it's -- even though it rings true
and

15 sounds similar to what the Church says, I -- that's
just my own

16 feeling; that I kind of hate to always shut the door on
17 something and say "absolute"; so -- but I -- so yeah,
that's my

18 own --

19 Q. But this is an instance where your view agrees with
what,

20 some Augustinian view of contingency or something like
that?

21 A. Uh-huh.

22 Q. Now, when you were -- you have followed in France
the trial

23 of Klaus Barbie. It didn't happen when you were in
France, but

24 I don't know if you remembered that.

25 A. He was an SS officer?

Juror No. 45 - Voir Dire

1 Q. Yes, the SS officer.

2 A. Vaguely.

3 Q. Well, did -- is there any other case -- I'm just
thinking

4 about cases in which people committed -- a horrendous
case.

5 How about the case of Paul Touvier? He was in the
Vichy

6 Government.

7 A. Not familiar.

8 Q. Have you followed the trials of -- any of the
trials of

9 those who were captured who committed genocide?

10 MR. MACKEY: Judge, objection to questions --

11 THE COURT: Overruled.

12 BY MR. TIGAR:

13 Q. Such as when the Israelis would capture someone who
14 committed tens of thousands, hundreds of thousands of
killings?

15 A. Right.

16 Q. We're talking hypothetically here, because none of
us knows

17 the evidence in this case. We just don't know it. I
mean we

18 know what we're going to do as lawyers for Terry
Nichols, the

19 Government has an idea what they're going to present;
but

20 neither side knows how the other will challenge it, and

the

21 Judge doesn't know.

22 A. Right.

23 Q. Looking at those cases, would you hold open the
prospect

24 that the death penalty is appropriate for genocide?

25 A. In thinking about what those extreme cases might
be. That

2556

Juror No. 45 - Voir Dire

1 would -- that's as extreme as I can come up with, or
even the

2 mastermind behind it, Hitler himself or something.

3 Q. That is to say, even somebody who didn't actually
stand

4 over the death offense but who had commanded from a
distance

5 the deaths of many, many innocent people: Is that the
kind of

6 a case you're thinking? And again, I'm not trying to
put words

7 in your mouth. I'm just trying to explore this.

8 A. That's -- that would be something that would come
to mind;

9 but yet again, I would -- I would say that death as a
10 punishment is not going to -- is not the only way to
eliminate

11 that possibility.

12 Q. Exactly.

13 A. Okay.

14 Q. I understand that, also.

15 A. So that would haunt me kind of -- to have to lay
that onto
16 somebody.

17 THE COURT: Excuse me. I didn't hear what she
said.

18 JUROR: I said that would kind of haunt me to
lay that
19 on, because I think there are other alternatives that
would
20 remove the threat to society, so to speak, that would
be as
21 effective.

22 THE COURT: Thank you.

23 MR. TIGAR: I apologize, your Honor, for
stepping on

24 the juror's answer.

25 BY MR. TIGAR:

2557

Juror No. 45 - Voir Dire

1 Q. When you were in France, did you ever attend any
trials?

2 A. No.

3 Q. Did you read about trials in the newspaper, in the
4 correctionnel?

5 A. No.

6 Q. So you don't know what the differences are. Do you
know
7 they have -- I'm sorry. I interrupted you.

8 A. No, I'm not real familiar with the judicial system
in
9 France.

10 Q. Did you know that they have -- whether or not they
had a
11 death penalty in France?

12 A. I don't know.

13 Q. All right. Well, then let's come back -- the Judge
asked
14 you at one point if it is in part your view that the
end of

15 life is not the end of the soul.

16 A. That's right.

17 Q. And does that influence a view that at least in
some cases
18 life in prison without the possibility of release is a
greater
19 punishment than death?

20 A. Yes.

21 Q. And is that in part based on the Church's teaching
that in
22 some instances martyrdom is a step to sainthood?

23 A. Well, I don't know that I'd lay it along the lines
of
24 martyrdom, but at -- it's my belief that death is not
the end

could 25 and that therefore it's not the worst punishment that

2558

Juror No. 45 - Voir Dire

1 happen to somebody.

mean as 2 Q. Now, so I'd like to turn, then, to this process. I

civic 3 a believer, you don't have any objection to serving in

4 functions as a general matter, I take it.

5 A. No.

proscription 6 Q. And indeed -- and in fact, there is no general

military, for 7 in the Church, I gather, against service in the

8 example.

9 A. No.

certainly do 10 Q. Now, what -- this process we're talking -- we

this 11 not concede that there will ever be a penalty phase in

guilt or 12 case; that is, our job is to present the evidence on

chance to 13 innocence. But as others have said, this is our only

case, then 14 talk to you. If there is a guilty verdict in this

15 there is a whole new trial.

16 A. Right.

17 Q. And that's been explained.

18 A. Yes.

19 Q. And in that process, do you -- do you understand
that
20 jurors are never required to vote for death?

21 A. No, I didn't know.

22 Q. Okay. Well, it -- what happens is the Government
presents
23 evidence that --

24 A. Sure, I do understand that they're not required.

25 Q. Not required.

2559

Juror No. 45 - Voir Dire

1 A. But I would imagine that they'd have to be open to
that
2 possibility.

3 Q. Exactly right; that is to say, the jurors -- now,
the Judge

4 would probably say there is no arithmetic formula; that
is to

5 say, the law does not impose on jurors the duty to
weigh

6 anything and give it a particular weight. The law --
and the

7 Judge will say ultimately something to the effect of
what we're

8 looking for is that each individual juror discuss his
or her

9 views with the other jurors and, having given
consideration and

10 effect to all of the evidence presented by the parties
and the

11 arguments made by the lawyers --

12 A. Uh-huh.

13 Q. -- such as the argument this is the very case for
which the

14 death penalty is made, if that argument were made, or
an

15 argument that somebody's background is such that, you
know, no

16 matter what the offense, they should be spared. And
then the

17 jurors make a reasoned moral response. That's what
it's about.

18 And I don't want to push this. You know, and we're
not, you

19 know -- not trying to put words in your mouth.

20 Do you believe that having taken an oath to
listen to

21 the evidence, all the information, to listen to the
arguments,

22 to hear what the Judge says, that if that were the end-
point

23 instruction, please give us a reasoned moral response
-- would

24 you be open to consider, knowing that you weren't
required by

25 law to choose either, the punishments of life without

Juror No. 45 - Voir Dire

1 possibility of parole and death?

2 A. I -- I can't say that I would be open. I would
have to --

3 I would have to go with the life sentence without
parole.

4 MR. TIGAR: Well, I certainly appreciate your
candor,

5 and I appreciate the time that you've taken to talk to
us about

6 this. Thank you.

7 JUROR: Thank you.

8 THE COURT: We all do; and even the time
waiting. And

9 we're sorry to the extent that we kept you waiting; but
as you

10 can understand now that you've been in here and gone
through

11 this process, it's not something we can do by the
clock. And

12 it certainly depends upon the exchanges here, the
questions and

13 the answers.

14 We will get back to you with respect to your
possible

15 service on this jury. We can't tell you right now.
There is a

16 further process to go through. More people will be
talked

17 with. And so as you leave here now -- and you're

excused for

18 now -- please continue to follow the cautions that
we've asked

19 you to follow all along. Will you do that?

20 JUROR: Yes, I can.

21 THE COURT: And you're excused. Thank you
very much.

22 (Juror out at 12:01 p.m.)

23 THE COURT: We'll recess. We'll recess till
1:20.

24 (Recess at 12:02 p.m.)

25 * * * * *

2561

Page	Item
	1 INDEX
	2 Item
	3 Jurors
	4 Juror No. 714
2451	5 Voir Dire Examination Continued by The Court
2469	6 Voir Dire Examination by Mr. Ryan
2480	7 Voir Dire Examination by Mr. Tigar
	8 Juror No. 351
2500	9 Voir Dire Examination by The Court

10 Juror No. 45
2514 11 Voir Dire Examination by The Court
2546 12 Voir Dire Examination by Mr. Mearns
2551 13 Voir Dire Examination by Mr. Tigar
14 * * * * *
15 REPORTERS' CERTIFICATE
16 We certify that the foregoing is a correct
transcript from
Dated 17 the record of proceedings in the above-entitled matter.
18 at Denver, Colorado, this 10th day of October, 1997.
19
20

21 Paul Zuckerman
22

23 Kara Spitler
24
25